

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #7

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FILED

2001 JUN 15 P 3:06

OFFICE ~~WEST VIRGINIA~~
SECRETARY OF STATE

July 27, 2001

NOTICE OF AN EMERGENCY RULE

AGENCY: Board of Examiners of Land Surveyors TITLE NUMBER: 23

CITE AUTHORITY: WVC 30-13A-7a, 30-13A-4

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Mandatory Continuing Education for Land Surveyors

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME
EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER
FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE
AS FOLLOWS:

Amendments to Code 30-13A-4 enacted by the passage of SB720 in the 2001 Legislative Session
requires the Board to file this Rule as an emergency rule.

Use additional sheets if necessary

Gregory A. Smith, Chairman
Authorized Signature

SCANNED

84.20

EMERGENCY RULE QUESTIONNAIRE

DATE: June 15, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Board of Examiners of Land Surveyors

PO Box 1248
Oak Hill, WV 25901
(304) 465-1653

for drafting questions: Marjorie Martorella
744-3264 or 740-867-3636

EMERGENCY RULE TITLE: Mandatory Continuing Education for Land Surveyors

1. Date of filing June 15, 2001
2. Statutory authority for promulgating emergency rule:
Code 29A-3; Code 30-13A-4 (as amended by SB720, 2001 Regular Legislative Session)
3. Date of filing of proposed legislative rule: June 15, 2001
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? New
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
The Legislature established a deadline of July 1, 2001 for the Board of Examiners of Land Surveyors to file an emergency rule implementing continuing education requirements for land surveyors prerequisite to license renewal. Without the rule, licenses will continue to be renewed without complying with this statutory mandate, determined by the Legislature to be necessary to protect the public.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

Code 30-13A-4 established the deadline of July 1, 2001

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The Legislature determined that continuing education was necessary to protect the public against unqualified practitioners and that the Board of Examiners of Land Surveyors must file an emergency rule by July 1, 2001.

Proposed 23CSR2
Mandatory Continuing Education for Land Surveyors

SUMMARY

This rule establishes continuing education requirements for land surveyors that are prerequisite to license renewal.

STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE

Code §30-1-1 et seq. established certain requirements incumbent upon all licensing boards, including the duty to establish continuing education requirements for members of professions and occupations. No rule is currently in place putting the Board of Examiners of Land Surveyors in compliance with this statutory duty. During the Regular 2001 Legislative Session, the Legislature enacted SB 720, requiring the Board to file this rule implementing continuing education requirements as an emergency rule not later than July 1, 2001.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Mandatory Continuing Education for Land Surveyors

Type of Rule: X Legislative Interpretive Procedural

Agency: Board of Examiners of Land Surveyors

Address: PO Box 1248
Oak Hill, WV 25901

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The Board does need to hire additional permanent staff to monitor compliance with continuing education requirements, but this need is not directly related to the rule, which implements a mandatory statutory function of the Board.

3. Objectives of These Rules:

To establish continuing education requirements for land surveyors.

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:
Land Surveyors support the administration of all Board Functions through fees.

C. Economic Impact on Citizens/Public at Large.
None.

Date: June 13, 2001

Signature of Agency Head or Authorized Representative:

Gregory A. Smith, Chairman

FILED

**TITLE 23
LEGISLATIVE RULE
BOARD OF EXAMINERS OF LAND SURVEYORS**

2001 JUN 15 P 3:06

**SERIES 2
MANDATORY CONTINUING EDUCATION FOR LAND SURVEYORS**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§23-2-1. General.

1.1. Scope. -- This rule specifies continuing education requirements that are prerequisite to license renewal for land surveyors.

1.2. Authority. -- W. Va. Code §§30-1-7a and 30-13A-4.

1.3. Filing Date. --

1.4. Effective Date. --

§23-2-2. Definitions.

2.1. Terms Defined by Statute -- Terms defined in W. Va. Code §30-13A-2 have the same meanings when used in this rule unless the context or subject matter clearly requires a different interpretation.

2.2. Terms Defined -- As used in this rule, the following terms have the following meanings unless the context or subject matter clearly requires a different interpretation:

2.2.1. "Dual licensee" means a person who is licensed as both a land surveyor and an engineer. The term "licensee" includes dual licensees.

2.2.2. "Continuing professional competency" means competency to engage in the practice of land surveying demonstrated by the completion of continuing education activities that meet the requirements established in this rule.

2.2.3. "Professional development hour" or "PDH" means fifty minutes of instruction or presentation that meets the requirements established in this rule. PDH units are the common denominator for other units of credit.

2.2.4. "Continuing education unit" or "CEU" means the nationally recognized and uniform unit of measure of the International Association for Continuing Education and Training (IACET) awarded for ten contact hours of continuing education and training. For continuing professional competency activities that fully follow the requirements of the IACET, one CEU is equivalent to ten PDH's.

2.2.5 "College/Unit Semester/Quarter Hour" means credit for successful completion of college/university courses accredited by the Accreditation Board for Engineering and Technology (ABET) or successful completion of other college/university courses related to the practice of land surveying and approved by the Board.

2.2.6. "Course/Activity" means any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice as determined by the Board. Qualifying courses or activities may include correspondence, televised, videotaped, Internet, and other short courses and tutorials; seminars, in-house courses and workshops; and professional or technical presentations made at meetings, conventions, or conferences.

§23-2-3. Continuing professional competency requirements.

3.1. Every licensee, as a prerequisite to license renewal, shall acquire eight PDH units for each renewal period year, except that in the first year that this rule is effective, the requirement is four PDH units. If a licensee exceeds the annual requirement in any renewal period, a maximum of eight PDH units may be carried forward into the subsequent renewal period.

