

NOTICE OF PUBLIC HEARING AND
COMMENT PERIOD ON PROPOSED RULES

FILED
1987 JAN 16 AM 9:47
FEDERAL BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE

PUBLIC HEARING/COMMENT PERIOD

BOARD: State Board of Examiners of Land Surveyors

RULE TYPE: Legislative

RULE TITLE: Rules and Regulations for the Practices of Land
Surveying in West Virginia

A public hearing on the above proposed rules will be held at
9:00 a.m. on February 25, 1987, at the American Legion Hall,
205 W. Maple Avenue, Fayetteville, West Virginia.

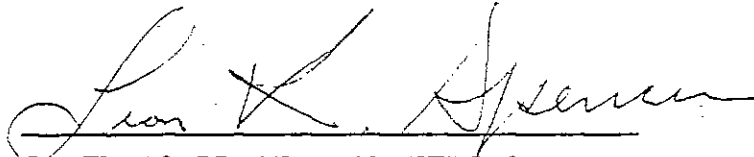
Comments are limited to both oral and written comments.

Comments may also be mailed to: P.O. Box 925, Fayetteville,
West Virginia, 25840. Written comment period on the above
proposed rules must be received by March 2, 1987 at 12:01 p.m.

Oral comments must be made at the time of the public hearing.

The Board requests that persons wishing to make comments at
the hearing make an effort to submit written comments in
order to facilitate a review of these comments.

The issues to be heard shall be limited to the proposed
rules.



STATE BOARD OF EXAMINERS OF
LAND SURVEYORS

by: Leon K. Spencer, Secretary

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
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STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
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DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

PROPOSED RULES

STATE REGISTER FILING

=====

AGENCY State Board of Examiners of Land Surveyors

CONTACT PERSON Leon K. Spencer Sect'y of Board PHONE 574-2980

TYPE OF RULE Legislative

TITLE OF RULE Rules and Regulations for the Practice of Land Surveying
in West Virginia

CHAPTER 30 ARTICLE 13A SERIES I

AUTHORITY Chapter 30 Article 13A Section 4

+++++

CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

☒ NEW RULE

☒ NOTICE OF HEARING

☐ AMENDMENTS TO EXISTING RULE

☐ NOTICE OF AGENCY APPROVAL
(legislative rules only)

☐ REPEAL OF EXISTING RULE

☐ NOTICE OF AGENCY ADOPTION
(interpretive & procedural
rules only)

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FILING OF RULES WHICH
REQUIRES AN ORIGINAL AND
A COPY.

☐ FINAL FILING

☐ FIRST EMERGENCY FILING

☐ SECOND EMERGENCY FILING

FISCAL NOTE FOR PROPOSED RULES

FILED

Rule Title: PROPOSED RULES AND REGULATIONS

1937 JAN 16 AM 9 48

WEST VIRGINIA STATE

Type of Rule: X Legislative Interpretive Procedural

Agency WEST VIRGINIA BOARD OF EXAMINERS OF LAND SURVEYORS Address 105 East Wiseman Avenue
P. O. Box 925
Fayetteville, WV 25840

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$.00	\$.00	\$.00	\$.00	\$.00
Personal Services	.00	.00	.00	.00	.00
Current Expense	.00	.00	.00	.00	.00
Repairs and Alterations	.00	.00	.00	.00	.00
Equipment	.00	.00	.00	.00	.00
Other	.00	.00	.00	.00	.00

2. Explanation of above estimates.

Surveyors performing surveys with the degree of accuracy required may produce such surveys and comply with the Rules and Regulations without the addition of equipment. There is no valid testimony to support that additional cost of survey equipment and/or complete surveys would be incurred as a result of implementing the Proposed Rules and Regulations.

