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WEST VIRGINIA

STATE BOARD OF EXAMINERS OF LAND SURVEYORS

September 3, 1969



Hon. John D. Rockefeller, IV
Secretary of State
State of West Virginia
State Capitol
Charleston, West Virginia 25305

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 9/4/69

Dear Sir:

Enclosed are two copies of the first rules and regulations promulgated by the State Board of Examiners of Land Surveyors, which was created by Chapter 30, Article 13A, Section 3(a) of the West Virginia Code. These rules and regulations are promulgated under the authority of Chapter 30, Article 13A, Section 4(a), of the West Virginia Code, and relate to the administration and enforcement of Chapter 30, Article 13A, et seq., of the West Virginia Code, which was enacted by the Legislature in 1969.

I hereby certify that the attached rules and regulations are true and accurate copies of official rules and regulations adopted by this Board on September 3, 1969.

Very truly yours,

Floyd R. Stiles
Chairman
State Board of Examiners of
Land Surveyors

Enclosures

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Board of Examiners of Land Surveyors

Chapter 30-13A
Series I
(1969)

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. Location of Office. The office of the State Board of Examiners of Land Surveyors is located at 1404 Harrison Avenue, Elkins, West Virginia 26241.

1.03. Filing Date. These Regulations were filed in the Office of the Secretary of State on the 4th day of Sept., 1969.

1.04. Effective Date. These Regulations became effective on the _____ day of _____, 1969.

1.05. Certification. These Regulations are certified authentic by the Secretary of State by certification number _____.

SECTION 2. General Purposes.

2.01. These Rules and Regulations 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 adequate experience under a supervisor to include the subjects in Section 6 of these Rules and Regulations.

SECTION 5. Examinations.

5.01. The content of examinations will be taken from the subjects in Section 6 of these Rules and Regulations.

SECTION 6. Accredited Surveying Curricula.

6.01. The Board will be guided in accrediting survey curricula by the extent to which the following subjects are included in said curricula:

6.02. 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:

6.03. Mathematics to meet land survey needs, including arithmetic, algebra, plane 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, partitioning, sufficient to supplement high school deficiencies.

6.04. English, spelling, grammar, writing, speaking, and typing, sufficient to supplement high school deficiencies.

6.05. Ethics and public relations for surveyors. Responsibilities to the public, clients, adjoiners, and to the profession.

6.06. Legal and historical aspects of surveying. 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 surveyors.

6.07. Preliminary procedures. Record sources, searchers, abstracts, platting, detection and adjustment of errors, ground evidence.

6.08. Survey equipment capabilities, use and care. Compass, transit, electronic devices, clinometer, stadia, plane table, level, tapes, rods, plumb bob, verniers, notebooks, and small tools.

6.09. 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.

6.10. Plotting, drafting, mapping. Equipment, methods, material, scales, sheet sizes, recordability, conventional symbols.

6.11. Calculations. Latitude, departure, DMD's, coordinates, areas. Balancing surveys, errors of closure. Calculating equipment.

6.12. Reports. Descriptions, certificates, reports. Distribution and recordability.

6.13. Meridian observations. On sun and Polaris for true north. Declination and variation of the magnetic needle.

6.14. Monumentation. Markers for corners and references; marking of lines.

6.15. Photogrammetry. Use and interpretation of aerial photos for locating corners, possession lines, distances. Stereoscopes; distortion.

6.16. Miscellaneous. Tree and wood identification, geology, pacing.

6.17. Field work. A four-week program covering rural, city-lot, and underground surveys. Meridian observations, needle declinations and variations.

SECTION 7. Unethical Practices.

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

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

7.03. Associating himself with any survey project known to him to be fraudulent or dishonest in character.

7.04. Failing to exercise due regard for the safety of persons under his supervision.

7.05. 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.

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

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

7.08. Advertising in any self-laudatory manner derogatory to the dignity of land surveying.

SECTION 8. Field and Office Techniques.

