

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 78]

Oil and Gas Cementing and Casings; Additional Public Hearing

The Environmental Quality Board (Board) has scheduled an additional public hearing for the purpose of accepting comments on the proposed rulemaking to amend Chapter 78 (relating to oil and gas wells) to update cementing and casing standards, published at 40 Pa.B. 3845 (July 10, 2010). The additional public hearing will be held July 26, 2010, at 7 p.m. at the Department of Environmental Protection, Southwest Regional Office, Waterfront Conference Rooms A and B, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

The proposed rulemaking updates existing requirements regarding the drilling, casing, cementing, testing, monitoring and plugging of oil and gas wells, and the protection of water supplies. The proposed rulemaking includes updated material specifications and performance testing and amended design, construction, operational, monitoring, plugging, water supply replacement and gas migration reporting requirements. The additional requirements will minimize gas migration and will provide an increased degree of protection for both public and private water supplies.

The previously-referenced hearing is in addition to four other hearings scheduled by the Board in Tunkhannock on July 19, 2010, Williamsport on July 21, 2010, Meadville on July 22, 2010, and Pittsburgh on July 22, 2010, to receive comments from the public on the proposed rulemaking.

Written Comments

Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board on or before August 9, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board on or before August 9, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

Electronic Comments

Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board on or before August 9, 2010. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

Public Hearings

Persons wishing to present testimony at the previously-referenced hearing in Pittsburgh are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in

advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can best accommodate their needs.

Copies of the Proposal

The full text of the proposed rulemaking was published at 40 Pa.B. 3345, and is available at <http://www.pabulletin.com> as well as on the Department of Environmental Protection's web site at <http://www.depweb.state.pa.us> (Quick Access: "Public Participation"; then choose "Proposals Open for Comment"). Copies of the proposed rulemaking are also available from the Department of Environmental Protection, Bureau of Oil and Gas, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8765, Harrisburg, PA 17105-8765, (717) 772-2199, ra-epoilandgas@state.pa.us.

JOHN HANGER,
Chairperson

[Pa.B. Doc. No. 10-1324. Filed for public inspection July 23, 2010, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

License Renewal; Continuing Education

The State Board of Veterinary Medicine (Board) proposes to amend §§ 31.11, 31.13, 31.15, 31.16, 31.40 and 31.41 and to rescind § 31.12 (relating to temporary permits) to read as set forth in Annex A. The proposed rulemaking updates the Board's regulations with regard to original licensure, temporary permits, license renewal and continuing education.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 8 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.8) authorizes the Board to determine the educational requirements for licensure. Section 18 of the act (63 P. S. § 485.18) authorizes the Board to approve continuing education programs and to promulgate standards to ensure that the programs meet the educational and professional requirements of the profession and are designed to keep the members of the profession abreast of current learning and scholarship. Section 5(2) of the act (63 P. S. § 485.5(2)) authorizes the Board to promulgate regulations to effectuate the act. Section 11 of the act (63 P. S. § 485.11) authorizes the Board to promulgate regulations regarding the practice of veterinary technicians.

Background and Need for Proposed Rulemaking

Prior to this proposed rulemaking, the American Veterinary Medical Association (AVMA) Educational Commission for Foreign Veterinary Graduates (ECFVG) certification program was the only path by which a graduate of a school of veterinary medicine that was not accredited by the AVMA could obtain licensure in this Commonwealth. Over the past decade, the American Association of Veterinary State Boards (AAVSB) developed the Program for the Assessment of Veterinary Education Equivalence (PAVE) certification program. The AAVSB presented information to the Board regarding the program, which has approved over 400 candidates and is now accepted in 29 jurisdictions states, including New York and Virginia. The Board determined that both the PAVE and ECFVG certification programs assess educational equivalency in the public interest. In 2008, the Board voted to accept applications from individuals certified through PAVE. The Board's proposal now conforms the regulations to the Board's practice.

The Board also proposes to delete references to the National Board Examination and Clinical Competency Test, which have not been used for initial licensure in North America for well over 5 years.

The proposed rulemaking also deletes provisions and fees regarding temporary permits because these provisions are outdated. As described in section 10 of the act (53 P. S. § 485.10), temporary permits were designed to permit graduates of approved schools to practice while awaiting the next administration of the licensing examination and the announcement of scores from the licensing examination. For at least 10 years, veterinary students have been taking the licensing examination prior to graduation from veterinary school. Applicants for licensure by reciprocity can have their licensure applications processed as quickly as they can have an application for a temporary permit processed. Therefore, there is no longer a need for temporary permits.