3. Objectives of these rules:

To establish minimum requirements for performing property boundary surveys within reasonable measurement tolerance and requiring surveyors to review deeds, records and to insure boundary corners or lines of properties are identified by the surveyor.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONF

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

Surveyors performing surveys with the degree of accuracy required may produce such surveys and comply with the Rules and Regulations without the addition of equipment. There is no valid testimony to support that additional cost of survey equipment and/or complete surveys would be incurred as a result of implementing the Proposed Rules and Regulations.

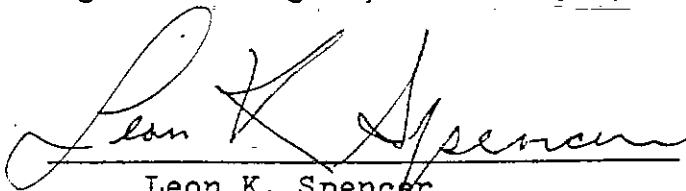
C. Economic Impact on Citizens/Public at Large.

Surveyors performing surveys with the degree of accuracy required may produce such surveys and comply with the Rules and Regulations without the addition of equipment. There is no valid testimony to support that additional cost of survey equipment and/or complete surveys would be incurred as a result of implementing the Proposed Rules and Regulations.

Date

1-16-87

Signature of Agency Head or Authorized Representative

A handwritten signature in cursive script, reading "Leon K. Spencer", written over a horizontal line.

Leon K. Spencer
Secretary of the Board

WEST VIRGINIA LEGISLATIVE RULES
State Board of Examiners of Land Surveyors
CHAPTER 30-13A
SERIES I

FILED

JAN 18 AM 9 48

SUBJECT: RULES AND REGULATIONS FOR THE PRACTICE
OF LAND SURVEYING IN WEST VIRGINIA

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WEST VIRGINIA LEGISLATIVE RULES
State Board of Examiners of Land Surveyors
CHAPTER 30-13A
SERIES I

SUBJECT: RULES AND REGULATIONS FOR THE PRACTICE
OF LAND SURVEYING IN WEST VIRGINIA

Section 1. General.

1.01 Statutory Authority - These Rules and Regulations are promulgated by the State Board of Examiners of Land Surveyors under authority of Chapter 30, Article 13A, Section 4(a) of the West Virginia Code.

1.02 Board Office - 105 East Wiseman Avenue (P. O. Box 925), Fayetteville, West Virginia 25840.

1.03 Filing Date - These rules and regulations were filed in the office of the Secretary of State on the _____ day of _____, 198__.

1.04 Effective Date: _____

Section 2. General Purpose.

2.01 These Rules and Regulations with the Minimum Standards of Practice for the performance of Boundary Surveys are promulgated for the purpose of administration and enforcement of Chapter 30, Article 13A of the West Virginia Code.

Section 3. Satisfactory Records.

3.01 Satisfactory records, as described in Chapter 30, Article 13A, Section 5(b)3, shall include plats, descriptions of surveys, certificates or reports of surveys, field notes, calculations for latitude, departure, coordinates, area, variation, observations for true meridian and related records.

Section 4. Experience.

4.01 The Board will consider satisfactory or approved experience as diversified practical training in land surveying under the direct supervision of a licensed land surveyor, such experience shall be acquired in positions of responsibility which require independent judgment,

initiative, and professional skill. Approved experience shall not include positions of routine work such as chainman or rodman.

Section 5. Qualifications of Applicants for licenses; exceptions; fees; examinations.

5.01 To be eligible for a license to engage in the practice of land surveying, the applicant must meet the requirements as set forth in West Virginia Code 30-13A-5.

5.02 Any applicant for such a license shall submit an application on forms provided by the board. Such application shall be verified and shall contain a statement of the applicant's education and experience, the names of five persons for reference (at least three of whom shall be licensees, or persons eligible for a license hereunder, or persons authorized in another state or country to engage in the practice of land surveying, who have knowledge of his work) and such other information as the board may prescribe. An applicant shall pay to the board with his application a license fee of seventy dollars.

