



STATE OF MARYLAND

**DHMH**

Department of Health and Mental Hygiene

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor - Joshua M. Sharfstein, MD, Secretary

**MARYLAND BOARD OF ENVIRONMENTAL HEALTH  
SPECIALISTS**

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September 27, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD. 21401-1991

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis MD 21401-1991

RE: State Government Article § 8-403 - 2012 House Bill 511 – State Board of Environmental Health Specialists - Transfer of Responsibilities

Dear President Miller and Speaker Busch:

Pursuant to State Government Article Section 8-403, Section 9 (a) and (b),  
“to ensure an individual performing similar duties related to protecting public health are regulated uniformly, The State Board of Environmental Health Specialists, in consultation with the Maryland Association of County Health Officers and the Conference of Local Environmental Health Director, shall develop recommendations about revising existing Statutory exemptions from the requirement to be licensed to practice as an environmental health specialist based on job duties”.

The report includes:

- (1). the criteria used for the re-evaluation of the existing statutory exemptions;
- (2). an analysis of the existing statutory exemptions that have been reviewed; and
- (3). a determination of the validity of future exempt status from licensure under the new legislation.

(1). Criteria Used For The Re-Evaluation of Existing Statutory Exemptions

In Health Occupations Article, §21-101, it includes:

(a) A licensed environmental health specialist as designated under Section 21-101(H);

(b) A licensed environmental health specialist; for public employees, and Environmental Health Director, equivalent state and local agency officer, or staff designee;

(c) For private sector employees, an environmental professional who, like an Environmental Health Director or equivalent supervisor or staff, who makes decisions affecting food safety, water quality, air quality, sewage systems, and other aspects effecting public health.

(2). An Analysis Of The Existing Statutory Exemptions Presently Under Review

In order to re-evaluate previously approved exemptions from Licensure as a Sanitarian under the Maryland Annotated Code, Title 11 Environmental Sanitarians, "Policy to Clarify Licensure Exemptions", it is necessary to review Section 21-101, of the new Article-Health Occupations, Title 21 Environmental Health Specialists, Subtitle 1. General Provisions. A copy of the policy is included as an exhibit in this report.

The policy was approved by the previous Board of Environmental Sanitarians, in April of 2010, after an extensive study of the various job classifications in the Maryland Department of Health and Mental Hygiene, Department of the Environment (MDE), Department of Natural Resources, and Local Environmental Health programs.

Under Section 21-101 (I), "Practice as an Environmental Health Specialist, means, a major component of employment, to apply academic principle, methods and procedures of environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to the control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;
- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;

- (10) Recreational sanitation; and
- (11) Institutional and residential sanitation.”

(3). Determination of the Validity Of Future Exempt Status From Licensure Under Current Legislation

By conducting significant research and evaluation of duties and functions by professions, the Board of Sanitarians, in 2010, established “The Policy to Clarify Licensure Exemptions”. The policy provides a detailed explanation of what is required to obtain an exemption from licensure. However, in the preamble, the policy also states that those duties and functions that are specifically relating to control of the public health aspects of environment are not exempt. Therefore, an exemption would not be provided to an employee if the job duties and functions that would be conducted by the petitioner have public health implications and impacts.

### **Review of State Personnel Job Classifications**

Using the criteria under Section 21-101 (I), an evaluation of a list of Maryland State job classifications, which include job class codes and titles and MS 22, Job Description forms were obtained from the State Personnel Office for review to determine if any of those job class designations would require licensure as an Environmental Health Specialist under this Section.

A total of 910 job class titles were reviewed. Of these classifications, several were selected for further review. They included Geologist, Occupational Safety and Health Compliance Officer series (Dept. of Labor), Environmental Compliance Specialist (MDE), Public Health Engineers, and MDS Cooks, and certain Program Directors, and Administrators within MDE.

### **Conclusion**

During January and February of 2010, Members of the Maryland Board of Sanitarians performed an extensive analysis of professional license exceptions in response to a review conducted by the Division of Legislative Services (DLS). The review was under development during that period for that reporting period by DLS. The analysis by the Board resulted in a report which was developed into policy for future evaluations by the Board for future requests for exemption from licensure. The Policy was developed and approved by the Board members in April, 2010.

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The Honorable Michael E. Busch

The Board implemented that new policy while pursuing legislation during the 2011 and 2012 legislative sessions to re-locate the Board of Sanitarians from the Maryland Department of the Environment to the Department of Health and Mental Hygiene. The legislation to relocate the Board resulted in the change of the professional title to Environmental Health Specialist, and the move of the Board to the Boards and Commissions, within the Department of Health and Mental Hygiene. The revised and updated policy on this matter, which accompanies this report to the legislature, represents the new and current policy regarding licensure requirements and policy for the profession. At that time, the Board of Environmental Health Specialist was already operating under a new set of criteria and focus than the period cited by DLS in their sunset review evaluation requested.

The members of the Board of Environmental Health Specialists, in less than the first year of operation, have completed the move to the Department of Health and Mental Hygiene, assimilated the members of the profession into the licensing program, and considerably upgraded the administrative capabilities to provide more capable, and professional support for the profession.

