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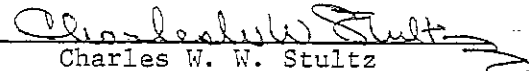
NOTICE OF AGENCY APPROVAL

1985 MAR -8 AM 9:48

Legislative Rule: PROPOSED RULES AND REGULATIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

The above titled legislative rule is hereby submitted to the Legislative Rule-Making Review Committee and constitutes the official rule approved by the West Virginia State Board of Examiners of Land Surveyors on the 15th. day of August, 1984 and filed pursuant to law in the office of the Secretary of State, State of West Virginia.


Charles W. W. Stultz
Secretary of the Board

March 6, 1985

Entered

CHAIRMAN

Robert N. McCoy
P. O. Box 133
Manongah, WV 26554

WEST VIRGINIA

STATE BOARD OF EXAMINERS OF LAND SURVEYORS

SECRETARY

Charles W. Stultz
34 West Main Street
Romney, WV 26757

34 West Main Street
Romney, West Virginia 26757
Phone: (304) 822-4090



MEMBER

B. Leman Kendrick
P.O. Box 63
Sutton, WV 26601

March 6, 1985

Secretary of State
Attn: Rich O. Hartman
Law Division
Building 1, Room W-137
Charleston, WV 25305

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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

Dear Mr. Hartman:

Pursuant to West Virginia Code Chapter 29A, Article 3, the West Virginia State Board of Examiners of Land Surveyors is enclosing the following:

- 1) One copy of Statement Concerning Proposed Rules and Regulations Governing the Practice of Land Surveying in West Virginia.
- 2) One copy of the agency approved Proposed Rules and Regulations Governing the Practice of Land Surveying.
- 3) One original of the Fiscal Note.
- 4) One original of the Notice or Statement of Agency Approval and Statement of Submission to LRMRC.
- 5) One original of attendance at the public hearing.
- 6) One original of the Transcript of Public Hearing and Comments received.

The following information was sent to the Legislative Rule Making Committee:

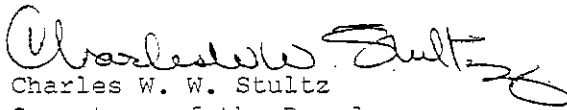
- 1) Sixteen copies of the Proposed Rules and Regulations Governing the Practice of Land Surveying and Statement Concerning Proposed Rules and Regulations Governing the Practice of Land Surveying in West Virginia.
- 2) Sixteen copies of the completed LRMRC questionnaire.
- 3) One copy of the Transcript of Hearing and Comments received.

Secretary of State
Attn: Rich O. Hartman
Page Two
March 6, 1985

The Board of Examiners can be contacted at 34 West Main Street, Romney,
West Virginia 26757 or by phone 822-4090.

Sincerely,

WEST VIRGINIA STATE BOARD
OF EXAMINERS OF LAND SURVEYORS


Charles W. W. Stultz
Secretary of the Board

CWWS/ljd
Enclosures
cc: Mr. William H. Harrington,
Chief of Staff

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: PROPOSED RULES AND REGULATIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Type of Rule: x Legislative Interpretive Procedural

WEST VIRGINIA STATE BOARD OF
Agency EXAMINERS OF LAND SURVEYORS

Address 34 West Main Street

Romney, WV 26757

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.

NONE

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 March 6, 1985

Signature of Agency Head or Authorized Representative

Charles W. W. Stultz
Charles W. W. Stultz
Secretary of the Board

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

STATEMENT CONCERNING
PROPOSED RULES AND REGULATIONS
GOVERNING THE PRACTICE OF
LAND SURVEYING IN
WEST VIRGINIA

Prepared By: State Board of Examiners
For Licensed Land Surveyors
34 West Main Street
Romney, West Virginia 26757

Submitted By:

Robert Nelson McCoy
R. Nelson McCoy, Chairman

Charles W. W. Stultz
Charles W. W. Stultz, Secretary-Treasurer

B. Leman Kendrick
B. Leman Kendrick, Member

BACKGROUND

The scrutiny of State Law pertaining to land surveying to ascertain whether such laws are technically up-to-date is obviously a concern of the entire engineering and surveying professions practicing in the State of West Virginia. The Board of Examiners has a principal function, the administration of the Laws, Rules and Regulations governing the practice of Land Surveying and, therefore, appropriately suggest and recommends change or revision to such Laws, Rules and Regulations in the interest of the public and the profession.

