

House Bill 136 – Environment – On-Site Wastewater Services – Regulation
Jo Ann Grundy, Founder of CROSS
Favorable with Amendments

Written Testimony for February 12, 2020

Thank you for this opportunity to voice my support with amendments for this bill. My proposed amendments are attached to this testimony (attached). Some may argue that a Board of On-site Wastewater Professionals is overdue. Comparisons can be made to the existing Board of Well Drillers and Board of Environmental Health Specialists, however; this bill is far broader in scope and goes well beyond licensing requirements. As a result this board gives too much discretion to the septic industry without a code of ethics and other safeguards in place to ensure that decisions made are fair and reasonable to septic owners.

I have experience in writing environmental regulations and have worked in watershed planning, engineering and construction. In the past year, I have become an advocate for property owners with septic systems. This is the result of my own experience with the septic industry's unethical practices. As a result, I founded CROSS (Citizens for the Responsible Oversight of Septic Systems), which is based on a similar organization in Washington State (Citizens for Optimizing OSS Management Washington - COOMWA).

Septic oversight has increased dramatically without notification of property owners, who are expected to bear the financial burden, which may cost tens of thousands of dollars, when their system fails.

This bill will create a Board, which has the authority to regulate individuals performing septic services, set standards on design, installation, operations and maintenance, repair or inspection of systems, and make recommendations regarding regulations. This may include mandatory inspections, maintenance, repair or replacement. This bill is a conflict of interest, since the board includes nine board members, seven of which make their living regulating, selling, inspecting or maintaining septic systems. The Board does not include equal representation of property owners on septic to ensure that decisions made are fair and reasonable. Unlike a home inspector, who is bound by a code of ethics under the Code of Maryland Regulations (COMAR – 09.36.06.01 – 09.36.06.04 – attached) there is nothing prohibiting a septic inspector from repairing or replacing a system that they fail. Unlike this proposed Board, the Maryland State Board of Environmental Health Specialists is required to adopt a code of ethics (attached) designed to protect the public's interest.

A comparison can also be made with the Maryland Board of Well Drillers. They do not have the ability to establish standards for well design, installation, operations and maintenance, repair or inspection (attached). This is the responsibility of MDE. MDE staff involved in writing regulations for septic systems are Environmental Health Specialists, who are bound by the code of ethics previously mentioned. (As a side note: I previously worked for Ohio EPA as an Environmental Specialist and Registered Sanitarian and was bound by a similar code of ethics.)

I believe that septic owners such as myself would support this bill with amendments to include a requirement to abide by a code of ethics and removal of language beyond licensing and allowing

Board members the ability to set design, installation, operations and maintenance, repair or inspections of such systems, and to make recommendations regarding regulations.

Some in the septic and regulatory industry would like to see more septic systems replaced using Best Available Technology (BAT). This would involve the installation of a BAT tank and absorption field. A BAT tank is five times more expensive than a conventional tank and requires regular maintenance and electricity to operate and may detract home buyers. A BAT tank's focus is only nitrogen reduction. It does not reduce other nutrients or pathogens from the waste. The Bay Restoration funding only covers the material cost of the BAT tank itself and funding is limited. Installation of the BAT tank and absorption field may cost tens of thousands of dollars.

According to the Chesapeake Bay Program's website, it is estimated that five percent of nitrogen loads are from septic tanks compared to 20 percent from municipal and industrial wastewater. This correlates to the roughly 25 of Maryland homes served by septic systems. No method of sewage disposal is perfect. Combined sewer overflows contaminate surrounding water bodies. Damaged and deteriorated sewer lines contaminate water resources also.

Without a mandate from US EPA, every state in the US. is handling septic oversight differently. Some states, like New Jersey, are passing legislation that places an unreasonable financial burden on the individual property owner, which in some cases has led to home foreclosure, bankruptcy, and abandonment of properties. Other states, like Hawaii, are taking a well-planned approach by phasing out older systems gradually and with financial support. My hope is that Maryland follows their example and chooses the right path forward. For the next legislative session, I would like to see a bill introduced to begin to address older, failing septic systems. From Hawaii's example, and my previous experience in watershed planning, public outreach, and regulatory oversight, I recommend an inventory by each local health organization to identify all septic systems, further classified by age and type based on permit and tax records on file. With such information, homeowners could be mailed information regarding the proper use, maintenance, and costs of upgrading or replacing their system. The inventory of septic systems could be mapped to prioritize funding for expanding sewer service or upgrade/replacement of older systems. Unfortunately, older systems are being forgotten and sewer capacity is allocated for new construction. In addition, financial incentives to promote alternatives beyond BAT tanks, and measures to reduce the load of sewage from each household, such as low flow and composting toilets and gray water recycling is also recommended.

Thank you.

AMENDMENT FOR HB 136

(Prepared by Jo Ann Grundy with CROSS for testimony on February 12, 2020)

Explanation: This amendment would add a requirement that all licensed on-site wastewater professionals abide by a code of ethics, similar to Maryland laws for licensed home inspectors and environmental health specialists to avoid conflicts of interest. This amendment would also delete language beyond the scope of licensing, which should be the responsibility of the Maryland Department of the Environment. These proposed amendments are in keeping with other existing boards such as the Maryland Board of Well Drillers and Maryland Board of Environmental Health Specialists.

AMENDMENT NO. 1 (Adds a code of ethics requirement analogous to a general home inspectors and environmental health specialists.)

On page 4, line 10, add another entry that states “ESTABLISH A CODE OF ETHICS PROVIDED BY THE DEPARTMENT FOR MEMBERS OF THE BOARD AND ALL LICENSED ON-SITE WASTEWATER PROFESSIONALS.”

AMENDMENT NO. 2 (Deletes language beyond the scope of licensing which should fall under the responsibility of the Maryland Department of the Environment.)

On page 4, delete lines 10 through 16 in their entirety.

On page 8, delete lines 24 through 28 in their entirety.

On page 9, delete line 1 in its entirety.

On page 9, delete lines 15 through 25 in their entirety.

09.36.06.01

.01 Responsibilities to the Public.