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

8.02. Examine, to a reasonable limit, the survey data essential to performing the work, including laps, gaps, seniority, and errors.

8.03. Inform adjoining of survey plans, progress and results to the extent practicable.

8.04. Make proper calculations for magnetic variation when retracing lines that have been surveyed before.

8.05. Express final line distances in horizontal terms.

8.06. Express bearings in terms of magnetic or true north, except as stated elsewhere in these rules; be able to determine true meridian by at least one method applicable to the type of survey involved.

8.07. New or reestablished 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. 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 reestablished; 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.

8.08. Property lines shall be marked whenever possible.

8.09. Error of closed traverses shall be calculated by latitude and departure or by coordinates, unless errors can be determined visually by plotting or by inspection.

8.10. 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.

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

8.12. Guides for the accuracy of surveys to be striven for are:

<u>CLASS</u>	<u>ERROR OF CLOSURE</u>	<u>THEORETICAL UNCERTAINTY</u>	<u>PRECISION BEARINGS</u>	<u>OF DISTANCES</u>	<u>MEASUREMENTS VERTICAL ANGLES</u>
Rural	1:1500	1.00 foot	5'	0.20 foot	15'
City lot	1:5000	0.10 "	1'	0.01 "	05'
Underground	1:5000	0.10 "	1/2'	0.01 "	02'
Subdivision	1:7500	0.10 "	1/2'	0.01 "	02'
Commercial	1:10000	0.05 "	1/2'	0.01 "	01'

8.13. Oil and gas well location surveys shall comply with Chapter 22, Article 4, Section 2 of the West Virginia Code and the Rules and Regulations promulgated thereunder.

SECTION 9. Plats. Plats shall contain the following data:

9.01. State, County, and District where the land is located. If applicable, the City, Subdivision, Addition, Block and Lot number.

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

9.03. 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.

9.04. Overlaps, encroachments or gaps.

9.05. Type of corner and reference markers. For city lots, ties to edge or center of three nearest streets. For subdivisions, ties to two markers of each adjoining subdivision and to public triangulation stations in the vicinity, if present.

9.06. For rural and subdivision surveys, the magnetic and true north arrows and the amount and direction of the declination as of the time of the survey. If declination for rural surveys is determined at a place other than at the land surveyed, state place and date. For city lot surveys, show north arrow as on previous plat.

9.07. 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 parentheses or other way. Enough dimensions shall be shown to enable all omitted dimensions to be determined by inspection or calculation.

9.08. Bearings shall be clockwise if practicable. Outside line bearings of subdivisions should be from the true meridian.

9.09. Scale of the plat showing inch first and its equivalent last.

9.10. Area of the entire tract and of any significant parts. Area of city lots if shown, in square feet. Total subdivision area shall include streets, alleys, and other non-lotted space. Accuracy of area figures shall be consistent with field methods employed.

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

9.12. Sheet and parcel number of tax map where land is located.

9.13. Location of land in relation to well-known landmark.

9.14. Date of survey, being as specific as practicable.

9.15. Date of plat if relevant; name, address, signature, and seal of the surveyor in charge. Certificates that may be required.

SECTION 10. Descriptions of Rural Surveys.

10.01. 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.

10.02. 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 adjoiners 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 meridian, it should be so stated.

10.03. 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 11. Descriptions of Other Surveys.

11.01. Descriptions of other surveys shall conform to the requirements of the work. Descriptions separate from the plat may not be required for lot and subdivision surveys.

SECTION 12. Certificate or Report of Survey.

12.01. 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 how they were resolved; names of adjoining owners contacted and the information they supplied; the distribution of plats, descriptions, and reports; the date of the certificate, and the signature, address and seal of the surveyor.

SECTION 13. Underground Surveys and Maps.

13.01. Underground surveys and maps shall comply with the requirements in Chapter 22, Article 2, Section 2 of the West Virginia Code, which is printed in full herein, and with related statutes, Rules and Regulations.