In suggesting change or revision to existing Law or in formulating Rules and Regulations governing the practice of Land Surveying in West Virginia, the State Board of Examiners is particularly cognizant of two outstanding and fundamental obligations. First to respect the right of the Surveyor Licensed by this State to his means of livelihood when such individuals have prepared themselves conscientiously and thoroughly to practice land surveying; and second to exercise its power to protect the public against the dangers arising out of the attempts of incompetent or unethical persons engaged in the practice of said profession.

In keeping with these obligations it is essential that the Board periodically review and re-evaluate established Rules and Regulations governing the practice of Land Surveying to assure that such Rules and Regulations are technically up-to-date and adequately protect the interest of both the public and the profession.

This study addresses those areas wherein established Laws, Rules and Regulations fail to provide for advancement to the public welfare and the mutual welfare of the land surveyor practicing in the State of West Virginia.

THE REGISTRATION LAW: Chapter 30, Article 1, Section 12 of the Official Code of West Virginia was enacted by Senate Bill No. 78 made effective May 25, 1969 and House Bill No. 583 made effective February 12, 1970, it provided for a separate certificate for underground surveying. Revisions to the current Law have occurred over the years as outlined in the following.

House Bill No. 506 was enacted effective July 14, 1973, it provided for:

- * Section 3, the term of the Board members to expire on June 30;
- * Section 5, half of the fee shall be retained if an application is denied;
- * Section 7, the "license applied for" authority was deleted;
- * a letter of authorization and a fee of \$5.00 are required for a temporary permit;
- * Section 12, ancient plats may be recorded without seal, other plats not containing a seal must include a certificate stating the basis for exemption;
- * Section 16, requires eventual recording of plats and descriptions.

Senate Bill No. 270 was enacted effective July 1, 1976, it provided for:

- * Section 5d, the fee for an original application shall be \$30.00, none of which is refundable;
- * Section 5a, a \$10.00 fee is added for an underground application, not refundable;
- * Section 6, the annual renewal fee was increased to \$20.00, penalty for non-payment of the renewal fee was increased to \$1.00 per month or fraction thereof;
- * Section 11, a stamp was authorized as an alternative to a metal seal on documents.

Several unsuccessful attempts have been made by the West Virginia Association of Land Surveyors (WVALS) to further modify the current "Survey Law" established under Chapter 30, Article 1, Section 12 of the Code. Those modifications desired by WVALS and fully supported by this Board are not discussed herein.

CURRENT RULES AND REGULATIONS

A review of the West Virginia Rules and Regulations governing the practice of land surveying indicates that the profession is currently capable of providing improved accuracies of land surveys. Modification of the Rules and Regulations to require improved accuracies would be mutually beneficial to the general public and the profession. Enforcement of regulations for improved accuracies would also preclude legal surveys being performed by unqualified persons.

A review of those accuracy standards established by neighboring states indicates that West Virginia is virtually "behind the times" in establishing comparable accuracy standards (with the exception of Maryland, which is now developing accuracy standards). All the other adjoining states, Pennsylvania, Virginia, Kentucky, and Ohio, require a minimum of 1:5,000 error of closure for those surveys controlling the establishment of property boundaries. It would seem appropriate that West Virginia upgrade those accuracy standards as soon as possible.

A revision of the Rules and Regulations which govern the "surveyor profession" must require research of land records and other documents concerning the boundaries of the properties to be surveyed. This requirement is essential to performing an accurate, reliable boundary survey and a basic prerequisite for those in professional practice. Accordingly, the appropriate changes to applicable sections of the Rules and Regulations are included in this revision.

IMPACT OF CHANGES PROPOSED

In order to determine the impact of regulation change on the individual land surveyor, a study was made to determine whether or not the Proposed Rules and Regulations would have any adverse impact on qualified, competent land surveyors practicing in this state when such surveyor has maintained a technically up-to-date practice.