I trust this Report will provide useful information to you as the General Assembly considers any legislation that may be introduced during the 2014 session. If you have any questions regarding this report, please contact me at 443-520-5977 or [rsheesley1@verizon.net](mailto:rsheesley1@verizon.net) .

Sincerely,



Robert Sheesley  
Board Chairman

Attachment

cc: Honorable Joan Carter Conway  
Honorable Peter A. Hammen  
Marie I. Grant, Director of Governmental Affairs  
Ari Elbaum, Assistant Attorney General  
James T. Merrow, Executive Director  
Kristen Neville, Legislation Coordinator



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Deputy Secretary

## BOARD OF ENVIRONMENTAL SANITARIANS

### MARYLAND ANNOTATED CODE Title 11 ENVIRONMENTAL SANITARIANS Subtitle 03 Licensing

#### Policy to Clarify Licensure Exemptions

**Authority:** Environment Article, §§ 11-101, 11-201, 11-301, 11-303, 11-308, 11-314 and 11-315, Annotated Code of Maryland, and Code of Maryland Regulations

#### **Background:**

In January and February 2010, the Board performed an analysis of license exceptions in response to a review by the Division of Legislative Services (DLS). This policy is to clarify the board's interpretation and application of the current legislation regarding Sanitarian licensure and the exempted categories specified at Environmental Article §11-301(b).

#### **Preamble:**

In the Environmental Article, §11-101(e), Annotated Code of Maryland, "*Practice as an Environmental Sanitarian*" means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;
- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;
- (10) Recreational sanitation; and
- (11) Institutional and residential sanitation."

#### **Policy:**

Under the Maryland Annotated Code, Environmental Article, §11-301(b)(4), the following position titles were reviewed by the Board applying the term to "practice as an environmental sanitarian." The Board confirmed that the listed degrees, professions, or occupations specified as exempt for

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licensure as a Registered Sanitarian (RS) are appropriately classified. Each exempt classification is an occupation:

1. Within a highly specialized practice area;
2. Within a highly specialized academic area;
3. That is certified by another state occupation or professional licensing board;
4. That is credentialed by a national organization;
5. That is a non-professional;
6. That is primarily management duties and responsibilities; or
7. Within the Maryland Department of the Environment (MDE) or Department of Health and Mental Hygiene (DHMH) that performs less than 50 percent of environmental sanitarian duties and responsibilities as confirmed by the agency's position description;
8. Whose environmental services are performed solely for their employer

The exempt classifications are:

Professions with advanced credentials, distinctly differentiated from the Registered Sanitarian (RS) including:

- Industrial hygienists as defined by the American Industrial Hygiene Association
- Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals
- Safety professionals as defined by the American Society of Safety Engineers
- Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals
- Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene

Maryland licensed professional engineers:

- Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose professional activities are normally included in § 11-101(e) of this title

MDE or County Sediment Control, Stormwater Management, Oil Pollution Control and Ambient Air Monitoring employees including:

- Persons employed by the MDE or related county departments who perform duties and responsibilities for erosion and sediment control, stormwater management, or oil pollution control under Title 4 of this article
- Persons employed by the MDE or related county departments who perform duties and responsibilities for ambient air monitoring under Title 2 of this article or for motor vehicle pollution control under Title 2 of this article or Title 23 of the Transportation Article

Maryland Department of Natural Resources (DNR) employees including:

- Natural resources managers
- Natural resources biologists
- Persons employed by the DNR or related county departments who perform duties and responsibilities under the Natural Resources Article

Employees within highly specialized employment areas including:

- Persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act

- State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department of Health and Mental Hygiene

Employees in distinct professional occupations that are not otherwise credentialed and do not practice as an environmental sanitarian including:

- Geologists
- Chemists
- Meteorologists
- Laboratory scientists
- Hydrographers and hydrographic engineers
- Health planners or natural resource planners
- Building and housing inspectors
- Public health engineers and water resources engineers employed by the State or a local subdivision

Non-professional employees including:

- Administrative officers
- Administrative specialists
- Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data

Management:

- Program administrators, administration directors, administrators

Other:

- Persons employed by industrial operations whose environmental services are performed solely for their employer

The exemptions from RS licensure will be reviewed by the MDE and DHMH and amend the legislation as needed. RS applicants who seek voluntary licensure will be evaluated according to the published qualifications in COMAR.

**History:**

Team review: 19 DEC 2009

First Board meeting review:

Second Board meeting review and edits: 18 MAR 2010

Board approval of draft policy: March 2010 EMail Vote

Board approval of final policy: 7 April 2010

Counsel Review: Board Vote Requiring Counsel Review - 7 April 2010

OR Board Vote for Counsel Review Not Required - 7 April 2010

**Chair:** Elizabeth A. Scott 7 April 2010  
Elizabeth Ann Scott, MPH, RS, REHS, Term expires 6/30/2010 DATE

**Vice Chair:** William E. Peterson 4/7/2010  
William Peterson, RS, REHS, Term expires 6/30/2013 DATE

**Secretary:** Ann Caldwell 04/27/2010  
Ann Caldwell, RD, LDN, Term expires 6/30/2011 DATE