SECTION 14. Competency.

14.01. Competency in the practice of land surveying includes, but is not limited to, compliance with the provisions of sections 8, 9, 10, 11, 12, and 13 of these Rules and Regulations.

SECTION 15. License by Comity.

15.01. 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 16. Compensation and Expenses of the Board.

16.01. The Board hereby sets a rate of \$16.00 per day or \$2.00 per hour for the time of its members while performing official work of the Board.

16.02. The Board hereby sets a rate of 8¢ per mile for use of its vehicles in official travel of Board members.

FILING OF ADMINISTRATIVE REGULATIONS

References are to Sections in W.Va. Adm. Reg. 30-13A Series I.

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ARTICLE 13A. LAND SURVEYORS.

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30-13A-2. Definitions.	30-13A-8. Suspension or revocation of license.
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§ 30-13A-1. License required.

In order to provide for the regulation of land surveying in this State, no person shall engage in, offer to engage in, or hold himself out to the public as being engaged in, the practice of land surveying in this State (except for the persons exempted under the provisions of section seven [§ 30-13A-7] of this article), unless and until he shall first obtain a license to engage in the practice of land surveying in accordance with the provisions of this article, which license remains unexpired, unsuspended and unrevoked. (1969, c. 107.)

§ 30-13A-2. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Applicant" means any person making application for an original or renewal license under the provisions of this article;

(b) "Licensee" means any person holding a license issued under the provisions of this article;

(c) "Board" means the West Virginia state board of examiners of land surveyors created under the provisions of this article;

(d) "Practice of land surveying" means the rendering or offering to render for a fee, salary or other compensation, monetary or otherwise, or the public generally, any of the following services:

(1) The location, relocation, establishment, reestablishment or re-acement of any property line or boundary of any parcel of land or of any road or utility right-of-way, easement or alignment;

(2) The performance of any survey for the division, subdivision or subdivision of any tract of land;

(3) The determination of the position of any monument or reference point which marks a property line boundary or corner, or setting, resetting or replacing any such monument or reference point, by the use of the principles of land surveying;

(4) The determination of the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of mathematics;

(5) The performance of cadastral surveying, underground surveying hydrographic surveying;

(6) The preparation of subdivision maps; and

(7) The preparation of maps or drawings showing any of the above.

(e) "Land surveyor" means any person who engages in the practice of land surveying. (1969, c. 107.)

30-13A-3. Board of examiners of land surveyors created; appointment, terms, removal, etc., of members; officers; meetings; quorum; compensation and expenses.

(a) There is hereby created the state board of examiners of land surveyors which shall be composed of three members appointed by the governor by and with the advice and consent of the senate. Each member shall have been actively engaged in the practice of land surveying for at least ten years and shall be the holder of a license under the provisions of this article, or in the case of the members first appointed be eligible to obtain such a license.

(b) The members of the board shall be appointed for overlapping terms of three years each and until their respective successors have been appointed and qualified, except of the original appointments, one member shall be appointed for a term of three years and until his successor has been appointed and qualified, one member shall be appointed for a term of two years and until his successor has been appointed and qualified and one member shall be appointed for a term of one year and until his suc-

cessor has been appointed and qualified. Members may be reappointed for any number of terms. Before entering upon the performance of his duties, each member shall take and subscribe to the oath required by section 5, article IV of the Constitution of this State. Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The board shall elect from its membership a chairman and secretary-treasurer. A majority of the members of the board shall constitute a quorum and meetings shall be held at the call of the chairman or upon the written request of two members at such time and place as designated in such call or request, and, in any event, the board shall meet at least once annually to conduct the examination hereinafter provided for and to transact such other business as may come before it.

(d) Members may be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties, which compensation and expenses shall be paid in accordance with the provisions of subsection (b), section four [§ 30-13A-4] of this article. (1969, c. 107.)

§ 30-13A-4. Powers and duties of board; funds.