A review of Figure 1 indicates that a total of six hundred ninety-three (693) surveyors are licensed to practice in the State of West Virginia. Sixty-one percent (61%) of all licensees are resident West Virginia surveyors. Thirty-nine percent (39%) or two hundred sixty-nine (269) of state licensees are non-resident. Therefore, it would appear that thirty-nine percent (39%) of the current licensees are working to accuracy standards in their state of residence which exceed the accuracy requirements of the State of West Virginia.

**Total West Virginia
Licensees : 693**

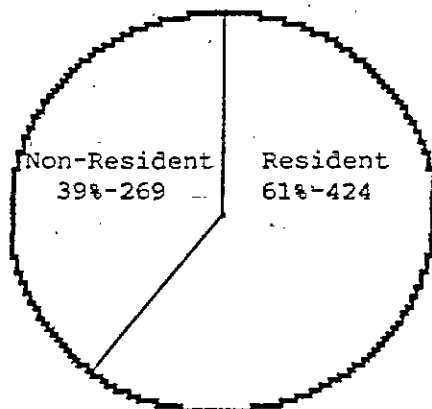


FIGURE NO. 1

**All Licensees
Employment**

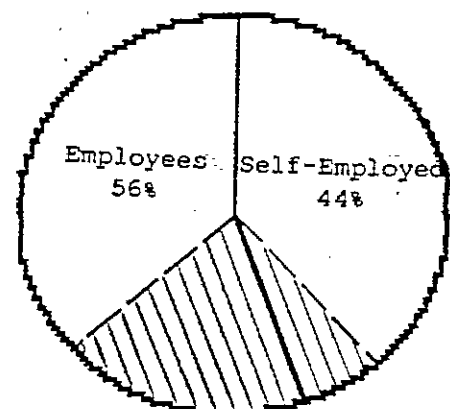


FIGURE NO. 2

Note: Shaded areas represent
WVALS Members

Additionally, the impact on employment of surveyors was a major consideration. Figure 2 indicates that forty-four percent (44%) or three hundred four (304) of all licensees are full time self-employed surveyors with their livelihood depending strictly on the practice of land surveying. The remainder or fifty-six percent (56%) are employees of Mining, Engineering and Utility companies.

It is important to note that the professional organization of land surveyors (WVALS) represents less than thirteen percent (13%) of the "full time" self-employed surveyors licensed to practice in this state.

Figure 3 shows that the state professional association (WVALS) members total twenty-seven percent (27%) of all those licensed with fifteen percent (15%) of those members being non-residents. This group although representing twenty-seven percent (27%) (or thirteen percent (13%) of surveyors in private practice) is the only organized representation of the land surveying profession in the State of West Virginia.

Total Licensees as Surveyor Members of West Virginia Assoc. of Land Surveyors

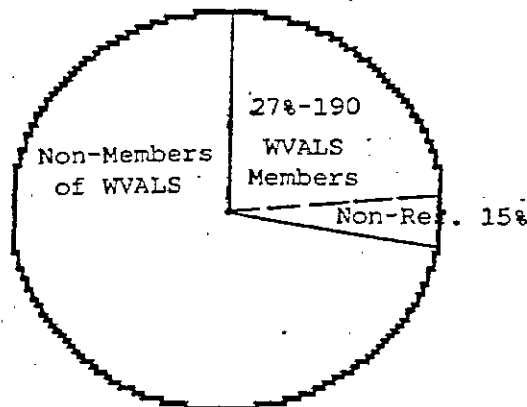


FIGURE NO. 3

The opinions and contributions of the society were therefore considered fully in the final preparation of the Proposed Rules and Regulations governing the practice of land surveying in the State of West Virginia.

The opinions and contributions of the WVALS are included as Appendix I.

MAJOR RECOMMENDED CHANGES MADE TO THE REVISED RULES AND REGULATIONS ARE:

1. An increase in the "surveying accuracy standards" which are parallel with those of neighboring states, i.e. Virginia, Kentucky, Pennsylvania, and Ohio. These recommended standards replace a previous statement of policy which may be loosely applied in performance of survey work.

2. A records check and consideration of adjoining property boundaries must be a mandatory requirement for a surveyor to consider when establishing the boundary of public property.

