

Preliminary Evaluation of the State Board of Environmental Sanitarians

Recommendation: **Full Evaluation in 2011**

The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board of Environmental Sanitarians (BES) was not scheduled for a preliminary evaluation under statute until 2010; however, DLS accelerated the review process for this board – along with several others – to more evenly distribute the number of evaluations conducted over the next few interims. BES last underwent a full evaluation in 2001. In the 2001 evaluation report, DLS concluded that BES serves an important function in licensing and overseeing individuals who enforce compliance with federal, State, and local health laws. DLS recommended that the board’s termination date be extended by 10 years and that BES report to certain standing committees of the General Assembly on the implementation of other recommendations in the report. Chapter 172 of 2002 extended BES’ termination date to July 1, 2013, and required BES, by October 1, 2002, to submit a follow-up report on issues raised in the evaluation.

To collect information and data for this evaluation, DLS staff reviewed meeting minutes, financial data, complaint data, licensing data, and other information obtained from BES, as well as previous sunset evaluations, statute and regulations, and background literature on the field of public health. Interviews were conducted with board members, the board’s counsel, administrator, and administrative specialist, as well as members of relevant professional associations. Staff also attended two board meetings.

BES reviewed a draft of this preliminary evaluation and provided the written comments attached at the end of this document as **Appendix 6**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in board comments may not reflect the final version of the report.

Environmental Sanitarians

Environmental sanitarians enforce compliance with federal, State, and local environmental and health laws and regulations. Most environmental sanitarians are employed in the public sector. In Maryland, “practice as an environmental sanitarian” means, as a major component of employment, to apply academic principles, methods, and procedures to the inspections and investigations necessary to collect and analyze data and make decisions necessary to comply with environmental and health laws and regulations, including those regarding:

- the manufacture, preparation, handling, distribution, or sale of food and milk;
- water supply and treatment;
- wastewater treatment and disposal;
- solid waste management and disposal;
- vector control;
- insect and rodent control;
- air quality;
- noise control;
- product safety;
- recreational sanitation; and
- institutional and residential sanitation.

Regulation of environmental sanitarians, or their equivalent, varies among the states. According to the 2009 State Environmental Health Registration Survey conducted by the National Environmental Health Association (NEHA), 32 states have licensing programs for environmental sanitarians or their equivalent, 19 of which are mandatory. The minimum levels of education and training required for licensure also vary by state, though there is a trend toward using NEHA’s examination as part of licensure.

The State Board of Environmental Sanitarians

BES was created in 1969 to ensure that individuals practicing as environmental sanitarians in Maryland meet minimum professional standards. BES is one of three environmental licensing boards currently operating within the Maryland Department of the Environment (MDE). BES carries out its mission by licensing individuals as “registered environmental sanitarians,” regulating “sanitarians-in-training” (individuals who meet the educational requirements for licensure but are obtaining relevant supervised experience), approving continuing education courses for licensees, and occasionally imposing disciplinary

sanctions. BES also keeps a current record of all environmental sanitarians and sanitarians-in-training in the State, sets and collects fees, and provides informational resources to practicing environmental sanitarians and the public through the board's web site.

Major Statutory and Regulatory Changes Since the 2001 Sunset Evaluation

Following the 2001 sunset evaluation, two laws made substantive changes to the Maryland Environmental Sanitarian Act. These changes are summarized in **Exhibit 1**.

Exhibit 1

Major Legislative Changes Since the 2001 Sunset Evaluation

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	172	Extends the board's termination date by 10 years to July 1, 2013. Requires DLS to conduct a sunset review of BES by July 1, 2012. Alters the membership of BES. Requires BES to report to certain committees of the General Assembly on or before October 1, 2002, on the board's progress in implementing the recommendations of the 2001 DLS sunset evaluation report.
2004	230	Exempts milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department of Health and Mental Hygiene from the State licensure requirement for environmental sanitarians.

Source: Laws of Maryland

Chapter 172 of 2002 altered the membership of BES by reducing the number of members from MDE from two to one; creating a member position for a Department of Health and Mental Hygiene (DHMH) employee; repealing a requirement that one member be employed by a local health department in certain jurisdictions; and creating a position for a person employed by a local government.

Chapter 172 also required BES to report to certain standing committees by October 1, 2002, on the implementation of DLS' recommendations in the 2001 sunset report. DLS notes that there is no record that BES completed this reporting requirement.

In 2005, in response to a DLS recommendation in the 2001 sunset evaluation, BES adopted regulations (Code of Maryland Regulations, 26.07.05.01 and .02) establishing a code of ethics for applicants and licensees. This code of ethics is included at the end of this document as **Appendix 1**.