The proposed rulemaking updates the Board's regulations regarding license renewal by more clearly delineating between licensees who continue to practice while their licenses are lapsed, in violation of the act, and individuals who do not practice while their licenses are lapsed.

The proposed rulemaking also updates the Board's continuing education provisions to recognize the Department of Veterinary and Biomedical Sciences (Department), College of Agricultural Sciences, Pennsylvania State University as a preapproved provider of veterinary medical continuing education. The Department requested approval of its courses on an annual basis for many years and the Board always approved the Department. After reviewing the information provided by the Department, the Board determined that the courses are of consistently high educational quality and advance the knowledge of licensees in the practice of veterinary medicine and should, therefore, be granted preapproved status. Finally, the Board proposes additional requirements on preapproved providers of continuing education consistent with National trends.

The proposed rulemaking requires licensees attending veterinary medical conferences at which multiple continuing education courses are offered to use some method to verify their attendance at individual courses. The large National veterinary medical conferences use a system

whereby the attendees register for particular courses online and schedules are printed. In addition, most of the conferences provide a log sheet for the attendees to write in the names of the courses they attended. One conference provides swipe cards that attendees use when they enter and leave individual courses and a computer-generated log is generated documenting the sessions attended.

The proposed rulemaking also adds a new fee for a duplicate license. Veterinarians are required to display an original license issued by the Board at their practice location. Veterinarians who practice in more than one facility shall obtain a duplicate license from the Board. The Boards and commissions within the Bureau of Professional and Occupational Affairs charge \$5 for a duplicate license; however, the Board never put this fee into its regulatory schedule of fees. To inform licensees of the fee, the Board proposes to add the fee. While certified veterinary technicians are not required to display their original license at their practice locations, certified veterinary technicians or veterinarians may need duplicate licenses if their licenses are lost or destroyed. Therefore, the Board proposes to include the duplicate license fee for both veterinarians and certified veterinary technicians.

Description of Proposed Amendments

The Board proposes to amend § 31.11(b)(1) (relating to application for licensure) to permit applicants who graduated from schools not accredited by the AVMA to demonstrate equivalent education through either the AVMA (ECFVG) or AAVSB (PAVE) equivalency evaluation process.

The Board proposes to amend § 31.11(b)(2) to delete references to the National Board Examination and Clinical Competency Test, examinations that have not been administered in well over 5 years.

The Board proposes to rescind § 31.12 because veterinary students currently take the licensure examination prior to completing veterinary school and applicants for licensure by reciprocity do not need temporary permits because the processing time for a license and a permit is the same.

In addition, the Board proposes to amend § 31.13 (relating to licensure renewal) to require licensees to report disciplinary actions by another state veterinary licensing board or other authority that authorizes a veterinarian to practice. This provision is necessary to ensure that the Board is made aware of disciplinary action by state racing commissions or the United States Department of Agriculture. In addition, the Board proposes to require veterinarians to report criminal convictions to the Board. The Board proposes to amend § 31.13(c) and (d) to more clearly distinguish the requirements and penalties associated with license renewal between licensees who practiced on an expired license in violation of the act and those who ceased practicing upon expiration of their licenses.

The Board proposes to amend §§ 31.16(a) and 31.40(a) (relating to continuing education provider approval), which list those continuing education providers who are preapproved by the Board to offer courses to licensed veterinarians and to certified veterinary technicians, by adding a paragraph to include the Department.

The Board proposes to amend § 31.16(c) to require providers of continuing education to provide attendees with some method to verify their attendance at individual continuing education courses. The large National conferences have already developed some method of documenting attendance at individual courses.

Finally, the Board proposes to amend § 31.41 (relating to schedule of fees) to delete the fee for temporary permits and include the fee for duplicate licenses.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should not have financial impact on licensees, the Board or any other Commonwealth entity. The proposed rulemaking will not have fiscal impact on the public. The proposed rulemaking will permanently relieve the Department from having to apply to the Board for approval of a continuing education course to be offered by them.

The proposed amendment requiring providers of continuing education offering multiple courses to provide a mechanism for tracking individual's attendance at particular courses may cause the providers to incur additional expenses and paperwork. However, the large, National meetings already provide either an online, written or electronic tracking sheet to attendees. Therefore, there should not be fiscal impact or additional paperwork requirements.

Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 14, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Michelle Roberts, Board Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, www.dos.state.pa.us/vet within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ROBIN J. BERNSTEIN, Esq.,
Chairperson

Fiscal Note: 16A-5724. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

LICENSURE

§ 31.11. Application for licensure.