A home inspector shall:

- A. Act as an impartial third party;
- B. Discharge the home inspector's duties:
 - (1) With integrity and fidelity to the public;
 - (2) With fairness and objectivity to all parties; and
 - (3) Without bias to any party;
- C. Always act in good faith towards a client;
- D. Express an opinion only if it is based on practical experience and personal knowledge;
- E. Promptly inform a client of any business association, interest, or circumstance that may influence the home inspector's judgment or the quality of the home inspector's inspection service to the client; and
- F. Make every effort to uphold, maintain, and improve the professional practice, integrity, and reputation of the home inspection industry.

09.36.06.02

.02 Prohibitions.

A. A home inspector may not:

(1) Except under circumstances in which the safety, health, property, or welfare of the public is endangered, disclose any information concerning the results of an inspection without the approval of the client for whom the inspection was performed;

(2) Accept compensation, financial or otherwise, from more than one interested party for the same service on the same property unless the home inspector makes full disclosure to all interested parties and obtains the consent of all interested parties; or

(3) Accept or offer a commission or allowance, directly or indirectly, to or from another party dealing with the client in connection with home inspection services for which the home inspector is responsible.

B. A home inspector may not:

(1) Sell or offer to sell products for the repair of defects or the correction of deficiencies disclosed during an inspection to the client for a period of 1 year from the date of the inspection;

(2) Provide or offer to provide services to repair defects or correct deficiencies disclosed during an inspection for a period of 1 year from the date of the inspection; or

(3) Express an appraisal or opinion of the market value of the inspected property within the context of the inspection.

09.36.06.04

.04 Conflicts of Interest.

A. A home inspector shall avoid conflicts of interest with a client or an owner of property that is subject to an inspection by the home inspector.

B. If a conflict appears unavoidable, the home inspector shall disclose promptly and fully all circumstances of the conflict to the client.

Title 10 MARYLAND DEPARTMENT OF HEALTH
Subtitle 60 BOARD OF ENVIRONMENTAL HEALTH
SPECIALISTS

Chapter 05 Code of Ethics

Authority: Health Occupations Article, §§1-212, 21-312, and 21-205, Annotated Code of Maryland

.01 Scope.

An applicant for a license as an environmental health specialist or a licensee shall:

- A. Protect and promote the health and safety of the public and the environment through the advancement of public and environmental health; and
- B. Promote environmental health and the related professions through experience and continuing education training.

.02 Unethical Conduct.

It is unethical for an applicant for a license as an environmental health specialist or a licensee to:

- A. Engage in conduct prohibited by Health Occupations Article, §§1-212 and 21-312, Annotated Code of Maryland;
- B. Where applicable, engage in conduct prohibited by State Public Ethics Law, State Government Article, §§15-501—15-509, Annotated Code of Maryland;
- C. Where applicable, engage in conduct prohibited by a county or municipal ethics law adopted pursuant to State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland;
- D. Refuse a professional service based on race, creed, color, or national origin;
- E. Willfully disregard any observed, known, or continued violation of any federal, State, or local law or regulation regarding public or environmental health;
- F. Falsify or misrepresent any qualifications or information required to be set forth in any application for licensure or other submission to the board required under Health Occupations or Health General Articles, Annotated Code of Maryland;

G. Knowingly become involved in an actual or perceived conflict of interest unless:

(1) The conflict can be legally waived; and

(2) Waiver is obtained in writing from all affected parties;

H. If a conflict of interest arises, fail to disclose the conflict of interest to all affected parties;

I. Accept gifts or gratuities in exchange for preferential regulatory treatment;

J. Offer gifts or gratuities to a regulatory authority with expectation of preferential regulatory treatment; and

K. Disclose confidences or other proprietary information.

Administrative History

Effective date: December 8, 2005 (32:24 Md. R. 1906)

Environmental Boards

[Board of Waterworks and Waste Systems Operators](#)

[State Board of Well Drillers](#)

[Marine Contractors Licensing Board](#)

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Purpose, Composition, and Appointment of Members of the Board of Well Drillers

Purpose

1. Issue and renew licenses to applicants who meet the requirements of the licensing law and regulations;
2. Prepare and revise licensing regulations and Board policies and guidelines; and,
3. Investigate allegations of misconduct by license holders and to take enforcement action against a license holder who is found to have violated the provisions of the licensing law and regulation. The enforcement action that could be taken includes issuing a written reprimand, or suspending or revoking that individual's license.

Composition and Appointment of Members

The Board consists of 7 members who are appointed by the Governor with the advice of the Secretary of MDE and the advice and consent of the Maryland State Senate. Of the seven Board members:

1. One shall be from the Department of the Environment;
2. One shall be from the Department of Natural Resources;
3. One shall be public member; and
4. Four shall be licensed master well drillers who are actively practicing well drilling at the time of appointment and shall include:
 - i. One from Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, or Worcester County;
 - ii. One from Baltimore City or Baltimore, Carroll, Harford, Howard, or Montgomery County;
 - iii. One from Anne Arundel, Calvert, Charles, Prince George's, or St. Mary's County; and
 - iv. One from Allegany, Frederick, Garrett, or Washington County

Members serve two-year terms. At the end of a term, a member appointed by the Governor continues to serve until a successor is appointed and qualifies. A member appointed to fill out the term of another member serves only for the rest of the term and until a successor is appointed and qualifies.

Curent Commission Membership

| Slot | Appointee | Term Begin | Term End | Appointed |
|--|----------------------|------------|-----------|-----------|
| Maryland Department of the Environment (MDE) | Robert A. Peoples | 7/1/2018 | 6/30/2020 | 11/7/2018 |
| Department of Naural Resorces (DNR) | Heather A. Quinn | 7/1/2018 | 6/30/2020 | 8/6/2018 |
| Public—Chair | Hahns S. Hairston | 7/1/2018 | 6/30/2020 | 11/7/2018 |
| Well Driller—Eastern MD | Michael T. Hall | 7/1/2018 | 6/30/2020 | 7/1/2018 |
| Well Driller—Western MD | David M. Kelly | 7/1/2018 | 6/30/2020 | 8/6/2018 |
| Well Driller—Southern MD | David B. Hartman | 7/1/2018 | 6/30/2020 | 8/6/2018 |
| Well Driller—Western MD | Larry Dale Brenneman | 7/1/2018 | 6/30/2020 | 8/6/2018 |

Contact Information

For more information please contact (410) 537-4466 or Elaine.nolen@maryland.gov.

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Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 05 BOARD OF WELL DRILLERS
Chapter 01 General Regulations

Authority: Environment Article, §13-101 et seq., Annotated Code of Maryland

.01 Definitions.