Demand for Environmental Sanitarians Exceeds Supply

BES advises that the demand for environmental sanitarians is growing, and there are currently more positions than qualified candidates. The board anticipates that this gap will increase significantly over the next few years, based on its own estimate that 40% of licensees are approaching retirement. In response to this projected trend, BES has taken a greater role in strengthening recruitment and retention of qualified environmental sanitarians in the State.

BES is composed of nine members: seven registered environmental sanitarians and two consumers. A current roster of board members is included as **Appendix 2**. Members are appointed by the Governor with the advice of the Secretary of the Environment and the advice and consent of the Senate. BES members are appointed to five-year terms and may not serve more than one consecutive term. At the end of a term, a member continues to serve until a successor is appointed and qualifies. As currently structured, of the board members serving on BES:

- one must be employed by private industry;
- one must be employed by MDE;
- one must be employed by DHMH;
- one must be employed by a local health department and be employed under the State Personnel Management System;
- one must be employed by a local government and not be employed under the State Personnel Management System;
- two must be appointed at large from a jurisdiction not already represented to balance geographical representation; and
- two must be consumers.

BES is only required to meet twice a year but currently meets monthly to conduct its business. BES members are unpaid volunteers, though they are entitled to reimbursement for expenses under standard State travel regulations.

BES has access to an Assistant Attorney General at MDE as necessary. BES advises that the nature of this access has never been made clear. BES also shares a part-time administrator and a part-time administrative specialist with the State Board of Waterworks and Waste Systems Operators. The administrator and administrative specialist also often assist the State Board of Well Drillers.

Due to limited staff resources, BES members have taken over many administrative duties, including creating executive summaries of BES meeting minutes, occasionally responding to correspondence, and updating the board's web site. **The sufficiency of staff support for BES should be evaluated to see if additional staff resources are necessary.**

Maryland Has a Mandatory Licensure Program with Many Exceptions

In Maryland, environmental sanitarians are governed by the Maryland Environmental Sanitarian Act, Title 11 of the Environment Article. Except if expressly exempt, to practice as an environmental sanitarian or use the title "registered environmental sanitarian" or the initials "R.S.," a person must be licensed by BES. BES requires applicants for licensure to meet minimum education and training standards and to pass a qualifying examination, discussed in more detail later in this section.

There are currently 25 statutory exceptions to the licensure requirement, as shown in **Appendix 3** of this document. Some of these exceptions are specific and targeted (*i.e.*, chemists), while others are more broad (*i.e.*, persons employed by industrial operations whose environmental services are performed solely for their employer). Statute does not address some exceptions that exist as a matter of practice. For example, certain waterworks and wastewater works operators seem to fall under the requirement for licensure as they handle water supply and treatment and wastewater treatment and disposal. In practice, these individuals are licensed through the State Board of Waterworks and Waste Systems Operators, though no specific exemption is provided.

The 2001 sunset evaluation of BES recommended that the board, in conjunction with MDE and the Department of Natural Resources (DNR), evaluate the exemptions to Maryland's licensure requirement for environmental sanitarians and report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on any exemptions that could be eliminated and the reasons for eliminating them. This recommendation was not implemented. Instead, Chapter 230 of 2004 added a new category of exemption. The board advises that it did not follow this recommendation because of insufficient resources. During the course of this sunset evaluation, concerns were again raised that the list of statutory exceptions may merit evaluation. **These exemptions should be revisited to determine whether any should be added, eliminated, or clarified.**

Career Path to Become an Environmental Sanitarian Is Lengthy

Licensure as an environmental sanitarian in Maryland requires applicants to meet minimum education and training requirements as shown in **Appendix 4**. There are currently four possible combinations of education and training that can lead to licensure. A fifth path was previously available to certain individuals who (1) applied for licensure before July 1, 1995; (2) possessed 10 years experience in the field of environmental health; and (3) passed the licensure examination within two years of application for licensure.

Under the four current paths to licensure, applicants generally must have at least a baccalaureate degree and 12 months of experience as a sanitarian-in-training. Applicants also must pass a qualifying examination and pay the required fees. Current fees charged by BES are shown in **Appendix 5**. The process for applicants to meet licensing requirements, described in more detail below, can be lengthy. On average, three to four years are needed beyond completing the educational requirements to obtain the required specialized training and pass the qualifying examination.