5.03 Examinations shall be held at least once each year at such time and place as the board shall determine.

5.04 The scope of the examination and methods of procedure shall be determined by the board. The content shall be taken from the subjects delineated in Section 7.02 of these Rules and Regulations. An applicant who fails to pass any part(s) of the examination may reapply at any time to take the failed part(s) and shall furnish additional information as requested by the board. Each such application shall be accompanied by a license fee of thirty dollars.

Section 6. Issuance of license; notice of expiration; renewal; renewal fee; display.

6.01 Whenever the board finds that an applicant meets all of the requirements for a license to engage in the practice of land surveying, it shall forthwith issue to him such license; and otherwise the board shall deny the same. All licenses, whether original or renewal, shall expire on the thirtieth day of June following the date of issuance or renewal. The secretary-treasurer of the board shall mail to every licensee, at least thirty days prior to the expiration of such license, notice of the expiration date and the amount of the renewal fee. A license may be renewed without examination upon application for a renewal on a form prescribed by the board and payment to the board of an annual renewal fee of thirty dollars. If a license is not renewed when due, the fee shall increase one dollar per month for

each month or fraction thereof that such renewal fee is not paid, up to a maximum of thirty-six months. No license shall be renewed after expiration of said period of thirty-six months, and the fact that a license cannot be renewed because of the expiration of said period of thirty-six months shall not prevent such person from making application for a new license. The board may deny any application for renewal for any reason which would justify the denial of an original application for a license. The board shall prescribe the form of licenses and each such license shall be conspicuously displayed by the licensee at his principal place of practice. A duplicate license may be issued upon payment of a fee of five dollars.

Section 7. Accredited Surveying Curricula.

7.01 The Board will accredit survey curricula.

7.02 At least two years instruction are required to cover the subject of land surveying, with at least 60 semester credit hours. The curricula should cover the following subjects:

(a) Mathematics to meet land survey needs, including arithmetic, algebra, geometry, trigonometry, functions and formulas, logarithms, triangulation, square roots, latitudes, departures, coordinates, curves, area, significant figures, accuracy, precision, theory and probability and kinds of errors, elementary data and statistical analysis, interpolations, omitted measurements, drainage calculations, and partitioning. The above subjects should supplement high school curricula;

(b) English, spelling and writing sufficient to supplement high school deficiencies;

(c) Ethics and public relations for surveyor--responsibilities to the public, clients, adjoining, and to the profession;

(d) Legal and historical aspects of surveying, including records of ownership and transfer of title, controlling elements, adverse possession, ejectment, seniority, resurveys, surplus and deficiency, riparian rights, meander lines, metes and bounds surveys, U.S. Public Land survey system, laws, ordinances, and rules for surveys and subdivisions, liability for trespass, witnessing in court, handling of disputes, boundary line agreements, authority of surveys;

(e) Preliminary procedures, including record sources, searches, abstracts, platting, detection and adjustment of errors, ground evidence;

(f) Survey equipment capabilities, use and care-- compass, transit, electronic devices, clinometer, stadia, plane table, level, tapes, and rods;

(g) Field methods--rural lands, city lots, subdivisions, underground, oil and gas well, surface mines, rights-of-way, title insurance surveys, hydrographic, topography, public lands, field notes, precisions, accuracies, bypassing obstacles, route and construction surveying;

(h) Plotting, drafting, mapping--equipment methods, material, scales, sheet sizes, recordability, conventional symbols;

(i) Reports--descriptions, certificates, reports, including distribution and recordability;

(j) Meridian observations--on sun and Polaris for true north, including magnetic declination and variation;

(k) Monumentation--markers for corners and references; marking of lines;

(l) Photogrammetry--use and interpretation of aerial photos for locating corners, possession lines, distances, as well as stereoscopes; distortion; and

(m) Miscellaneous--tree and wood identification, geology and hydrology.

Section 8. Unethical Practices.

8.01 Signing or affixing a seal to any document prepared by persons who are not employees or who are not under supervision of the licensee as defined in Chapter 30, Article 13A, Section 5 of the West Virginia Code.