(a) The board shall have the power and duty to:

(1) Examine applicants and determine their eligibility for a license to engage in the practice of land surveying;

(2) Prepare, conduct and grade an apt and proper written, oral or written and oral examination of applicants for a license and determine the satisfactory passing score thereon;

(3) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-A of this Code;

(4) Issue, renew, deny, suspend or revoke licenses to engage in the practice of land surveying in accordance with the provisions of this article;

(5) Investigate alleged violations of the provisions of this article, reasonable rules and regulations promulgated hereunder and orders and final decisions of the board and take appropriate disciplinary action against any licensee for the violation thereof or institute appropriate legal action for the enforcement of the provisions of this article, reasonable rules and regulations promulgated hereunder and orders and final decisions of the board or take such disciplinary action and institute such legal action;

(6) Keep accurate and complete records of its proceedings, certify the same as may be appropriate, and prepare, from time to time, a list showing the names and addresses of all licensees; and

(7) Take such other action as may be reasonably necessary or appropriate to effectuate the provisions of this article.

(b) All moneys paid to the board shall be accepted by a person designated by the board and deposited by him with the treasurer of the State and credited to an account to be known as the "board of examiners of land and surveyors fund." All of the reasonable compensation of the members of the board, the reimbursement of all reasonable and necessary expenses actually incurred by such members and all other costs and expenses incurred by the board in the administration of this article shall be paid from such fund, and no part of the State's general revenue fund shall be expended for this purpose. (1969, c. 107.)

30-13A-5. Qualifications of applicants of licenses; exceptions; applications; fee; examinations.

(a) To be eligible for a license to engage in the practice of land surveying, the applicant must:

- (1) Be at least twenty-one years of age;
- (2) Be of good moral character;
- (3) Have been a resident of the United States for one year immediately preceding the date of application;
- (4) Not have been convicted of a crime involving moral turpitude;
- (5) Have four years or more experience in the practice of land surveying under the supervision of a licensee, or a person eligible for a license hereunder, or a person authorized in another state or country to engage in the practice of land surveying; and each year of satisfactory study in an accredited surveying curriculum may be substituted for one year of experience, but only two years of such experience requirement may be fulfilled by such study; and
- (6) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of land surveying and land surveying skills and techniques.

(b) The following persons shall be eligible for a license to engage in the practice of land surveying without examination:

- (1) Any applicant who is licensed, certificated or registered to engage in the practice of land surveying in any other state or country, if the requirements to obtain a license or certificate or to become registered in such other state or country are found by the board to be at least as great as those prescribed in this article.
- (2) Any applicant who is a graduate of an accredited surveying curriculum and has at least two years of experience in the practice of land surveying under the supervision of a licensee, or a person eligible for a license hereunder, or a person authorized in another state or country to

engage in the practice of land surveying, if such applicant meets the requirements of subdivisions (1), (2), (3) and (4), subsection (a) of this section.

(3) Any applicant who has been engaged in the practice of land surveying in West Virginia for at least six years prior to the filing of such application, if such application for a license is made within three years after the effective date of this article [May 25, 1969] and if such person meets the requirements of subdivisions (1), (2), (3) and (4), subsection (a) of this section. Such applicant must also furnish the names and addresses of ten persons who have engaged such applicant as a land surveyor, together with satisfactory records of such land surveying work.

(c) Any applicant for any such license shall submit an application therefor on forms provided by the board. Such applications 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 from time to time by reasonable rule and regulation prescribe.

(d) An applicant shall pay to the board with his application a license fee of twenty dollars, which fee shall be returned if he is denied a license.

(e) Examinations shall be held at least once each year at such time and place as the board shall determine. The scope of the examination and methods of procedure shall be determined by the board. An applicant who fails to pass an examination may reapply at any time and shall furnish additional information as requested by the board. Each such application shall be accompanied by a license fee of twenty dollars, which fee shall be returned if the applicant is again denied a license. (1969, c. 107.)