To obtain an initial license to practice as an environmental sanitarian, an individual must first file an application for licensure with BES, accompanied by (1) an official transcript of the applicant's baccalaureate and post-baccalaureate studies; (2) verification of the applicant's relevant previous work experience, if any; and (3) the required application fee. The board's administrative specialist reviews each application to determine if the minimum education requirements for licensure have been met and then makes a preliminary recommendation on the application to the administrator. The administrator reviews the application materials and the administrative specialist's recommendation and then presents it to BES for final action. When questions arise about the sufficiency of an applicant's qualifications, the board evaluates the application directly.

Following board approval of an application, BES issues the applicant a certificate of eligibility (COE) for obtaining employment as an environmental sanitarian. A COE is valid for 12 months but may be renewed by BES on submission by the applicant of a request for renewal and payment of the appropriate fee.

Once the applicant has found employment as an environmental sanitarian, the applicant is required to return the COE to BES with a description of the applicant's new job title and duties. The administrator reviews the job description to ensure that it falls within the experience requirements for an environmental sanitarian and makes a recommendation to BES. The applicant is also required to obtain an environmental health sponsor who must certify that the applicant has the required experience to take the qualifying examination.

If BES approves the applicant's employment and the applicant obtains a sponsor, BES issues the applicant a sanitarian-in-training certificate (SITC). Depending on the applicant's qualifications, the SITC is valid for 12 or 24 months. This certificate allows the applicant to

temporarily work in the State as an environmental sanitarian in order to accumulate enough experience to qualify to take the examination required for licensure. The SITC specifies a date of eligibility to take the qualifying examination, based on the amount of experience that the applicant needs to meet the minimum experience requirement. An applicant may request board approval to take the licensing examination before the date specified if the applicant will complete the required training during the same month the examination will be held or in the month after.

The qualifying examination for environmental sanitarians is created and administered by a contractor and currently offered three times a year. BES requires a passing score of 70%. If an applicant does not pass the examination by the third attempt, the applicant is prohibited from sitting for the examination again until the applicant has completed additional training in accordance with a written plan, which must be approved by BES. A person may not participate in a sanitarian-in-training program for more than three years, unless approved by the board. In practice, due to low pass rates on the qualifying examination, BES advises that it frequently extends the SITC period to allow sanitarians-in-training to continue to gain additional experience while preparing to retake the examination.

Board Responds to Low Examination Pass Rate by Securing A New Examination Contractor

As shown in **Exhibit 2**, in recent years most applicants have not passed the examination on their first sitting. The low pass rate is attributable to many factors. First, the examination covers a wide range of specialized subjects, from food safety to lead, but applicants usually only have the opportunity to train in a few subject areas. Second, BES is authorized to approve study plans, but not create them, and the testing contractor used by BES until August 2009, the Professional Examination Service (PES), did not provide study guides or other test preparation resources. As a result, applicants were on their own in terms of developing an appropriate study plan. Finally, the board advises that PES' examination was not frequently revised and did not always reflect current practice.

To address the low pass rate, BES voted in September 2008 to switch examination contractors. Beginning in August 2009, NEHA became the official testing service in Maryland. NEHA's Examination for Registered Sanitarians or Registered Environmental Health Specialists is currently accepted by a majority of states, and BES advises that it better reflects current practice. Test-takers also now have access to NEHA study guides and other test preparation resources, as well as the option of taking the examination online at a testing center for an additional fee.

Exhibit 2
Environmental Sanitarian Examination Pass Rates
August 2004-April 2009

<u>Date</u>	<u>Total # of Examinees</u>	<u># Passed</u>	<u>Pass Rate</u>
April 6, 2009	26	16	61.5%
December 1, 2008	23	3	13.0%
August 4, 2008	22	5	22.7%
April 7, 2008	19	4	21.1%
December 3, 2007	21	9	42.9%
August 6, 2007	19	11	57.9%
April 2, 2007	22	12	54.5%
December 11, 2006	13	4	30.8%
August 7, 2006	8	3	37.5%
April 3, 2006	25	20	80.0%
December 5, 2005	21	10	47.6%
August 1, 2005	22	13	59.1%
April 4, 2005	15	6	40.0%
December 13, 2004	27	16	59.3%
August 9, 2004	14	0	0.0%

Source: State Board of Environmental Sanitarians

Board Lacks Authority to Waive Licensure Requirements Based on Experience

BES is authorized to waive the qualifying examination requirement if an applicant meets certain criteria or is licensed in another state with which BES has a reciprocal agreement. However, as BES does not currently have any reciprocal agreements with other states, applicants from other states seeking waiver of the qualifying examination are reviewed on a case-by-case basis. BES advises that use of NEHA's examination should facilitate this process because the examination is so widely used.