A. For the purpose of this subtitle, the following definitions apply.

B. Terms Defined.

(1) "Apprentice" means a person licensed by the Board to work under the direction and control of a principal licensee for the specific purpose of training to practice well drilling.

(2) "Approved training" means courses of study or programs of instruction in the practice of well drilling and related subjects that are approved by the Board in accordance with the requirements of this subtitle.

(3) "Board" means the State Board of Well Drillers.

(4) "Clock hour" or "credit hour" means the amount of time, usually 1 hour per 50 minutes of instruction, that is accredited by the Board or the institution sponsoring the approved training.

(5) "General" means that category of well driller license which authorizes the practice of well drilling in all categories of the well driller license.

(6) "Geotechnical" means that category of well driller license which authorizes the practice of well drilling, limited to wells constructed for the purpose of sampling, measuring, or test pumping for scientific, engineering, or regulatory purposes, including wells constructed specifically for the removal of contaminants from an aquifer, but excluding water supply test wells.

(7) "Gross negligence" means an action or inaction by a licensee or an applicant for a license that is significantly deficient from the action or inaction expected by the profession or that category of the profession in the same circumstances. Gross negligence is determined by the Board on a case-by-case basis.

(8) "Helper" means a person who assists a licensee, but does not practice well drilling.

(9) "Inactive status" means the status assigned to a license by the Board to indicate that the licensee may not practice well drilling until the licensee has met the requirements of COMAR 26.05.02.06D(2).

(10) "Incompetency" means an action or inaction by a licensee or an applicant for a license which demonstrates a general lack of knowledge or ability to practice well drilling in the class and category for which the person is licensed. Incompetency is determined by the Board on a case-by-case basis.

(11) "Journeyman well driller" means a person licensed by the Board to practice well drilling in a particular category under the general supervision of a master well driller of the same category or of the general category.

(12) "License" means, unless the context requires otherwise, a license issued by the Board under this subtitle to practice well drilling.

(13) "Licensee" means a person licensed by the Board under this subtitle.

(14) "License renewal period" means the 24-month period immediately preceding the June 1 expiration date of the license.

(15) "Master well driller" means a person licensed by the Board to practice well drilling, without restriction, in a particular category.

(16) "Misconduct" means a willful or intentional action or inaction by a licensee or an applicant for a license that is deficient from the action or inaction expected by the profession or that category of the profession under the same circumstances. Misconduct is determined by the Board on a case-by-case basis.

(17) "Practice well drilling" includes engaging in any of the following activities for profit:

(a) Making, altering, repairing, or sealing a well; or

(b) Installing, altering, repairing, or disconnecting well system equipment.

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(18) "Principal licensee" means a person licensed by the Board as a master well driller, water conditioner installer, or pump installer.

(19) "Pump", "water pump", or "pumping equipment" means equipment or related materials used to withdraw or otherwise obtain water from a well.

(20) "Repair" means on-site work on an existing well involving redrilling, deepening, changing casing and screen depths, rescreening, chemical cleaning, redeveloping, removing and reinstalling pumps, repairing well system equipment, and related work.

(21) "Selection" means the actual selection of well system equipment to be installed in or at a particular well.

(22) "Water conditioner installer" means a person licensed by the Board to practice well drilling, restricted to the selection, installation, and repair of water conditioning equipment.

(23) "Water conditioning equipment" means equipment or related materials used to change the chemical, physical, or bacteriological characteristics of water obtained from a well.

(24) "Water pump installer" means a person licensed by the Board to practice well drilling, restricted to the selection, installation, and repair of pumps and related equipment, and the testing for well yield.

(25) "Water supply" means that category of well driller license which authorizes the practice of well drilling, limited to wells constructed for the purpose of obtaining a water supply, including wells drilled for the purpose of installing a heat pump.

(26) "Well" means a hole made in the ground to:

(a) Explore for ground water;

(b) Obtain or monitor ground water;

(c) Inject water into any underground formation from which water may be produced; or

(d) Transfer heat to or from the ground or ground water, if the hole:

(i) Extends more than 20 feet below the surface of the ground, and

(ii) Is not a well for obtaining geothermal resources under Natural Resources Article, §8-8A-01, Annotated Code of Maryland.

(27) "Well rig operator" means a person licensed by the Board to practice well drilling, restricted to the location and excavation of wells, installation of casing, grout, screens, pumps, and development and testing of wells.

(28) "Well system equipment" means equipment that is necessary to draw or purify water from a well, including casing, grout, screen, water tank, water pump, or water conditioning equipment.

.02 Prohibitions.

A. Except as provided in §B of this regulation, a person may not practice well drilling or represent to the public that the person is authorized to practice well drilling in this State unless that person is licensed by the Board.

B. Exceptions.

(1) An individual authorized to provide plumbing services as a master plumber in the State may install or repair a water pump, a water tank, or water conditioning equipment without a license from the Board.

(2) An individual employed by an agency of the federal government or this State may practice well drilling while performing the duties of that employment.

.03 Licensure.

A. An applicant shall be licensed by the Board if the applicant:

(1) Files an application for a license on the form required by the Board;

(2) Qualifies for examination for the license sought as provided in Regulation .04, below;

(3) Has received a passing score or a waiver on the required examination;

(4) Provides the Board, when applicable, with acceptable evidence that the bonding and liability insurance requirements of COMAR 26.05.02.05 have been or will be satisfied; and

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(5) Pays the required license fee.

B. An applicant who has satisfied all of the requirements of §A of this regulation shall be newly licensed by the Board in the general category of the same class well driller license, if the applicant is licensed in the:

(1) Geotechnical category of the journeyman or master class well driller license and has passed the examination for the water supply category; or

(2) Water supply category of the journeyman or master class well driller license and has passed the examination for the geotechnical category.

.04 Qualification for Examination.