AMENDMENTS MADE FOLLOWING PUBLIC HEARING

The revised Rules and Regulations were amended to reflect the changes recommended subsequent to a public hearing held February 17, 1984 on the Proposed Rules and Regulations which were jointly prepared by the Board of Examiners and the West Virginia Association of Land Surveyors. Amendments to the Proposed Rules and Regulations were made when valid testimony supported justification for such change. Those changes and/or amendments to the Proposed Rules and Regulations initially submitted to the Secretary of State on January 12, 1984 are as follows:

Section 3, 3.02b (2) Linear Measurement - was amended to require use of metal tapes which are standard tools to both the engineering and surveying profession. These tapes are properly calibrated during manufacture. Use of non-standard items such as fiberglass plastic or other instruments of linear measurement may vary somewhat with type of material, temperature, etc., and are not recommended for use. The later items having no established

characteristics and rarely used by all professional surveyors and engineers measuring real estate, etc. "A primary function of a land surveyor is to follow footsteps of the previous surveyor." The intention being to retrace the survey of the previous surveyor. The use of those metal tapes, standard to the engineering and surveying profession, should produce more consistency and less variance in land measurements even though made by different surveyors.

Section 4, 4.01 Experience - amended to provide for a clarification of the type of experience persons should have to become licensed in West Virginia. Employment as assistants such as "Chainman" and "Rodman" will not permit trainees to acquire the type of experience one must develop for making professional judgments required of a licensed land surveyor.

Section 6, 6.03 - Accredited Surveying Curriculum - the items listed as accredited surveying curriculum must include provisions for drainage calculations along with knowledge of open drainage. This knowledge is necessary for performing work normally associated with preparation of subdivision maps and surface mine permits. Drainage calculations and problems are included on current examinations which are prerequisite to issuance of a license to practice in the State of West Virginia.

Section 8, 8.08a - Monumentation - due to the objections and/or cost considerations voiced by several surveyors offering testimony during the public hearing. Monumentation requirements have been modified to indicate that only those corners set by the surveyor shall have a metal or plastic cap placed upon the monumentation. The purpose being to identify the surveyor (with license number) and also identify the monument as a "survey marker". Experience has shown that some persons consider unidentified surveyor monuments whether they be pipes, steel rods, etc. as just another object

serving no purpose. These revised rules will require land surveyor monuments to be identified both to the public and other professional surveyors. Also, all persons are thus aware of the boundary corners or lines intended to be permanently marked. The items called for under these amended rules can be purchased for approximately seventeen cents each. They are light-weight and provide for reasonable permanency with reasonable identification.

Section 8, 8.08b - Monumentation - added only the term "state law". This item was added to provide the necessary flexibility to the Proposed Rules and Regulations to require compliance with specific survey or related laws concerning survey work performed for mines, properties, condominiums, etc. and/or laws still to be enacted by State Legislature. The addition of the term "state law" will assure that surveyors will comply with such laws in performing survey work in the future without changes to these regulations.

Section 11, 11.02 - Certificate or Report of Survey - Additional certification of survey is required to specifically state on a surveyors plat of survey (particularly property surveys) that boundaries shown are based on evidence such as deed of record and/or other information such as "field evidence found" and certified correct. Such certification will assure that the general public is aware that state law places requirements on those licensed and/or are privileged to perform surveys. In some cases the general public is not aware that rules and regulations are established by the State of West Virginia regulating the performance of a land surveyor. Such certification will also provide information to the courts, general public and other surveyors that the survey work was done properly and conforms to rules and regulations governing the practice of land surveying. The Board of Examiners finds no just cause not to include the requirement for placing a "certification" on the plats of all persons licensed to practice in the State of West Virginia.



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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

KEN HECHLER
Secretary of State

MARY P. RATLIFF
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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 West Virginia State Board of Examiners of Land Surveyors

CONTACT PERSON Charles W. W. Stultz PHONE 822-4090

TYPE OF RULE Legislative

TITLE OF RULE Proposed Rules and Regulations governing the practice of
land surveying.

CHAPTER 30 ARTICLE 13A SERIES I

AUTHORITY -

+++++

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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ONE COPY, EXCEPT FINAL
FILING OF RULES WHICH
REQUIRES AN ORIGINAL AND
A COPY.

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