Once an applicant meets the education and training requirements and passes the qualifying examination, BES issues the applicant a license to practice as a registered environmental sanitarian.

Concerns have been raised about the rigidity of the licensing process, given the unmet demand for environmental sanitarians in the State. Highly specialized positions remain vacant in part because often candidates with sufficient specialized knowledge do not have the broader general knowledge base required of registered environmental sanitarians. BES does not currently have the authority to waive education or training requirements for applicants with other relevant experience. **The authority of BES to waive requirements should be evaluated to determine if a waiver process would be beneficial.**

License Renewal – Continuing Education Requirements Could Be More Targeted

Licensees are required to renew their licenses every two years. An applicant for license renewal must submit an application to BES demonstrating completion of 20 hours of continuing education during the two-year period, along with the renewal fee.

Continuing education is the most significant way that BES currently oversees individuals once they are licensed. Licensees self-report their continuing education hours. BES reviews all continuing education submitted and determines the amount of credit hours that will be awarded. BES does not require the licensee to submit official proof of attendance from the course provider that confirms the exact number of hours in which the licensee participated. General proof of attendance is required. A licensee may receive credit for education hours that do not directly relate to the type of work the licensee specifically does (*i.e.*, a licensee who tests pools may receive credit for a course on food safety).

BES is beginning to take a more proactive approach to approval of continuing education and has begun working with professional organizations and other course providers to pre-approve continuing education courses. In November 2009, BES revised its policy on continuing education to require stricter accounting of continuing education hours.

At present, BES does not offer any guidance to licensees as to which courses to take in order to pursue particular career paths or to obtain cross-training that is valuable to employers. This type of guidance could aid recruitment and retention of environmental sanitarians.

Now that a new continuing education policy has been adopted, BES should periodically review the policy to determine whether it is sufficient to ensure uniform accountability for credit hours. Also, BES should consider creating guidelines for continuing education to assist licensees in attaining the training necessary for career advancement.

Licensing Activity Appears in Decline

As of August 1, 2009, there were 599 registered environmental sanitarians and 79 SITC holders in the State. BES advises that, of these individuals, 537 registered environmental sanitarians (90%) and 76 SITC holders (96%) practice in the public sector (including federal, State, or local government). Though BES keeps a list of current licensees and SITC holders, it does not keep a record of the total tally for each category by year. The board keeps hard copy files, but its electronic database is antiquated with very limited sorting capacity. As a result, it is difficult to track trends in licensing. **BES should revise its database to track the total number of licensees more effectively.**

DLS was able to obtain limited historical licensing data. **Exhibit 3** shows the total number of registered environmental sanitarians and SITC holders as of October 2001, August 2008, and August 2009. When comparing October 2001 and August 2009 data, it does not appear that the number of licensees and SITC holders has fluctuated significantly. However, between 2008 and 2009, the number of registered environmental sanitarians declined by 8.3%, while the number of SITC holders declined by 16.0%.

Exhibit 3 Registered Environmental Sanitarians and Sanitarians-in-training

	<u>October 2001</u>	<u>August 2008</u>	<u>August 2009</u>
Registered Environmental Sanitarians	610	653	599
Sanitarians-in-training (SITC Holders)	<u>81</u>	<u>94</u>	<u>79</u>
Total	691	747	678

Source: State Board of Environmental Sanitarians, Department of Legislative Services.

As previously noted, in response to the board's projected shortage of environmental sanitarians over the next few years (due to the number of current licensees whom the board expects to retire), BES has begun to devote significant energy, in coordination with local health departments, DHMH, and MDE, to developing strategies to strengthen the recruitment and retention of environmental sanitarians.

Board's Disciplinary Action Is Limited; No Formal Complaint Policy

Any person may make a written, specific complaint, referred to as a "charge," of a violation that is grounds for disciplinary action under the Maryland Environmental Sanitarian

Act or the code of ethics for environmental sanitarians. A registered environmental sanitarian who knows of an action or condition that might be grounds for disciplinary action is required to report to BES. The person making the charge has immunity from liability.

The board does not have express investigatory authority; however, it does carry out limited investigations on receipt of a charge. Due to limited staff resources and expertise, BES relies heavily on information provided by employers with respect to a charge. Following investigation of a charge, if BES finds that a violation has occurred, the board may deny licensure, reprimand a licensee, place a licensee on probation, or suspend or revoke a license.

If BES votes to take disciplinary action, the charge is referred to the board counsel. A separate attorney from the Office of the Attorney General acts as prosecutor if the board takes formal action against a licensee. BES advises that it generally takes between six and eight months to resolve a charge. In practice, BES rarely exercises its disciplinary authority. Over the last six years, only seven charges have been filed with the board. Of these, three have been filed since the spring of 2009 and are currently pending. As shown in **Exhibit 4**, of the remaining four charges, only two resulted in formal discipline, while one case was closed.