A. Experience Required for Initial Licenses. Before an applicant may be examined in a particular class and category of license, the applicant shall have acquired the experience in Column A of this regulation. If the applicant has practiced well drilling in accordance with all laws and regulations in a state that does not have comparable license classes or categories, the applicant shall have acquired the experience listed in Column B of this regulation as established to the satisfaction of the Board.

| Class and Category | A | B |
|---|---|---|
| Master Well Driller General Geotechnical Water Supply | 2 years as a journeyman well driller in the same category | 7 years practicing well drilling; 2 of the last 3 of which shall have been spent operating the equipment used for the construction of wells of the category of license sought |
| Journeyman Well Driller General Geotechnical Water Supply | 3 years as an apprentice well driller | 5 years practicing well drilling ; 2 of the last 3 of which shall have been operating the equipment used for the construction of wells of the category of license sought |
| Pump Installer | 2 years as an apprentice pump installer | 3 years installing pumps |
| Water Conditioner Installer | 2 years as an apprentice water conditioner installer | 3 years installing water conditioning equipment |
| Apprentice: Well Driller Water Conditioner Installer Pump Installer | 1 year as a helper | 1 year of related experience |

B. In addition to satisfying the experience requirements of §A, of this regulation, an applicant for licensure in the general or geotechnical category of the journeyman or master class well driller license shall provide to the Board acceptable proof of valid individual certification for hazardous waste or monitoring site operations required by the Occupational Safety and Health Administration.

C. At the discretion of the Board, specific education in hydrogeology, well technology, water pump technology, or water conditioning technology, as appropriate for the class or category, or both, of license applied for, may be substituted for up to 2 years experience.

D. Unlicensed experience in violation of the requirements of the laws or regulations, or both, of any state does not qualify as experience for an examination.

.05 Apprentices and Well Rig Operators — Additional Requirements.

A. An applicant for an apprentice license shall have a sponsor who is licensed by the Board and who meets the qualifications set forth in §B of this regulation.

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B. The sponsor of an applicant for an apprenticeship shall:

- (1) Be licensed as a principal licensee in a category of license, the scope of which equals or exceeds that of the apprentice license sought;
- (2) Be actively engaged in the practice of well drilling;
- (3) Agree to supervise the apprentice throughout the term of the apprenticeship;
- (4) Either employ the apprentice that he or she sponsors or work with the apprentice for a common employer; and
- (5) Submit progress reports on a form provided by the Board upon request, but not less frequency than semiannually.

C. Age Requirements. An applicant for an apprentice license shall be at least 18 years old, except for applicants who are 16 or 17 years old and who are:

- (1) Registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor;
- (2) Registered by the Maryland Apprenticeship and Training Council, Division of Labor and Industry; or
- (3) Employed under a written apprenticeship agreement that has been determined by the U.S. Secretary of Labor and the Maryland Division of Labor and Industry to conform substantially with the federal and State standards.

D. Term of Apprenticeship.

- (1) The maximum term of apprenticeship is 60 months or 10,000 hours of on-the-job training.
- (2) Failure to qualify and become licensed in a license class other than the apprentice class within 6 months after completion of the 5-year term results in:
 - (a) For an apprentice pump installer or apprentice water conditioner installer, automatic expiration of the apprentice license; or
 - (b) For an apprentice well driller, automatic conversion of the apprentice license to a well rig operator license.

E. Extension of Term. For good cause shown, the Board may extend the term of apprenticeship for up to 6 months or 1,000 hours. An apprentice who wishes to apply for an extension shall do so at least 1 month before the termination of apprenticeship, on a form provided by the Board for that purpose.

F. Loss of sponsorship results in automatic termination of the apprentice license. The Board may, however, approve the transfer of sponsorship to another principal licensee acceptable to the Board.

G. Conditions on Apprentices and Well Rig Operators.

- (1) Except as provided in §G(2), of this regulation, an apprentice or well rig operator may practice well drilling only under the general supervision and responsibility of a principal licensee.
- (2) An apprentice or well rig operator may perform, under the responsibility of a principal licensee, all operations within the scope of the license issued to the apprentice or well rig operator if he or she can maintain contact with the principal licensee by on-site telephone, two-way radio, or radiotelephone.
- (3) As part of the apprenticeship, the Board may require an apprentice to complete certain tasks that are necessary for an apprentice of that category, and may observe the completion of those tasks.

.06 Duration of Licenses.

Except for temporary licenses, all licenses issued by the Board expire on June 1 of each odd-numbered year. Temporary licenses expire as shown on the license. Any change of name, address, or employment from that which appears on the current license of any licensee shall be reported to the Board, in writing, within 30 days of the change. Otherwise the license is void.

.07 Recategorization of Well Driller Licenses.

A. Master Well Drillers.

- (1) A master well driller licensed by the Board on July 1, 1990, may not practice well drilling after June 30, 1993, unless he or she has obtained a new master class license in one of the three categories of well driller licenses.

(2) The Board may waive any examination requirement under this subtitle for any master well driller licensed by the Board on July 1, 1990 who seeks to obtain a new master class license in one of the three categories of well driller licenses, and who provides to the Board satisfactory evidence that he or she has:

(a) For the geotechnical category, installed geotechnical wells during the past 7 years and obtained national certification as a monitoring well driller or completed a 40-hour training program dealing with hazardous waste or monitoring site operations required by the Occupational Safety and Health Administration;

(b) For the water supply category, installed 20 water supply wells during the past 7 years and acquired 10 of 20 hours of continuing education required under COMAR 26.05.03 in water conditioning and water pump technology; or

(c) For the general category, fulfilled the requirements of §A(2)(a) and (b), of this regulation.

B. Journeyman Well Drillers.

(1) A journeyman well driller licensed by the Board on July 1, 1990, may not practice well drilling after June 30, 1991, unless he or she has obtained a new journeyman or master class license in one of the three categories of well driller licenses.

(2) Until July 1, 1991, the Board may waive any examination requirement under this subtitle for any journeyman well driller licensed by the Board on July 1, 1990 who seeks to obtain a new journeyman class license in one of the three categories of well driller licenses, and who provides to the Board satisfactory evidence that he or she has:

(a) For the geotechnical category, installed geotechnical wells during the past 7 years and obtained national certification as a monitoring well driller or completed a 40-hour training program dealing with hazardous waste or monitoring site operations required by the Occupational Safety and Health Administration;

(b) For the water supply category, installed 20 water supply wells during the past 7 years and acquired 10 of 20 hours of continuing education required under COMAR 26.05.03 in water conditioning and water pump technology; or

(c) For the general category, fulfilled the requirements of §B(2)(a) and (b), of this regulation.

C. Apprentice Well Drillers. A person licensed by the Board on July 1, 1990 as an:

(1) Apprentice class A well driller shall automatically be issued a new apprentice class well driller license;

(2) Apprentice class B well driller may not practice well drilling after June 30, 1991, unless he or she has obtained a new apprentice class license under this subtitle.