§ 30-13A-6. Issuance of license; notice of expiration; renewal; renewal fee; display.

Whenever the board finds that an applicant meets all of the requirements of this article 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 five dollars. If a license is not renewed when due, the fee shall increase fifty cents per month for each month or fraction thereof that such renewal fee is not paid, up to a maximum of thirty-six months. No li-

cense 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. (1969, c. 107.)

§ 30-13A-7. Exemption from regulation and licensing.

The following persons are exempt from regulation and licensing under the provisions of this article and any reasonable rules and regulations promulgated hereunder, and may engage in the practice of land surveying without a license issued under the provisions of this article and any such reasonable rules and regulations:

(a) Any professional engineer authorized to practice the profession of engineering as provided in article thirteen [§ 30-13-1 et seq.] of this chapter;

(b) Any resident of another state, when such practice in this State does not exceed in the aggregate more than thirty days per calendar year, or such additional time as may be approved by the board, if such person is licensed, certificated or registered in his own state and the requirements for obtaining a license or certificate or becoming registered in such other state are not lower than those specified in this article;

(c) Any person who has filed with the board an application for a license and who has paid the fee required by this article, but such exemption shall continue only for such time as the board requires for the consideration and determination of the application for such license;

(d) Any employee of a person holding a license to engage in the practice of land surveying in this State or any employee of a person exempted from regulation and licensing under subdivisions (a) and (b) of this section: Provided, that the work of any such employee is done under the supervision of and certified by his employer;

(e) Any employee of a person, firm, association or corporation, when such employee is engaged in the practice of land surveying exclusively for the person, firm, association or corporation by which employed, or, if a corporation, its parents, affiliates or subsidiaries, and such person, firm, association or corporation does not hold himself or itself out to the public as being engaged in the business of land surveying;

(f) Any employee or officer of the United States, this State or any political subdivision thereof, when such employee is engaged in the practice of land surveying exclusively for such governmental unit. (1969, c. 107.)

§ 30-13A-8. Suspension or revocation of license.

(a) 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 this article.

(b) The board shall suspend or revoke any license when it finds the holder thereof has:

- (1) Been convicted of a crime involving moral turpitude;
- (2) Obtained a license by means of fraud or deceit;
- (3) Been incompetent, grossly negligent, or guilty of fraud, deceit or other misconduct in the practice of land surveying as defined by the board by reasonable rules and regulations; or
- (4) Failed or refused to comply with the provisions of this article or any reasonable rule and regulation promulgated by the board hereunder or any order or final decision of the board.

(c) 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.

(d) 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. (1969, c. 107.)

§ 30-13A-9. Procedure for hearings.

(a) 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.

(b) 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 one [§ 29A-1-1 et seq.], chapter twenty-nine-A of this 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 per-

son 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.

(c) 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.

(d) All of the pertinent provisions of article five [§ 29A-5-1 et seq.], chapter twenty-nine-A of this Code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(e) 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 one [§ 29A-5-1], article five of said chapter twenty-nine-A, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(f) 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.

(g) 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 three [§ 29A-5-3], article five, chapter twenty-nine-A of this 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.

(h) The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions, of section ten [§ 30-13A-10] of this article. (1969, c. 107.)

§ 30-13A-10. Judicial review; appeal to supreme court of appeals; legal representation for board.

Any person adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of section nine [§ 30-13A-9] of this article shall be entitled to judicial review thereof. All of

§ 30-13A-11 PROFESSIONS AND OCCUPATIONS

the pertinent provisions of section four [§ 29A-5-4], article five, chapter twenty-nine-A of this Code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in this section.

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 one [§ 29A-6-1], article six, chapter twenty-nine-A of this 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. (1969, c. 107.)

§ 30-13A-11. Seal.