Exhibit 4
Charges Investigated by the State Board of Environmental Sanitarians
Fiscal 2003-2009

<u>Source of Charge</u>	<u>Allegation</u>	<u>BES Action</u>
Employer	Falsified inspection records	Flagged file, after individual left the job
Employer	Conflict of interest	Revoked sanitarian-in-training certificate
Employer	Failed to maintain license	Issued a reprimand letter
Employer	Failed to follow the proscribed inspection procedures	Cleared the individual of the charge
Coworker	Failed to follow the proscribed inspection procedures	Pending
Employer	Conflict of interest	Pending
Employer	(1) Sexual harassment and (2) failed to follow the proscribed inspection procedures	Pending

Source: State Board of Environmental Sanitarians

The small number of charges may be due in part to the nature of the self-reporting system in place. BES is required to respond to all charges of violations, but it is outside the scope of BES' mandate to proactively seek out violations. Therefore, BES is reliant upon employers and others to report violations. A concern has been raised that employers have preferred to handle discipline through internal personnel channels, bypassing BES. BES advises that it has never received a charge from the private sector.

The State Board of Physicians requires employers to report disciplinary action taken against certain board licensees that may justify disciplinary action by the board. This provides additional information on the conduct of licensees. BES should consider whether a similar reporting requirement may be appropriate for BES.

BES does not have a policy about how to process complaints, including what documentation to maintain but is working to develop one. The board keeps hard copy records regarding each charge in the folders it maintains for each licensee and SITC holder but does not have detailed information about charges accessible through its database. BES advises that it is currently developing a standard disciplinary policy and intends to have the policy in place by June 30, 2010.

BES should develop a policy for processing charges and maintaining easily searchable records related to them. The board should also consider whether an employer reporting requirement may be appropriate to identify violations of the Maryland Environmental Sanitarians Act that are not currently reported to the board.

BES Is General Funded with Expenditures Exceeding Revenues

BES is budgeted through MDE and funded with general funds. Although general funded, the board also has fee setting authority. Likewise, fee revenue is deposited in the general fund. Board fees have not been altered since the 2001 sunset evaluation. **Exhibit 5** provides a fiscal summary of BES for fiscal 2003 through 2009. Because environmental sanitarian licensees are issued on a two-year renewal cycle, BES generally takes in higher revenues in odd-numbered fiscal years. While fee revenues often exceed the board's general fund appropriation in those years, BES revenues do not consistently cover its appropriation in all years.

Board expenditures are not included in Exhibit 5 because BES shares some staff and overhead expenses with other boards, and MDE was unable to give a precise account of BES' share of these costs. This makes it difficult to assess whether the board has sufficient funds to meet its staffing needs, particularly recently as members of the board have taken on numerous administrative tasks. BES advises that it has no control over its budget. Some members expressed concern about the lack of transparency and control over the budget, as it constrains certain BES activities (such as participation in national conferences). Others have said that BES does not have the capacity to oversee its own budget, or even part of it.

While BES’ fees could be increased to bridge the gap between fee revenues and general fund appropriations, it does not appear necessary given the nature of the board. First, at least 90% of registered environmental sanitarians and SITC holders are employed in the public sector, many serving local governments. Second, environmental sanitarians working for the State generally earn base salaries beginning at \$34,000 to \$45,000. Third, the impact of the board on the general fund has ranged from no more than \$37,000 to \$48,000 in any given year since fiscal 2003. Thus, DLS finds that it is not unreasonable for the State to cover a portion of board costs. Furthermore, BES advises that it does not wish to raise fees in order to keep financial barriers to entering the field low and attract new licensees in a time of projected shortage.

MDE should provide BES with more specific information about board expenditures so that the board can determine whether additional funds for staffing are available.

Exhibit 5
State Board of Environmental Sanitarians Fiscal Data
Fiscal 2003-2009

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY2009</u>
General Fund Appropriation	\$55,588	\$56,334	\$59,440	\$62,672	\$67,277	\$68,317	\$73,316
Fee Revenues	66,650	19,675	68,765	18,465	66,400	20,610	69,825
Revenue Excess/(Gap)	11,062	(36,659)	9,325	(44,207)	(877)	(47,707)	(3,491)
% Appropriation Covered by Revenues	19.9%	34.9%	115.7%	29.5%	98.7%	30.2%	95.2%

Notes: Expenditures are not included as some overhead costs and BES staff members are shared with other boards. MDE could not provide expenditure numbers for the board alone.