.08 Identification of Licensee.

The Board will provide each licensee with a card that identifies the licensee, the class or category of license, or both, and license number. The licensee shall possess a valid and current card whenever practicing well drilling, and shall exhibit it on demand to authorized officials.

.09 Certain Permits Also Necessary.

A. It is the responsibility of all persons authorized by the Board to practice well drilling to ensure that all required permits and certifications are valid and exist before and during all work performed to construct or modify a well.

B. A license under this chapter does not authorize a licensee to construct any well for which the following permits have not been obtained, if required:

(1) A permit to drill a well from the Department of the Environment under Environment Article, §9-1306, Annotated Code of Maryland, and COMAR 26.04.04; and

(2) A water appropriation or use permit from the Department of Natural Resources under Natural Resources Article, §8-802, Annotated Code of Maryland, and COMAR 08.05.02.

.10 Requirement for Show Rooms, Offices, Shops, Vehicles, and Equipment.

A. Each person who represents himself or herself to the public as a person authorized to practice well drilling by advertising, telephone directory listing, business card, stationery, or any other exhibit, shall display the license in a conspicuous place at the licensee's principal place of business.

B. A well drilling rig or service vehicle used in the practice of well drilling by a company that employs one or more licensees shall be marked to display the name of the company, business location, and license number of the principal licensee.

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Weatherproof decals or magnetic signs meeting these requirements are acceptable, subject to the provisions of §C, of this regulation.

C. The markings in §B, of this regulation, shall be legible and plainly visible on each side of the vehicle or equipment. Letters and numerals shall be at least 1-1/2 inches high and in a color that contrasts with the vehicle or equipment.

Administrative History

Effective date:

Regulations .01—.12 effective March 19, 1975 (2:6 Md. R. 434)

Regulation .01B—D amended effective June 11, 1975 (2:13 Md. R. 929)

Regulation .08 adopted effective June 11, 1975 (2:13 Md. R. 929) (Original Regulations .08—.12 renumbered as .09—.13)

Regulation .10G adopted effective June 11, 1975 (2:13 Md. R. 929)

Annotation: This chapter was transferred from COMAR 08.12.01 pursuant to Executive Order 01.01.1980.04, effective July 1, 1980 (7:13 Md. R. 1277)

Chapter repealed effective December 20, 1982 (9:25 Md. R. 2485)

Regulations .01—.21 adopted effective December 20, 1982 (9:25 Md. R. 2485)

Regulations .01C-1 and .10-1 adopted, and .02A and .10B amended effective June 6, 1983 (10:11 Md. R. 975)

Regulation .01C-1—U recodified to .01D—V

Regulation .10A amended effective March 10, 1986 (13:5 Md. R. 546)

Regulations .10C-1—.21 recodified to .11—.22

Regulation .12 adopted effective March 10, 1986 (13:5 Md. R. 546)

Chapter recodified from COMAR 10.49.01 to COMAR 26.05.01

Regulations .01—.22 repealed effective December 24, 1990 (17:25 Md. R. 2910)

Regulations .01—.10 adopted effective December 24, 1990 (17:25 Md. R. 2910)

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 05 BOARD OF WELL DRILLERS
Chapter 02 Issuance, Renewal, and Reinstatement of Licenses

Authority: Environment Article, §§13-101 et seq., and 13-207, Annotated Code of Maryland

.01 Application Procedure.

- A. Form. An application for a license issued by the Board shall be made on the form provided by the Board.
- B. Documentation. An applicant for a license may be required to submit directly to the Board whatever evidence the Board deems necessary to establish professional qualifications and experience.
- C. Fee.
 - (1) The application shall be accompanied by the application fee.
 - (2) The application fee is not refundable or transferrable.
- D. Notarization. The application form shall be notarized before submission to the Board.

.02 Incomplete Application.

- A. An application is not complete until all required application documents, including the fee and supporting documentation, have been received by the Board.
- B. The Board's Executive Director may return an application to the applicant with a statement of the reason for rejection if the Executive Director determines that the application does not contain:
 - (1) The name, address, and age of the applicant;
 - (2) The name and address of the applicant's employer;
 - (3) The education and experience qualifications of the applicant;
 - (4) Notarization; or
 - (5) The application fee.
- C. The Board shall withhold final consideration of the application until the application is complete. If all requested supporting documents are not received within 90 days of receipt of the application, the Board shall notify the applicant of the missing documents.
- D. Applications for license shall be held for 1 year from the date of initial receipt, after which the application will be terminated and the application fee forfeited.

.03 Action on an Application.

- A. Except as provided in Regulation .02, of this chapter, the Board shall review all applications within 60 days of receipt of the completed application.
- B. Action on an application includes one of the following:
 - (1) Return of the application if the Board determines that it is incomplete;
 - (2) Approval of the applicant for examination at the appropriate class or category, or both, as determined by the Board; or
 - (3) Denial of the application for a license.
- C. Notification. The Board shall give written notification to an applicant of any action taken by the Board on the applicant's application.
- D. Denial of Application for License.
 - (1) The Board may deny an application if the Board determines that the applicant has:
 - (a) Failed to demonstrate that the applicant is eligible for examination under COMAR 26.05.01.04; or
 - (b) Committed any act that would be a basis for disciplinary action under COMAR 26.05.04.01.
 - (2) The Board shall notify an applicant of the basis for the denial by first-class mail.

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E. Reconsideration and Appeal of Application Denial.

(1) An applicant may appeal the denial of the application under §D, of this regulation, by notifying the Board in writing by certified mail within 30 days of receipt of the Board's decision.

(2) In the case of a denial under §D(1)(a), of this regulation, an applicant may appeal the denial of the Board in writing by certified mail within 30 days of receipt of the Board's decision by:

- (a) Submitting new or additional evidence to clarify or amplify the applicant's qualifications; or
- (b) Requesting an informal meeting with the Board.

(3) In the case of a denial under §D(1)(b), of this regulation, the applicant may appeal the denial by requesting a hearing in accordance with the procedures outlined in COMAR 26.05.04.

.04 Examination.

A. The Board shall notify the applicant of the applicant's eligibility to take an examination at least 30 days before the next scheduled examination.