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(b) *Original licensure.* As a prerequisite to original licensure as a veterinarian, an applicant shall submit the following documentation to the Board:

(1) Evidence of graduation from an approved school or college of veterinary medicine[. **The applicant's official transcript provided by the degree-granting institution or a verification of graduation from the degree-granting institution shall be evidence of graduation from an approved college of veterinary medicine. A graduate of a school or college of veterinary medicine outside of the United States and Canada shall submit certification by the] or certification of equivalence sent directly from the American Veterinary Medical Association, Educational Commission for Foreign Veterinary Graduates or [another program which may subsequently be approved by the American Veterinary Medical Association as proof of graduation from an approved school or college of veterinary medicine] the American Association of Veterinary State Boards, Program for the Assessment of Veterinary Education Equivalence.**

(2) North American Veterinary Licensing Examination (NAVLE) results as furnished through a National examination grade reporting service. [**The Board will accept an applicant's grades from the National Board Examination (NBE) and Clinical Competency Test (CCT) examinations if taken within the last 5 years as furnished through a National examination grade reporting service in lieu of the NAVLE, if the applicant passed these examinations with a score equivalent to or higher than the passing score then prevailing in this Commonwealth.]**

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§ 31.12. [Temporary permits] (Reserved).

[(a) *Original licensure.* An applicant for original licensure who desires a temporary permit under section 10 of the act (63 P. S. § 485.10) may be granted a temporary permit to practice veterinary medicine upon graduation from an approved school or college of veterinary medicine, completion of an application form prescribed by the Board and payment of the fee required by § 31.41 (relating to schedule of fees). **The applicant's official transcript provided by the degree-granting institution or a verification of graduation from the degree-granting institution shall be evidence of graduation from an approved school or college of veterinary medicine. A graduate of a school or college of veterinary medicine outside of the United States and Canada shall submit certification by the American Veterinary Medical Association, Educational Commission**

for Foreign Veterinary Graduates or another program which may subsequently be approved by the American Veterinary Medical Association, as proof of graduation from an approved school or college of veterinary medicine.

(b) *Reciprocal licensure.* An applicant for reciprocal licensure who desires a temporary permit under section 10 of the act may be granted a temporary permit to practice veterinary medicine in this Commonwealth if the applicant completes an application form prescribed by the Board, pays the fee required by § 31.41, and otherwise meets the requirements of subsections (a) and (c) and section 10 of the act.

(c) *Temporary permit holder limitations.* A temporary permit holder shall be associated with a licensed doctor of veterinary medicine, shall limit his work to the practice of the licensed doctor of veterinary medicine and may not participate in any practice or operation of a branch office, clinic or allied establishment. The associating veterinarian shall be responsible for all veterinary activities of the temporary permit holder and shall be accessible to the temporary permit holder either by telephone or personal contact. When contact by telephone or personal contact is not possible as, for example, in the case of vacations or other travel, the associating veterinarian shall delegate the supervisory responsibilities to another licensed veterinarian. The associating veterinarian will continue to assume responsibility for the veterinary activities of the temporary permit holder in his absence. A temporary permit holder shall report to the next scheduled examination of the Board following the issuance of the temporary permit. The temporary permit shall expire on the day following the announcement of the grades of the first examination given after the temporary permit is issued.]

§ 31.13. Licensure renewal.

(a) Licenses expire on November 30 of each even-numbered year, regardless of the date of issuance. Licenses are renewable for a 2-year period beginning December 1 of each even-numbered year. The fee for biennial renewal is as set forth in § 31.41 (relating to schedule of fees). [Late fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-101—1401-501) will be added to the renewal fees of licensees who do not submit their renewal applications by December 1 of the year of expiration of their licenses.] Upon renewing their licenses, licensees will receive a blue 5 × 7 wall certificate and wallet-size license card which show the next expiration date of the license. [These documents are the only evidence of valid, current licensure.]

(b) A licensee who is also licensed to practice veterinary medicine in another state, territory or country shall report this information on the biennial registration form. Disciplinary action taken by the veterinary licensing authority or other authority that authorizes a licensee to the practice of veterinary medicine or that is related to veterinary medicine in [other states, territories or countries] another state, territory, country, or by a Federal authority in the United States, shall be reported to the Board on the biennial registration application or within 90 days of final disposi-

tion, whichever is sooner. Criminal convictions shall be reported to the Board on the biennial registration application or within 90 days of sentencing, including acceptance into an Accelerated Rehabilitative Disposition program, whichever is sooner.

