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2001 JUL 27 P 4: 55

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SCANNED

CHAIRMAN
Gregory A. Smith

SECRETARY
Leon K. Spencer

MEMBER
Marshall W. Robinson

STATE OF WEST VIRGINIA
STATE BOARD OF EXAMINERS OF LAND SURVEYORS
111 Central Avenue P.O. Box 1248, Oak Hill, West Virginia 25901
Telephone (304) 465-1653



July 27, 2001

Secretary of States Office
Attn: Ms. Judy Cooper
Administrative Law Division
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Ms. Cooper:

As Chairman of the West Virginia State Board of Examiners of Land Surveyors, please except this as notification and authorization on behalf of the Board for the filing of Title 23 Legislative Rule Board of Examiners of Land Surveyors Series 2 entitled "Mandatory Continuing Education for Land Surveyors."

If you need any further approval or authorization of these rules that are to be filed by our Consultant Marjorie Martorella, please do not hesitate to contact me. You may notify the Board Office or contact me directly at my business office in Glenville at (304) 462-5634.

Sincerely:

Gregory A. Smith
Chairman of the Board

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:

Although the Board needs to hire additional permanent staff to assist in the administration and monitoring of continuing education, this need is not directly related to the promulgation of this rule, which implements a mandatory statutory duty.

3. Objectives of These Rules:

To provide for mandatory continuing education for land surveyors as required by statute.

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

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 27, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Board of Examiners of Land Surveyors
PO Bpx 1248
Oak Hill, WV 25901
(304) 465-1653

LEGISLATIVE RULE TITLE: Mandatory Continuing Education for Land Surveyors

1. Authorizing statute(s) citation WVC 30-1-7a. 30-13A-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 15, 2001

b. What other notice, including advertising, did you give of the hearing?
Newsletter (an earlier draft was also mailed that was substantively the same)

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 16, 2001

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 27, 2001

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Gregory Smith, Chairman
Board of Examiners of Land Surveyors
PO Box 1248
Oak Hill, WV
(304) 465-1653

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Marjorie Martorella
1409 Robin Hood Road
Charleston, WV 25314

(304) 744-3264 or (740) 867-3636
lilith_martor@hotmail.com

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

DNA

- b. Date of hearing or comment period:

Comment period June 15- July 16, 2001

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

DNA

- d. Attach findings and determinations and reasons:

Attached

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

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

FILED

2001 JUL 27 P 4: 56

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.

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Secretary of States Office
Attn: Ms. Judy Cooper
Administrative Law Division
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Ms. Cooper:

As Chairman of the West Virginia State Board of Examiners of Land Surveyors, please except this as notification and authorization on behalf of the Board for the filing of Title 23 Legislative Rule Board of Examiners of Land Surveyors Series 1 entitled "Rules and Regulations for Practice of Land Surveying in West Virginia".

If you need any further approval or authorization of these rules that are to be filed by our Consultant Marjorie Martorella, please do not hesitate to contact me. You may notify the Board Office or contact me directly at my business office in Glenville at (304) 462-5634.

Sincerely:

Gregory A. Smith
Chairman of the Board