Source: Department of Legislative Services, State Board of Environmental Sanitarians

Board Uses Work Teams to Carry Out Its Duties

Since 2008, BES has divided itself into three work teams to carry out its duties: the housekeeping team, the policy team, and the Environmental Health Liaison Committee (EHLC) advisory team. The housekeeping team is responsible for BES’ web site and all correspondence not handled by BES staff. BES recently significantly revised its web content as part of increasing outreach efforts and is beginning to see additional traffic to its site.

The policy team drafts board policies to guide decision-making or clarify procedure to the public. The policy team is currently drafting policy statements on disciplinary procedures.

The EHLC advisory team acts as BES' liaison to the Long-Term Workforce Work Group of EHLC. Formed in 2007, the work group is a joint project of DHMH, MDE, and local health departments to develop strategies to meet the State's environmental health workforce needs over the next decade. The work group intends to issue a report in the coming months with a series of recommendations to increase recruitment and retention of environmental health workers, including environmental sanitarians.

Moving Board from MDE to DHMH Under Consideration

One of the key anticipated recommendations of the Long-Term Workforce Work Group is to move BES from MDE to DHMH. At its inception, BES was part of DHMH but was moved to MDE when the department was created in 1987. The transfer of BES from DHMH to MDE was controversial at the time and remains so. Advocates for moving BES to DHMH assert that most environmental sanitarians work at DHMH or in local health departments; environmental sanitarians are more involved in the public health aspect of environmentalism; and DHMH does more professional licensing than MDE and has better resources for this work such as the capacity to accept applications and manage continuing education hours online. No one interviewed during this sunset evaluation advocated against the move, but some expressed indifference. The board's position is that DHMH is the most logical location for the board.

DLS should evaluate the proposal that BES be moved from MDE to DHMH and make a recommendation as to the best departmental location for BES.

Summary of Recommendations

The State Board of Environmental Sanitarians continues to serve an important function in licensing and overseeing individuals who enforce compliance with federal, State, and local health and environmental laws. In particular, under the leadership of its current chair, BES has become much more proactive about managing the work of the board and reaching out to licensees and the public. The current board members have also taken greater initiative, dedicating many hours to improving the board's services. Many changes in the board's policies, procedures, and services are currently underway. **However, several ongoing and emerging issues indicate that further evaluation could assist BES in furthering its mission. Therefore, DLS recommends that a full evaluation of the board be conducted but be delayed until the 2011 interim to allow the board time to implement the changes it has begun. In the meantime, DLS recommends that the board and MDE take the following actions:**

- **Board Resources:** BES should update its licensing tracking system to make it easier to evaluate licensing trends, including the change in total licensees from year to year.

- **Exemptions from Licensure Requirement:** MDE and DHMH, in conjunction with other relevant stakeholders including DNR, should revisit the current statutory exceptions to licensure to determine if the exceptions remain appropriate and whether any should be added, eliminated, or clarified.
- **Continuing Education:** BES should consider including guidelines that help licensees determine which courses they should take to obtain training necessary for advancement along certain career tracks.
- **Disciplinary Processes:** BES should continue its efforts to develop guidelines for processing charges, including records maintenance, and consider requiring employer reporting of internal disciplinary actions.
- **Staff Resources and Board Budget:** MDE should provide BES with specific information about board expenditures, including prorated information about staff salaries, so that BES has a more accurate understanding of its expenditures and can determine whether a change is needed in the current level of staff support

During the 2011 interim, DLS should conduct a full evaluation of the board that follows up on these recommended actions and other issues identified in this report. More specifically, the full evaluation should:

- evaluate improvements to the board's licensing tracking system, continuing education guidelines, any recommendations regarding adoption of an employer reporting requirement, guidelines for processing charges, revised accounting practices for the board's budget, and if the board has sufficient staff resources;
- consider and expand on MDE's initial review of exemptions to the licensure requirement;
- determine whether the board should be given the authority to waive education or training requirements for licensure to meet demand from employers for registered environmental sanitarians with certain specialized credentials; and
- examine the anticipated proposal that the board be moved from MDE to DHMH and make a recommendation as to the best departmental location for BES.

Appendix 1. Code of Ethics

An applicant for a license as an environmental sanitarian or a licensee is required to protect and promote the health and safety of the public and the environment through:

1. the advancement of public and environmental health; and
2. experience and continuing education training.