Each licensee shall obtain a seal of the design authorized by the board, bearing his name and the legend, "Licensed Land Surveyor." Plans, plats, maps, drawings and reports issued by a licensee shall be stamped with the seal. It shall be unlawful for anyone to stamp or seal any document with such seal unless the license of the licensee named thereon remains unsuspended, unrevoked and unexpired. (1969, c. 107.)

§ 30-13A-12. Duty of county clerks and public officials.

No document prepared by or alleged to have been prepared by a land surveyor shall be filed by any clerk of a county court or accepted by any public official of this State unless the seal required by section eleven [§ 30-13A-11] of this article has been affixed thereto, except that any document prepared by a person exempted from the regulation and licensing requirements of this article, as provided in section seven [§ 30-13A-7] of this article, shall not be required to have the seal required by section eleven of this article affixed thereto. (1969, c. 107.)

§ 30-13A-13. Actions to enjoin violations.

Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the State to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations

have resulted or shall result in prosecution or conviction under the provisions of section fourteen [§ 30-13A-14] of this article.

Upon application by the board, the circuit courts of this State may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated hereunder and all orders and final decisions of the board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation. (1969, c. 107.)

§ 30-13A-14. Offenses and penalties.

Any person who violates any of the provisions of this article, any of the reasonable rules and regulations promulgated hereunder or any order or any final decision of the board shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than three months or by a fine of not more than one hundred dollars, or by both such fine and imprisonment. (1969, c. 107.)

§ 30-13A-15. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable. (1969, c. 107.)

MINE MAPS

§ 22-2-2. Supervision by professional engineer or licensed land surveyor; seal and certification; contents; extensions; availability; traversing; copies; archive; final survey and map; penalties.

The mapping of all coal mines shall be supervised by a competent engineer or land surveyor. The work of such engineer or land surveyor shall be supervised by either a civil engineer or a mining engineer certified by the board of engineers, which exists by authority of section three [§ 30-13-3], article thirteen, chapter thirty of this Code, or a licensed land surveyor approved by the board of examiners of land surveyors as provided by section three [§ 30-13A-3], article thirteen-A, chapter thirty of this Code. To each map supervised by the said engineer or land surveyor there shall be affixed thereto the seal of a certified or professional engineer or licensed land surveyor, which shall be identical to the design authorized by the board of engineers, as provided in section nine [§ 30-13-9], article thirteen of the aforesaid chapter thirty of this Code or board of examiners of land surveyors as provided by section eleven [§ 30-13A-11], article thirteen-A, chapter thirty of this Code. Further, every map certified shall have the professional engineer's or land surveyor's signature and certificate, in addition to his seal, in the following form:

"I, the undersigned, hereby certify that this map is correct and shows all the information, to the best of my knowledge and belief, required by the laws of this State, and covers the period ending

P.E.

(Either Civil or Mining Engineer
or Land Surveyor)."

The operator of every underground coal mine shall make, or cause to be made, an accurate map of such mine, on a scale of not less than one hundred, and not more than five hundred feet to the inch. The map of such mine shall show:

- (1) The shafts, slopes, drifts, tunnels, entries, rooms, crosscuts and all other excavations;
- (2) As far as practicable the outline of existing and extracted pillars shall be designated;
- (3) The direction of all air currents, using arrows;
- (4) The abandoned portion or portions of the mine;
- (5) The outcrop of the coal bed within the bounds of the property assigned to the mine;
- (6) The boundary lines of the coal rights assigned to the mine;
- (7) The known underground workings in the same coal bed on the adjoining properties within one thousand feet of such mine workings and projections;

(8) The elevation of the top and bottom of each shaft and slope, all drifts and the bottom of the coal along the haulage entries in each set of main and panel entries at horizontal intervals not exceeding two hundred feet, with contour lines at not more than twenty feet vertical intervals;

(9) The location of the principle streams and bodies of water on the surface;

(10) The location of any impounded bodies of water inside the mine;

(11) The location of all boreholes penetrating the coal bed mined;

(12) The location of all oil and gas wells, high pressure pipelines, high voltage power lines and principal roads; and

(13) Where the overburden is less than one hundred feet, occupied dwellings shall be designated.