3.2. Within each four year period, a licensee shall complete:

3.2.1. A minimum of two PDH units on minimum technical standards, in courses or activities sponsored or approved by the Board.

3.2.2. A minimum of two PDH units on professional ethics for land surveyors at a seminar sponsored or approved by the board.

3.3. PDH units may be earned as follows:

3.3.1. College/Unit Semester/Quarter Hour credit. One semester hour of acceptable university/college credit is equivalent to forty-five (45) PDH units. One quarter hour of acceptable university/college credit is equivalent to thirty (30) PDH units.

3.3.2. Successful completion of continuing education courses. Credit is based on actual instructional time. For continuing education courses that fully follow the requirements of the International Association for Continuing Education and Training (IACET), one CEU is equivalent to ten PDH units.

3.3.3. Successful completion of qualifying courses/activities. Credit for attendance is based on actual instructional or presentation time.

3.3.4. Teaching, instructing or presenting in qualifying courses, seminars and presentations. A teacher, instructor, or presenter may claim credit at twice the number of hours permitted for participants. Credit is available only the first time a course or seminar is taught or a

presentation is made, unless the subject matter is revised and substantially updated. Teaching credit does not apply to full-time faculty.

3.3.5. Authoring published papers, articles, or books related to the practice or history of land surveying. Credit is limited to the lesser of actual preparation time or ten PDH units for each paper, article or book.

3.3.6. Active participation as an officer or committee member in professional or technical societies after completion of each year of service. A maximum of two PDH units may be claimed in any reporting period for each organization served.

3.3.7. Attendance at local chapter meetings of professional or technical societies. Credit is limited to one PDH unit for each meeting attended.

3.3.8. Patents. An inventor may claim credit for ten PDH units for inventions related to the engineering or land surveying professions after a patent is issued and the inventor submits details to the board.

3.4. The Board has final authority with respect to approval of courses, seminars and presentations; credits; PDH value for courses; and determination of whether a college/university course, continuing education course or other course/activity is reasonably related to the practice of land surveying.

3.5. A dual licensee may claim PDH units for college/university courses, continuing education courses or other courses/activities that also satisfy continuing education requirements for licensure as a professional engineer, when the course or activity is reasonably related to the practice of land surveying as determined by the Board.

3.6. When a person whose license to practice land surveying is inactive, expired or under suspension seeks reinstatement of a license, the person seeking reinstatement shall acquire all delinquent professional development hours up to two years as a prerequisite to reinstatement of the license. If the Board has imposed conditions for reinstatement including the earning of a number of professional development hours, the Board may require the applicant for reinstatement to earn additional PDH units and meet all other conditions for reinstatement prior to reinstating the license.

§23-2-4. Reporting and record keeping.

4.1. A licensee shall complete, sign and submit on forms prescribed or accepted by the board, together with the application for renewal of a license and the required renewal fee, information certifying that he or she has acquired the required professional development hours. Maintaining records to be used to support credits claimed is the responsibility of the licensee. A licensee shall maintain records of compliance with the provisions of this rule for a period of four years and the

Board may request copies for audit verification purposes. Acceptable records may include, but are not limited to:

4.1.1. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH units earned;

4.1.2. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

4.1.3. Records as maintained by the Professional Development Registry for Engineers and Surveyors (PDRES) or other similar repositories.

§23-2-5. Exemptions.

5.1. A licensee is not subject to the requirements of subsections 3.1 and 3.2 of this rule and may be exempt from mandatory continuing education when one of the following circumstances apply:

5.1.1. New licensees by way of examination are exempt for their first renewal period.

5.1.2. A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year is exempt from obtaining the professional development hours required during that year.

5.1.3. A licensee experiencing physical disability, illness, or other extenuating circumstances may submit supporting documentation to the board and request exemption for the renewal year in which the disability, illness, or extenuating circumstance occurs. Upon review of the circumstances and approval by the board, the licensee is exempt.

5.1.4. A licensee is exempt for any renewal year in which he or she is employed as a professional land surveyor and is assigned to duty outside of the United States for a period exceeding one hundred twenty (120) consecutive days during that year.

5.1.5. A licensee who lists his or her occupation as "Retired" on the Board approved renewal form and who further certifies that he or she is no longer receiving any remuneration from providing professional land surveying services is exempt from the professional development hours required. In the event a retired licensee elects to return to the active practice of land surveying, the licensee shall acquire professional development hours for each year exempted up to two years prior to returning to active practice.

5.1.6. A nonresident licensee, who otherwise meets all renewal requirements and is licensed in any other state or jurisdiction approved and listed by the Board that has continuing professional competency requirements which the licensee has met, may certify compliance with the continuing professional competency requirements of the other jurisdiction in lieu of compliance with the provisions of subsection 3.1 and 3.2 of this rule.

§23-2-6. Review and audit processes.

2.1. The staff of the Board shall scan all forms certifying acquisition of required professional development hours in order to detect obvious errors including errors in listing activities and PDH units, carryover errors, and omitted signatures. The Board may return forms containing obvious and significant errors to licensees for correction or explanation.

2.2. For each annual renewal period, the Board shall select on a random basis not less than five percent of renewal applications for audit. The Board shall request each selected licensee to furnish evidence of attendance at the listed activities, unless evidence satisfactory to the Board is already in the possession of the Board. Upon receipt of the requested records, the Board may request the licensee to furnish further evidence necessary to satisfy the Board that the licensee has complied with the continuing professional competency requirements of this rule.