It is unethical for an applicant for a license as an environmental sanitarian or a licensee to engage in conduct prohibited by:

1. Environment Article, § 11-312(b), Annotated Code of Maryland, or COMAR 26.07.04.01;
2. State Public Ethics Law, State Government Article, §§15-501—15-509, Annotated Code of Maryland; or
3. a county or municipal ethics law adopted pursuant to State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland.

In addition, it is unethical for an applicant for a license as an environmental sanitarian or a licensee to:

1. refuse a professional service based on race, creed, color, or national origin;
2. willfully disregard any observed, known, or continued violation of any federal, State, or local law or regulation regarding public or environmental health;
3. 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 Environment Article, Title 11, Annotated Code of Maryland;
4. unless the conflict can be legally waived and waiver is obtained in writing from all affected parties, knowingly become involved in an actual or perceived conflict of interest;
5. fail to disclose a conflict of interest that arises to all affected parties;
6. accept gifts or gratuities in exchange for preferential regulatory treatment;
7. offer gifts or gratuities to a regulatory authority with expectation of preferential regulatory treatment; or
8. disclose confidences or other proprietary information.

Source: Code of Maryland Regulations 26.07.05.01 and .02

Appendix 2. State Board of Environmental Sanitarians Membership and Staff

Members

<u>Name</u>	<u>Title</u>	<u>Interest Represented</u>	<u>Term Ends</u>
Elizabeth Scott	Chairman	At large	7/1/10
William Peterson	Vice Chair	Department of the Environment	7/1/13
Ann Caldwell	Secretary	Consumer	7/1/11
Paul Hetzer	Member	Consumer	7/1/10
Gail Lynn Kelley	Member	At large	7/1/14
Pamela Engle	Member	Department of Health and Mental Hygiene	7/1/10
Vacant	Member	Local government	Appointee Charles Smyser Resigned 7/09
D. Elayne Warren	Member	Local health department (employed under the State Personnel System)	7/1/11
Robert Sheesley	Member	Private industry	7/1/14

Staff

E. Lee Haskins, Environmental Sanitarian Board Administrator (part-time)
Kathy Glass, Administrative Specialist (part-time)
Jacqueline Russell, J.D., AAG, Board Counsel (part-time)

Source: State Board of Environmental Sanitarians

Appendix 3. Statutory Exemptions from the Licensure Requirement

The following individuals are exempt under the Maryland Environmental Sanitarian Act from the licensure requirement:

- a sanitarian-in-training;
- a student participating in a field experience as part of an educational program;
- an applicant for licensure in accordance with 11-304(b)(5) of this subtitle; and
- a qualified individual in any of the following job classifications:
 1. industrial hygienists as defined by the American Industrial Hygiene Association;
 2. certified industrial hygienists and industrial hygienists-in-training as defined by the American Board of Industrial Hygiene;
 3. health planners or natural resource planners;
 4. building and housing inspectors;
 5. geologists;
 6. chemists;
 7. meteorologists;
 8. laboratory scientists;
 9. 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;
 10. public health engineers and water resources engineers employed by the State or a local subdivision;
 11. hydrographers and hydrographic engineers;
 12. natural resources managers;

13. natural resources biologists;
14. program administrators, administration directors, administrators, administrative officers, and administrative specialists;
15. paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;
16. persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;
17. persons employed by the Maryland Department of the Environment 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;
18. persons employed by the Maryland Department of the Environment 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;
19. 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;
20. occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;
21. safety professionals as defined by the American Society of Safety Engineers;
22. certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;
23. persons employed by industrial operations whose environmental services are performed solely for their employer; and
24. State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department of Health and Mental Hygiene.

Source: Environment Article § 11-301(b), Maryland Annotated Code.

Appendix 4. Education and Experience Requirements for Licensure as a Registered Environmental Sanitarian

<u>Option</u>	<u>Education Requirements</u>	<u>Related Experience Requirements</u>
1.	A baccalaureate degree in environmental health or environmental science.	12 months of experience in a sanitarian-in-training program approved by the board.
2.	A baccalaureate degree in the physical, biological, or environmental sciences that includes (1) at least 60 semester credits of physical, biological, or environmental sciences, including at least one laboratory course in two of the following: chemistry, physics, or biology; and (2) a course in mathematics.	12 months of experience in a sanitarian-in-training program approved by the board.
3.	A baccalaureate degree that includes (1) at least 30 semester credits in the physical, biological, or environmental sciences, including at least one laboratory course in two of the following: chemistry, physics, or biology; and (2) a course in mathematics.	24 months of experience in a sanitarian-in-training program approved by the board.
4.	A master's degree in public or environmental health science that includes the course work described under option 3 above.	3 months in an internship approved by the board (if not previously completed)

Note: Certain environmental sanitarians became licensed through a grandfathering process. These individuals were required to (1) apply for licensure before July 1, 1995; (b) possess 10 years experience in the field of environmental health acceptable to the board; and (c) pass the licensure examination within two years of application for licensure.