B. An eligible applicant shall sit for the written examination on the date on which the examination is scheduled, unless the applicant has:

- (1) Received the prior approval of the Board to postpone examination of the applicant until a future specified exam date;
- (2) Received the prior approval of the Board to be tested orally in whole or in part upon a showing of the existence of exceptional circumstances, for example, the applicant suffers from dyslexia or other reading disability; or
- (3) Satisfied the requirements for licensure by reciprocity as set forth in Regulation .09 of this chapter.

C. Frequency.

- (1) The Board shall offer a written examination at least three times a year.
- (2) The times and places within the State for the written examination shall be announced by the Board.

D. Location. The written examination shall be given in a convenient location and shall be administered and proctored by a representative of the Board.

E. Purpose. Examinations shall test an applicant's technical knowledge and the applicant's knowledge of applicable Maryland laws and regulations concerning the construction of wells or the installation of well system equipment, or both.

F. Passing Score. An individual shall attain a score of at least 70 percent to pass the Board's examination.

G. Notification.

(1) The Board, within 45 days after the examination, shall inform the applicant in writing as to whether the applicant has passed the examination.

(2) Within 90 days of receipt of the notification in §G(1), of this regulation, any applicant who has passed the examination shall satisfy all remaining licensure requirements as set forth in COMAR 26.05.01.03.

H. Reexamination.

(1) Except as provided in §H(2), of this regulation, an individual who fails the examination or fails to appear for two consecutive examinations may reapply for examination by paying the application fee.

(2) An individual who fails any Board examination two consecutive times may be required to satisfy any of the following requirements before reexamination:

- (a) Appear in person before the Board; or
- (b) Obtain additional training.

.05 Bond and Liability Insurance Requirements.

A. Amount of Bond and Insurance. Before a person may be licensed by the Board, that person shall demonstrate to the satisfaction of the Board that all practice of well drilling to be done by the person will be covered by a performance bond and contractor's liability insurance as set forth below:

(1) Master well driller:

(a) Bond ----- \$5,000 aggregate;

(b) Liability Insurance:

(i) Bodily Injury ----- \$100,000 each person, \$300,000 each occurrence,

(ii) Property Damage ----- \$50,000 each occurrence, \$50,000 aggregate.

(2) Journeyman Well Drillers, Well Rig Operators, and Apprentices. Bond and liability insurance is not required. All practice of well drilling done by these licensees shall be covered by the bond of the principal licensee and the liability insurance of the principal licensee or the principal licensee's employer.

(3) Water pump installers and water conditioner installers:

(a) Bond ----- \$2,000 aggregate;

(b) Liability Insurance:

(i) Bodily Injury ----- \$100,000 each person, \$300,000 each occurrence,

(ii) Property Damage ----- \$50,000 each occurrence, \$50,000 aggregate.

B. Form of Bond and Liability Insurance.

(1) The initial bond shall be completed on a form provided by the Board.

(2) Before the Board approves the continuance of a bond or contractor's liability insurance, the applicant shall demonstrate that the form of the bond and insurance is acceptable to the Board.

(3) Subject to approval by the Board, liability insurance may be obtained in the name of the company that employs or will employ licensees on particular jobs.

C. Claims Against Bond. A claim against a bond is made to the corporate issuer of the bond, and not to the Board.

D. Period of Liability. The period of liability of a bond is 2 years after the submission of the last accepted well completion report. If there is an outstanding claim, the bond may not be released until the claim is resolved and the 2-year period has passed.

E. Effect of Cancellation or Other Loss of Bond or Liability Insurance. Subject to the provisions of the Administrative Procedure Act, the Board shall suspend the license of any licensee if the licensee becomes unbonded or uninsured. A licensee who has a bond or liability insurance cancelled or otherwise becomes unbonded or uninsured shall immediately notify the Board of this event. Upon request by the Board, the licensee shall return the suspended license to the Board. A suspended license that is returned to the Board under this section will be reactivated and returned to the licensee only if the licensee demonstrates to the satisfaction of the Board that the bonding and insurance requirements of §A, of this regulation, have been satisfied.

F. Prohibition. A licensee may not practice well drilling or exercise any of the privileges associated with having a license unless the licensee is covered by a valid surety bond and contractor's liability insurance as set forth in §A, of this regulation.

.06 Renewal of Licenses.

A. Renewal.

(1) A license may be renewed for a 2-year period by the Board if the licensee has:

(a) Submitted an application for renewal within 60 days before the expiration date of the license;

(b) Paid the required renewal fee;

(c) Completed the necessary approved training as required by COMAR 26.05.03 and submitted proof of training; and

(d) Submitted evidence of bonding and liability insurance as required by Regulation .05 of this chapter.

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- (2) Except as provided in §C(1), of this regulation, the Board may deny the application to renew a license if the applicant:
- (a) Has failed to satisfy any of the requirements of §A(1), of this regulation; or
 - (b) Is the holder of a temporary license.

B. Notification.

- (1) The Board shall notify the licensee of the need to renew the license not later than 60 days before expiration.
- (2) Failure to notify the licensee does not relieve the licensee of the licensee's obligation to renew the license, nor does it affect the expiration of the license.

C. Late Renewal.

- (1) An applicant may apply for late renewal within 30 days following the expiration date of the license by:
 - (a) Submitting a completed renewal application within the 30-day period;
 - (b) Satisfying the renewal requirements under §A(1)(b)—(d), of this regulation; and
 - (c) Paying the late renewal fee to the Board.
- (2) Failure to comply with the requirements of §C(1), of this regulation, results in the automatic termination of the license. The former licensee shall then comply with the current requirements for either reinstating an expired license or obtaining a new license under this subtitle.

D. Inactive Status.

- (1) A licensee may place or continue his or her license on an inactive status for a 2-year period, if the licensee has:
 - (a) Submitted an application for inactive status within 60 days before the expiration date of the license; and
 - (b) Paid the required inactive status fee.
- (2) Before the Board reactivates the license of an inactive-status licensee, that licensee shall satisfy the renewal requirements of §A(1)(b)—(d), of this regulation.

.07 Replacement of License.

A licensee may obtain a duplicate license to replace a license that has been lost, destroyed, or mutilated if the licensee:

- A. Makes a written, notarized request to the Board, stating the reason for the request; and
- B. Pays the license replacement fee to the Board.

.08 Reinstatement of Expired Licenses.