8.02 Accepting, paying, or offering to pay, either directly or indirectly, any gift, bribe, or other consideration to make an improper survey.

8.03 Associating with any survey project known by the licensee to be fraudulent or dishonest in character.

8.04 Failing to exercise due regard for the safety of persons under supervision of the licensee.

8.05 Violating, aiding or abetting any person in the violation of any provision of the West Virginia Code related to the practice of land surveying, or any of the Rules and Regulations promulgated by the Board.

8.06 Injuring or attempting to injure, falsely or maliciously directly or indirectly, the reputation or business of another surveyor.

8.07 Reviewing the work of another land surveyor for the same client, except with the knowledge of such surveyor, or unless the connection of such surveyor with the work has been terminated.

8.08 Calling, naming, describing, designating or otherwise alleging that any service, performed by a licensed land surveyor or any person under the supervision of said surveyor, is a survey, land survey, mortgage survey, loan survey, title insurance survey or similar working, unless the service is performed in accord with the provisions of Article 13A of Chapter 30 of the Code of West Virginia or the regulations promulgated by the board.

8.09 Failing to respond within 30 days to written communications from the board and to make available any records relevant to an inquiry or complaint about the licensee's professional conduct. The 30-day period shall begin on the date when such communication was sent by the board by certified mail with return receipt requested to the last known address of the surveyor.

8.10 Advertising that is false, fraudulent, deceptive, misleading or unlawful.

8.11 Accepting and undertaking to perform land survey services which the surveyor is not competent to perform.

8.12 Failing to give adequate supervision to subordinates.

Section 9. Suspension or revocation of license; procedure for hearings on denial of application for an original or renewal license or suspension or revocation of any license; judicial review.

9.01 The board may at any time upon its own motion and shall upon the verified written complaint of any person conduct an investigation to determine whether there are any grounds for the suspension or revocation of a license issued under the provisions of Code 30-13A and the Rules and Regulations issued by the board. The board shall suspend or revoke any license when it finds the holder thereof has:
(a) Been convicted of a crime involving moral turpitude;
(b) Obtained a license by means of fraud or deceit; (c) Been incompetent, grossly negligent, or guilty of fraud, deceit or other misconduct in the practice of land surveying; or

(d) Failed or refused to comply with the provisions of Article 13A of Chapter 30 of the Code or any reasonable rule and regulation promulgated by the board or any order or final decision of the board. The board shall also suspend or revoke any license if it finds the existence of any ground which would justify the denial of an application for such license if application were then being made for it. Any suspension of a license shall continue for the period specified in the order of suspension. Revocation of a license shall not preclude application for a new license, which application shall be processed in the same manner and the application approved or denied and the license issued or refused on the same grounds as any other application for a license is processed, considered and determined, except that any previous suspension and the revocation may be given such weight in deciding whether to approve or deny such application and issue or refuse to issue such license as is meet and proper under all the circumstances.

9.02 Whenever the board shall deny an application for any original or renewal license or shall suspend or revoke any license, it shall make and enter an order to that effect and serve a copy thereof on the applicant or licensee, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any license suspended or revoked thereby shall be returned to the board by the holder within twenty days after receipt of said order. Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not excluded from the definition of a "contested case" as set forth in Article 1 [§ 29A-1-1 et seq.], Chapter 29A of the West Virginia Code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license or denying an application for a renewal license. The board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by an action at law or other proper remedy. Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing. All of the pertinent provisions of Article 5 [§ 29A-5-1 et seq.], Chapter 29A of the Code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing. Any such hearing shall be conducted by a quorum of the board. For the purpose of

conducting any such hearing any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time for the fees and shall be enforced, as specified in Section 1 [§ 29A-5-1], Article 5 of said Chapter 29A, and all of the said Section 1 provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder. At any such hearing the person who demanded the same may represent himself or be represented by an attorney-at-law admitted to practice before any circuit court of this state. Upon request by the board, it shall be represented at any such hearing by the attorney general or his assistants without additional compensation. After any such hearing and consideration of all of the testimony, evidence and record in the case, the board shall render its decision in writing. The written decision of the board shall be accompanied by findings of fact and conclusions of law as specified in Section 3 [§ 29A-5-3], Article 5, Chapter 29A of the Code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney of record, if any. The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of Section 10 [§ 30-13A-10] of the Code.