Source: Maryland Annotated Code, Code of Maryland Regulations 26.07.01.03

Appendix 5. State Board of Environmental Sanitarians Schedule of Fees

Application and Issuance Fees

Application for license or certificate of eligibility for obtaining employment	\$50
Application for licensure by reciprocity	\$50
License approval and issuance	\$50

License Renewal Fees

12-month renewal or certification of eligibility for obtaining employment	\$25
Biennial license renewal	\$100
Late renewal of biennial license (in addition to required license fee)	\$50
Reinstatement of license (in addition to required license renewal fee)	\$100

Examination Fee

Established by examination service (National Environmental Health Association)	\$125/ examination for the 1 st 50 examinations \$115/ examination thereafter \$80 if examination is taken online (in addition to examination fee above)
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Miscellaneous Fees

Returned check charge (in addition to bank charges)	\$25
Replacement of license	\$25
Examination score verification	\$25
Copy of roster of current license holders	\$25

Source: State Board of Environmental Sanitarians, Code of Maryland Regulations 26.07.02.09

**Appendix 6. Written Comments of the
State Board of Environmental Sanitarians**



MARYLAND DEPARTMENT OF THE ENVIRONMENT
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Martin O'Malley.
Governor

Shari T. Wilson
Secretary

Anthony G. Brown
Lt. Governor

Robert M. Summers, Ph.D.
Deputy Secretary

BOARD OF ENVIRONMENTAL SANITARIANS

December 3, 2009

Department of Legislative Services
Office of Policy Analysis
Attention: Ms. Jennifer B. Chasse
Senior Policy Analyst
Legislative Services Building
90 State Circle
Annapolis, Maryland 21501-1991

Dear Ms. Chasse:

The Maryland Board of Environmental Sanitarians has received and reviewed the Department of Legislative Services (DLS) Exposure Draft Sunset Review Evaluation report of the Board. The Maryland Department of the Environment respectfully provides the following comments to report:

1. Page 14, under “Moving Board from MDE to DHMH”

The Board’s position on this issue is that the Department of Health and Mental Hygiene is the logical location from which the Board should operate. The Board understands that this may not be possible due to the current fiscal and economic situation.

2. Page 14, under “Board Resources”

The Board agrees with the DLS assessment that the updating of the licensing tracking system would certainly make it easier to evaluate licensing trends. However, funding for this activity is lacking. It should be noted that the Board in cooperation with MDE’s IT staff has crafted a greatly improved web-site. The Board views this accomplishment as a first step toward improving the licensing process.

3. Page 15, under “Exemptions from Licensure Requirement”

The Board agrees with the DLS assessment that a review of legislative exceptions to licensure is necessary; however staff resources to accomplish this activity are lacking. The Board suggests that this activity should be carried out between the Personnel Departments of both MDE and DHMH with the assistance and active cooperation of the Board.

4. Page 15, under “ Continuing Education”

The Board completed this recommendation and has issued a newly revised policy for handling requests for the approval of continuing education. The policy will be published on the MDE web-site for the widest possible distribution.

5. Page 15, under “Disciplinary Processes”

The Board has identified the need for a clear disciplinary review process and is currently developing a policy that is fair and legally accurate. Recent cases have substantiated the need for the Board to review the disciplinary process in addition to Personnel Divisions actions. The Board recognizes that although COMAR 26.07.04.01 specifically addresses disciplinary actions, it appears to lack guidelines for implementation. The Board is currently drafting a new policy to clarify the COMAR regulations in this area.

6. Page 15, under “Staff Resources and Board Budget”

The Board agrees with the DLS assessment. However, the Board also recognizes the difficulty of identifying commingled costs among shared MDE Environmental Boards staff resources. The Board is looking into the possibility of changing the renewal cycle to more evenly reflect actual Board costs. Board Members actively provide environmental health services to assist the Environmental Health Liaison Committee, Environmental Health Professional Organizations, the Conference of Environmental Health Directors and also serve as a source of emergency management resources.

Conclusion

Finally, on page #15 the report recommends that the Maryland Board of Environmental Sanitarians should undergo a Full Sunset Review during the interim of 2011. The Board welcomes this opportunity to work with DLS.

Sincerely,

Elizabeth Scott, MPH, RS, REHS
Chair
Maryland Board Environmental Sanitarians