An applicant for reinstatement of a license which has been expired for more than 3 consecutive years is subject to examination before being issued a new license. Otherwise, if a former licensee for any reason applies to the Board for reinstatement, the Board shall reinstate the license if the licensee:

- A. Submits an application for reinstatement on the form required by the Board within 3 years after the license expired;
- B. Fulfills all renewal requirements in effect at the time of application for reinstatement;
- C. Pays all past due or lapsed renewal fees to the Board; and
- D. Pays the reinstatement fee to the Board.

.09 Reciprocity.

A. The Board may waive the examination under Regulation .04, of this chapter, for an applicant who:

- (1) Files an application for a license on the form required by the Board;
- (2) Is licensed in an equivalent class or category, or both, of license in a state with which the Board has made a reciprocal agreement as provided in §B, of this regulation;

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(3) Provides adequate evidence that the applicant:

(a) Meets the experience requirements in COMAR 26.05.01.04,

(b) Passed an examination, in the licensing state or any other state, that is substantially similar to the Board's examination;

(4) Has paid the application fee and the licensure fee as specified in Regulation .10, of this chapter; and

(5) Has provided the Board, when applicable, with acceptable evidence that the bonding and liability insurance requirements have been satisfied.

B. The Board may make a reciprocal agreement with any other state to waive the examination requirement for an applicant who is equivalently licensed in that state, provided that, under the agreement, the other state waives the examination requirement for licensees of this State to a similar extent, and applicants from the reciprocal state satisfy the requirements of §A of this regulation.

.10 Payment of Fees.

A. Payment of all fees under this subtitle shall be in the form of a personal check, cashier's check, or money order made payable to the "Maryland State Board of Well Drillers".

B. The following fees are established by the Board for items and services provided under this subtitle:

(1) Application fee \$75;

(2) License fee:

| License Class and Category | Initial Fee | Renewal Fee | Temporary Fee |
|-------------------------------------|-------------|-------------|---------------|
| (a) Master Well Driller | | | |
| (i) General | \$150 | \$200 | \$1,200 |
| (ii) Geotechnical | 150 | 200 | 1,200 |
| (iii) Water Supply | 150 | 200 | 1,200 |
| (b) Journeyman Well Driller: | | | |
| (i) General | 100 | 150 | 900 |
| (ii) Geotechnical | 100 | 150 | 900 |
| (iii) Water Supply | 100 | 150 | 900 |
| (c) Well Rig Operator | | | |
| (d) Water Conditioner Installer | 150 | 200 | 1,200 |
| (e) Water Pump Installer | 150 | 200 | 1,200 |
| (f) Apprentice: | | | |
| (i) Well Driller | 50 | 100 | 600 |
| (ii) Water Conditioner Installer | 50 | 100 | 600 |
| (iii) Water Pump Installer | 50 | 100 | 600 |

(3) Late renewal fee — \$200;

(4) Inactive status fee — \$50;

(5) Reinstatement fee — \$400;

(6) License or card replacement fee — \$50;

(7) Name or address change — No fee;

(8) Roster — \$75.

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Administrative History

Effective date: December 24, 1990 (17:25 Md. R. 2910)

Regulation .10B amended effective June 20, 1994 (21:12 Md. R. 1063); November 1, 2010 (37:22 Md. R. 1555); August 29, 2016 (43:17 Md. R. 959)

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 05 BOARD OF WELL DRILLERS
Chapter 03 Approved Training

Authority: Environment Article, §13-101 et seq., Annotated Code of Maryland

.01 Scope.

These regulations describe the continuing education requirements for licensees.

.02 General.

A. In order to renew a license, the licensee shall submit to the Board satisfactory proof of the completion during the license renewal period of at least 20 clock or credit hours of approved training. Ten of the 20 credit hours of approved training shall be directly related to the category of the license that the individual holds. Each licensee holding two or more licenses issued by the Board may fulfill the continuing education requirements for renewal of all licenses by obtaining a total of 20 hours of approved training.

B. Exemptions. The requirements of §A, of this regulation, may be waived for any of the following:

- (1) A licensee was issued an initial license during the last 9 months of the license renewal period;
- (2) A licensee holds an apprentice license; or
- (3) Other just cause shown.

.03 Approval of Training.

A. Board-approved training shall be designed to improve, advance, or extend the licensee's professional skill and knowledge relating to the practice of well drilling. Accreditation of continuing education programs by the Board is based solely upon the content of the programs.

B. Board-approved training in the practice of well drilling may consist of participation in any of the following, provided there is satisfactory proof of completion acceptable to the Board:

- (1) College-level or postgraduate course work given by an accredited college or university;
- (2) Courses, seminars, workshops, or lectures;
- (3) Extension studies and correspondence courses;
- (4) In-service training;
- (5) Papers published in professional journals and requiring peer review;
- (6) Instruction of approved training courses; or
- (7) Lectures and scheduled courses at national or regional meetings of the National Water Well Association.

C. Assignment of Credit.

(1) For courses for which continuing education units (C.E.U.'s) have been assigned, one C.E.U. is equivalent to 10 clock or credit hours of approved training.

(2) Credits shall be approved in not less than 1/2 hour increments.

(3) Credits shall be approved on an hour-for-hour basis for attendance at an approved training program.

(4) Credits are approved on a 2-for-1 hour basis for the instructor of an approved training program.

(5) One credit hour is approved for each day of attendance at the Annual National Water Well Association Convention.

(6) One credit hour is approved for each day of attendance at a regional convention sponsored by the National Water Well Association.

(7) One-half credit hour is approved for attendance at a State association meeting, seminar, or convention.

(8) Credits are approved on a credit hour-for-credit hour basis for a course, seminar, or workshop approved by the National Water Well Association for continuing education.

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D. Procedure for Approval of Courses.

- (1) Courses submitted for Board approval shall be on a form provided by the Board and shall include the following:
 - (a) Description of subject matter;
 - (b) Length of course or courses, in hours;
 - (c) Name of instructor;
 - (d) Date;
 - (e) Time; and
 - (f) Location.
- (2) A change in subject matter, length, or instructor requires resubmittal and approval of the Board.
- (3) Courses conducted by water well-drilling contractors shall have the prior approval of the Board.