(c) Licensed veterinarians who fail to renew their license shall cease from the practice of veterinary medicine in this Commonwealth on the last day of November of the renewal year. [Failure to do so] A licensee who continues to practice on an expired license will [result in] be subject to disciplinary action by the Board [under section 9(a) of the act (63 P.S. § 485.9(a))]. Late fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-101—1401-501) will be added to the renewal fee of a licensee who practiced on an expired license. The licensee will be required to pay the current biennial renewal fee as set forth in § 31.41 (relating to fees) and the fees that would have been paid had the license been maintained in good standing. The licensee will be required to submit continuing education certificates of attendance for the current and any past biennial renewal periods during which the licensee practiced on an expired license.

(d) A holder of an expired license to practice veterinary medicine who did not practice veterinary medicine in this Commonwealth while the licensee's license was expired may reactivate and renew the license [within 5 years from the date of its expiration,] upon application to and approval of the Board and upon payment of the current biennial renewal fee as set forth in § 31.41 [and the payment of the fees that would have been paid if the license had been maintained in good standing] and documentation that the licensee has complied with § 31.15 (related to continuing education). The application for renewal shall also be accompanied by [certificates of attendance at continuing education courses as required by § 31.15 (relating to continuing education) for the current and preceding biennial renewal periods in which the license was expired, and] an Affidavit of Non-Practice, verifying the period of time in which the licensee abstained from the practice of veterinary medicine in this Commonwealth. A licensee will not be assessed a late renewal fee under the Bureau of Professional and Occupational Affairs Fee Act for the preceding biennial periods in which the licensee abstained from the practice of veterinary medicine in this Commonwealth.

(e) [A licensee will not be assessed a late renewal fee for the preceding biennial periods in which the licensee abstained from the practice of veterinary medicine in this Commonwealth.] The following individuals will be required to apply for a license in accordance with section 9 of the act (63 P.S. § 485.9) if the licensee desires to resume practicing veterinary medicine in this Commonwealth:

(1) A licensee who practiced veterinary medicine in this Commonwealth on an expired Pennsylvania license for more than 5 years.

(2) A veterinarian who practiced veterinary medicine in another jurisdiction on a license issued by that jurisdiction that was expired for more than 5 years.

(3) A veterinarian who did not have an unexpired license in any jurisdiction and did not practice veterinary medicine with a current license in any jurisdiction for more than 5 years.

§ 31.15. Continuing education.

[As a condition of licensure renewal under § 31.13 (relating to licensure renewal), a veterinarian]

(a) Veterinarians shall complete 30 clock hours of continuing education courses approved by the Board during the 24 months preceding the renewal date. [Continuing education credit will not be given for a course in office management or practice building.]

(b) A maximum of 25% of the hours may be earned by taking individual study or written or computer-based correspondence courses for which third-party verification of satisfactory completion is provided. [The courses shall meet the requirements of § 31.16 (relating to continuing education provider approval).]

(c) Veterinarians shall maintain a list of all continuing education courses attended and certificates of attendance for a minimum of 3 years.

(d) Courses in office management or practice building may not be used to meet the 30-hour continuing education requirement.

§ 31.16. Continuing education provider approval.

(a) Subject to § 31.15 (relating to continuing education), the Board will approve without application to the Board and the fee required under § 31.41 (relating to schedule of fees), continuing education courses offered by the following providers so long as the programs increase the skills, knowledge and competency of veterinarians in the practice of the profession:

* * * * *

(9) The Department of Veterinary and Biomedical Sciences, College of Agricultural Sciences, Pennsylvania State University.

* * * * *

(c) Organizations approved under subsections (a) and (b) shall provide certificates of attendance to the veterinarian which includes the name of the provider, the name

of the licensee, the title of the course, the date of the course, the number of credit hours and the signature of the person authenticating attendance. If a certificate of attendance covers a program with more than one course, organizations approved under subsections (a) and (b) shall require some method by which attendees verify attendance at individual courses. Organizations approved under subsection (b) shall also provide the Pennsylvania approval number.

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VETERINARY TECHNICIANS AND NONCERTIFIED EMPLOYEES

§ 31.40. Continuing education provider approval.

(a) The Board will approve without application to the Board and the fee required under § 31.41 (relating to schedule of fees), continuing education courses offered by the following providers [as] so long as the programs are specifically designed to increase the skills, knowledge and competency of certified veterinary technicians:

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(10) The Department of Veterinary and Biomedical Sciences, College of Agricultural Sciences, Pennsylvania State University.

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FEES

§ 31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

Veterinarians:

* * * * *

[Temporary permit.....\$35]

Duplicate license \$5

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Veterinary technicians:

* * * * *

Duplicate license \$5

[Pa.B. Doc. No. 10-1325. Filed for public inspection July 23, 2010, 9:00 a.m.]