9.03 Any person adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of Section 9.02, Rules and Regulations, shall be entitled to judicial review thereof. All of the pertinent provisions of Section 4 [§ 29A-5-4], Article 5, Chapter 29A of the Code shall apply to and govern such judicial review with like effect as if the provisions of said Section 4 were set forth herein. The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of Section 1 [§ 29A-6-1], Article 6, Chapter 29A of the Code. Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation.

Section 10. Field and Office Techniques.

10.01 The surveyor shall use the proper equipment, methods, and precisions for the job to be done in the field and office.

10.02 Examine, to a reasonable limit, the survey data essential to performing the work, including laps, gaps, seniority, and errors. The surveyor shall study and give due weight to descriptions and other evidence for all properties adjoining or affecting the survey. Records of such evidence shall be kept on file.

10.03 Inform adjoiningers of survey plans, progress and results as fully as possible.

10.04 Express final line distances in horizontal terms. If necessary to show surface distances, put in parenthesis, and include the word "surface."

10.05 Bearings of surveys may be from magnetic or true, but if true, it shall be so stated on the plat and in the description. Grid north of the West Virginia Coordinate System may be shown on plats.

10.06 New or re-established markers shall be of the most permanent type practicable, and shall be selected or installed so as to be most easily found in future years. Monuments shall be adequately marked, referenced and described. As a minimum, at least one corner shall be referenced to three of the most permanent objects available. No wood stakes shall be left as permanent property markers. In subdivisions, two stone or concrete monuments, not less than 24" long by 6" square or in diameter at the top, with proper centers, shall be set in each block so that all street lines can be re-established; in addition, iron pipes or equally good markers shall be set at all other outside points of angles, curves and tangents and at any staked lot corners.

10.07 Property lines shall be marked whenever possible. In wooded areas, by two hacks facing each side of the line within general reach of the person who marks. In open areas, markers or monuments should be intervisible.

10.08 Error of closed traverses shall be calculated by latitude and departure or by coordinates.

10.09 Areas of closed traverses shall be calculated by two methods:

(a) Either triangles or planimeter, and

(b) Double meridian distances or coordinates, unless, as in the case of regularly shaped areas, it can be found by other calculations.

10.10 Plats should be clear, show the results of the work, and be suitable for recording and photocopying.

Boundary lines of the property surveyed shall be solid and heavier than tie lines, which shall be solid or dashed, but lighter and narrower.

10.11 Minimum accuracy shall be:

<u>CLASS</u>	<u>ERROR OF CLOSURE</u>
Rural	1:5000
City lots	1:5000
Underground	1:5000
Subdivision (urban)	1:7500
Commercial	1:10000

10.12 Oil and gas well location surveys shall tie into two permanent property corners or a U.S.G.S. monument or State Plane Coordinates monument. The error of closure in a survey is to be not less than 1:5000.

Section 11. Plats. Plats shall contain the following data:

11.01 State, county and district where the land is located. If applicable, the city, subdivision, addition, block, and lot number.

11.02 Deed book, plat book, page number or the place where the deed, plat or other instrument covering the land, is recorded or found.

11.03 Names of adjoining owners with lot numbers, deed book and page numbers or other place where their deed plat or other instrument is recorded or found.