E. Recording Credits.

- (1) Approved training obtained within the appropriate license renewal period shall be credited as provided in §C, of this regulation.
- (2) Licensees shall submit a record of attendance for each course on forms provided by the Board.
- (3) The Board may designate an alternative method for recording credits, when appropriate.
- (4) The Board shall maintain a:
 - (a) Cumulative record of continuing education credits for each licensee;
 - (b) Current list, called the Approved Training Log, of all training approved by the Board.
- (5) The Board shall notify each licensee of accumulated continuing education credits not later than 45 days before the license expiration date. Failure of the Board to provide notification does not relieve the licensee of the obligation to comply with the requirements for license renewal.

.04 Proof of Training.

A. The licensee is responsible for the submission of proof of all approved training to the Board. Inability to substantiate credit hours submitted is grounds for disallowance of the credits in question.

B. Proof of training consists of:

- (1) Official transcripts from the educational institution;
- (2) A certificate or other documentation signed by the instructor or sponsor of the training, attesting to the satisfactory completion of the training; or
- (3) Other documentation determined by the Board to be adequate, in light of the nature of the training, to establish that training was actually received by the applicant.

Administrative History

Effective date: December 24, 1990 (17:25 Md. R. 2910)

Title 26
DEPARTMENT OF THE ENVIRONMENT
Subtitle 05 BOARD OF WELL DRILLERS
Chapter 04 Basis for Disciplinary Action

Authority: Environment Article, §13-101 et seq., Annotated Code of Maryland

.01 Denials, Reprimands, Suspension, and Revocation.

A. Mandatory Action. Subject to the hearing provisions of Environment Article, §13-311, Annotated Code of Maryland, the Board shall suspend or revoke a license if the licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the licensee or for another;
- (2) Fraudulently or deceptively uses a license; or
- (3) Is guilty of gross negligence, incompetence, or misconduct while practicing well drilling.

B. Denial. Subject to the hearing provisions of Environment Article, §13-311, Annotated Code of Maryland, the Board may deny a license to any applicant on any of the grounds specified in §A, of this regulation.

C. Discretionary Action. Subject to the hearing provisions of Environment Article, §13-311, Annotated Code of Maryland, the Board may deny a license to any applicant, reprimand a licensee, or suspend or revoke a license if the Board finds that the applicant or licensee has:

- (1) Violated any law, rule, or regulation that applies to practicing well drilling; or
- (2) Been disciplined by a licensing or disciplinary authority of any other state or county, or been convicted or disciplined by a court of any state or county, for an act that would be grounds for disciplinary action under this chapter.

.02 Complaints.

A. A person may file a complaint with the Board alleging that a licensee or an applicant for a license has violated the provisions of this chapter. Complaints should be in writing and state in detail those facts related to the alleged violation. On receipt of a written complaint or on its own motion, the Board shall cause an investigation to be conducted of each allegation of an act prohibited by this chapter to determine whether formal action will be taken against the licensee or applicant. A person who filed a complaint shall be informed of the action taken or to be taken.

B. The Board does not normally investigate complaints or take any action against a licensee or applicant for alleged actions that occurred 3 or more years before the date the complaint is received by the Board. In unusual circumstances, such as in cases involving allegations of fraud, the Board may investigate and take action against a licensee for actions that occurred more than 3 years before a complaint is received by the Board.

.03 Procedures for Disciplinary Action.

A. Right to Hearing.

(1) Before taking any action pursuant to Regulation .01 of this chapter, the Board shall give the licensee against whom the action is contemplated an opportunity for a hearing before the Board.

(2) Notice.

(a) The hearing notice shall be served personally or sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the licensee at least 30 days before the hearing.

(b) The notice shall:

- (i) State the time, place, and nature of the hearing;
- (ii) State the authority of the agency to hold the hearing;
- (iii) Cite the specific section of each statute and regulation, including a procedural regulation, that is pertinent;
- (iv) State concisely and simply the facts that are asserted, or if the facts cannot be stated in detail when the notice is given, the issues that are involved; and
- (v) State the time, date, and place of any prehearing conference.

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(c) If, after due notice is given pursuant to § A(2)(a), of this regulation, the licensee against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

B. Prehearing Conference.

(1) At the discretion of the Board or at the request of a party, the Board may set a prehearing conference to be held at least 1 week in advance of the scheduled hearing.

(2) At the prehearing conference, the parties shall be prepared to:

- (a) Designate the witness they expect to call;
- (b) Disclose the physical evidence they will present at the hearing;
- (c) Reach agreement on undisputed matters; and
- (d) Discuss settlement possibilities.

C. Hearing Procedures.

(1) The licensee may be represented by counsel at the hearing.

(2) Hearings shall be held before a quorum of the Board.

(3) The chairman, or in the chairman's absence the chairman's designee, shall:

- (a) Conduct the hearing;
- (b) Determine the order in which the case is to be presented;
- (c) Rule on the advisability of evidence;
- (d) Adjourn;
- (e) Recess the hearing from time to time; and
- (f) Call any person to testify as the chairman or any member of the Board deems appropriate.

(4) Members of the Board may examine any witness.

(5) The Board's counsel has all the rights as counsel to a party.

(6) The rules of evidence in all hearings under these regulations are set forth in State Government Article, §10-208 and 10-209, Annotated Code of Maryland.

D. Briefs.

(1) A party may, and on request of the Board shall, submit briefs of the issues of fact and law involved in the hearing.

(2) The briefs shall be filed in the form, with the number of copies, and at the time the presiding officer designates.

E. Decision and Order.

(1) Each decision and order rendered by the Board shall be in writing and accompanied by findings of fact and conclusion of law.

(2) Findings of fact consist of a concise statement of the conclusion upon each contested issue of fact.

(3) A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed promptly to each party or the party's attorney of record.

F. Rehearing.

(1) A party aggrieved by the decision and order rendered in a particular case may apply for rehearing for good cause shown within 10 days after notification of the decision and order. The determination of whether good cause for a rehearing has been shown is in the Board's sole discretion, subject to the provision of §G, of this regulation.

(2) Unless otherwise ordered, neither the rehearing nor the application for rehearing stay the enforcement of the order or excuse the persons affected by it for failure to comply with its terms.

G. Judicial Review. A party aggrieved by the final decision in a contested case, whether the party has applied for a rehearing, is entitled to judicial review in accordance with State Government Article, §10-215, Annotated Code of Maryland.

Administrative History

Effective date: December 24, 1990 (17:25 Md. R. 2910)

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