The operator of every underground coal mine shall extend, or cause to be extended and filed, on or before the first day of March and on or before the first day of September of each year, such mine map thereof to accurately show the progress of the workings as of the first day of July and the first day of January of each year.

A copy of the most recent revision of the map of such mine shall be available in the mine office for the use of the state mine inspectors and mine officials. Any employee in such mine may, in the presence of the mine foreman or an assistant, examine such map if he has reason to believe that a working place is in the proximity to other workings that may contain impounded water or noxious gases.

Surveying calculations and mapping of underground coal mines which are opened or reopened after the effective date of this section [July 1, 1969], shall be done by the rectangular coordinate traversing method and meridians carried through and tied between at least two parallel entries of each development panel and panels or workings adjacent to mine boundaries or abandoned workings. These surveys shall originate from at least three permanent survey monuments on the surface of the mine property. The monuments shall be clearly referenced and described in the coal mine operator's records. Elevations shall be tied to either the United States geological survey or the United States coast and geodetic survey bench mark system, be clearly referenced and described on such map.

Underground coal mines operating on the effective date of this section, and not using the rectangular coordinate traversing method shall, within two years of the effective date of this section, convert to this procedure for surveying calculations and mapping. Meridians shall be carried through and tied between at least two parallel entries of each development panel and panels or workings adjacent to mine boundaries or abandoned workings. These surveys shall originate from at least three permanent survey monuments on the surface of the mine property. The monuments shall be clearly referenced and described in the coal mine operator's records. Elevations shall be tied to either the United States geological sur-

vey or the United States coast and geodetic survey bench mark system, be clearly referenced and described on such map.

The operator of such underground coal mine shall, by reasonable proof, demonstrate to the director of the department of mines or his authorized agent, at anytime, that a diligent search was made for all existing and available maps and survey data for the workings on the adjoining properties. The operator shall further be able to show proof to the director of the department of mines or his authorized agent that a suitable method was used to insure accuracy in the methods used in transposing other workings to the map of such mine.

The operator of every underground coal mine shall, after the completion of each extension required by this section, submit by certified mail, a true copy of such coal mine map to the mine inspector for the district in which such mine is located. The mine inspector shall not copy, consent to have copied, nor use the map of any coal mine for any purpose other than that for which intended by this article.

There shall be an archive of underground coal mine maps maintained at the office of the director of the department of mines. The archive shall:

- (1) Be secured in a fireproof and burglarproof vault;
- (2) Have an appropriate map identification system;
- (3) Have adequate map microfilming facilities;
- (4) Be open to any person having a valid interest in information that mine maps may provide; and
- (5) At the discretion of the director, provide, at cost, a copy of any map for which a person may have a sound reason to possess.

When any underground coal mine is worked out, abandoned or closed indefinitely the operator of such mine shall, within fifteen days after the cessation of the production of coal, have completed, or cause to have completed, a final survey of such mine. Not longer than thirty days after coal production ceased, the operator shall have extended, or caused to have extended, the map of such mine to accurately show all excavations in such mine and a true copy of such mine map sent, by certified mail, to the archive of underground coal mine maps, office of the director of the department of mines, state capitol, Charleston. Final coal mine maps shall have thereon descriptions of all survey monuments.

Any person having a map or surveying data of any worked out or abandoned underground coal mine shall make such map or data available to the department of mines to copy or reproduce such material.

Any person who fails or refuses to discharge any duty imposed upon him by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars. (1883, c. 70, § 3; 1887, c. 50, § 5; 1901, c. 106, § 5; 1907, c. 78, § 5; 1915, c. 10, § 15; Code 1923, c. 15H, § 13; 1925, c. 88, § 11; 1958, c. 13; 1969, c. 75.)

Effect of amendment of 1969. — The amendment, effective July 1, 1969, rewrote this section.