11.04 Overlaps, encroachments or gaps.

11.05 Type of markers at corners, and if artificial, whether found (fd) or set. Reference markers are optional provided they are in the description. For rural surveys, show bearing and distance ties to at least two parent tract corners or significant adjoining corners. For city lots, show bearing and distance to original markers in the block, and to other significant property markers. For subdivisions, in addition to those described above, show ties to at least two markers of any adjoining subdivisions and to any public triangulation stations in the vicinity.

11.06 For rural and subdivision surveys, show the magnetic and true (astronomic) north arrows, the amount and

direction of the declination as of the year of survey and for the instrument used for the survey, and the location where the instrument declination was read. Said location shall be described so a future surveyor may go to that spot and read the declination on the instrument and thus calculate the variation that has occurred since the original or former survey.

11.07 Bearings, distances, curve data (central angle, radius, arc and chord) and other measurements shall be shown with an accuracy consistent with the field equipment, methods and precision employed. Show comparative conflicting data, if significant, in parenthesis or other way. Enough dimensions shall be shown to enable all omitted dimensions to be determined by calculation.

11.08 Bearings shall be clockwise if practicable.

11.09 Scale of the plat shall show inch first and its equivalent last.

11.10 Area of the entire tract and of any significant parts. Total subdivision area shall include streets, alleys, and other non-lotted space. Accuracy of area figures shall be consistent with field methods employed.

11.11 Significant cultural, topographical or other relevant features. These may include buildings, utility facilities, pipelines, easements, fences, walls, driveways, watercourses, certificates with prescribed wording, etc.

11.12 Sheet and parcel number of tax map for the tract surveyed or of the parent tract shall be shown whenever practicable.

11.13 Month and year of survey--show day if desirable.

11.14 A caption or heading stating: "Plat of Survey of (or for) . . ." or some similar working shall be used. The date of plat and revisions, name, address, signature, and seal of the surveyor in charge must be present. Place certificates that may be required. The name of any surveyor-in-training in charge of the work under supervision of the licensee may be shown.

11.15 Comply with metric measurement requirements.

Section 12. Description of property boundary line surveys.

12.01 The preamble shall contain the district, county and state where the land is located, and if

practicable, the watershed and location in relation to a well-known landmark.

12.02 The body of the description shall contain: type, size and markings of monuments, and whether found or set; type, size, bearing and distance to reference markers; bearing and length of lines; names of present or former adjoiningers at corners or along lines; the point on lines where significant markers or features are located; acreage; name of surveyor in charge; date of survey; and a reference to the accompanying plat. If bearings are from the true (astronomic) meridian, it should be so stated. Show calls in tabular form, starting each new paragraph with the bearing.

12.03 The closing or "being" clause should contain data relating to the legal source of title to the land, or the land of which it is a part, such as the name of the grantor and grantee, date of deed, book and page number in the proper county clerk's office or other location.

Section 13. Description of other surveys.

13.01 Descriptions of other surveys shall conform to the requirements of the work.

Section 14. Certificate or report of survey.

14.01 The surveyor shall furnish to the client or employer, plats and descriptions of the work performed, along with a certificate or report stating that he has made the survey, plat and description, giving the date surveyed, and describing all unusual circumstances, including the weight given to conflicting evidence, any encroachments, overlaps or gaps and show how they were resolved; names of adjoiningers contacted and the information they supplied; the distribution of plats, descriptions, and reports; and the date of the certificate, and the signature, address and seal of the surveyor.

Section 15. Underground surveys and maps.

15.01 Underground surveys and maps shall comply with the requirements in Chapter 22A, Article 2, Section 1 of the West Virginia Code.

Section 16. License by comity.

16.01 The Board recognizes the principle of comity with other states and countries, and will honor the acts of licensing agencies in those jurisdictions, provided said

acts are at least equivalent to the requirements set forth in these Rules and Regulations.

Section 17. Compensation and expenses of the board.

17.01 The Board hereby sets a rate of \$6.00 per hour for the time of its members while performing official work of the Board.

17.02 The Board hereby sets a rate established by the Governor for the use of its personal vehicles in official travel of Board members.