

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

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2006 JUN -1 A 9 22

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Board of Professional Surveyors TITLE NUMBER: 23

RULE TYPE: Legislative CITE AUTHORITY: 30-13A-5; 30-1-7a

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: 5

TITLE OF RULE BEING PROPOSED: Standards for the Practice of Land Surveying in West Virginia

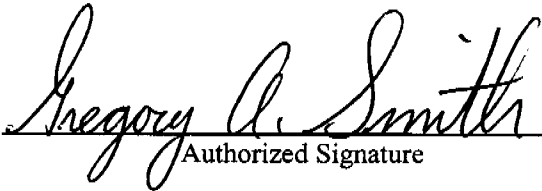
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 5, 2006 AT 5 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Board of Professional Surveyors

P. O. Box 390

Flatwoods, WV 26621-0390

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 23 CSR 5 - Standards for the Practice of Surveying in West Virginia

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: WV Board of Professional Surveyors

Address: P. O. Box 390
Flatwoods, WV 26621-0390

Phone Number: 304-765-0315 Email: avbps@mail.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Not applicable.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues			

Rule Title:

23 CSR 5 - Standards for the Practice of Surveying in West Virginia

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Not applicable.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Not applicable.

Date: 5-31-06

Signature of Agency Head or Authorized Representative

Gregory A. Smith

CHAIRMAN
Gregory A. Smith

SECRETARY
Leon K. Spencer

Mark H. Hornish Roy E. Shrewsbury, II Anthony J. Sparacino, Jr.

**STATE OF WEST VIRGINIA
BOARD OF PROFESSIONAL SURVEYORS**

Mailing address: P. O. Box 390, Flatwoods, West Virginia 26621-0390
Courier address: 2298 Sutton Lane, Flatwoods, West Virginia 26621
Telephone (304) 765-0315 Fax (304) 765-0316
wvbps@mail.state.wv.us



The creation of the Series 5 rule will consolidate into one document the laws and rules that govern the practice of surveying in West Virginia. As in Series 1, the NCEES Model Rules were used as guidance and evidence of generally accepted practices. Again, several definitions were added or revised for greater clarification. A major addition was Section §23-5.3., *Seals and Document Certification*, which addresses significant issues involving certification of survey documents and technological advancements regarding electronic seals and signatures. The minimum standards have been added from §30-13A-26 with some corrections and additions, including language about field notes and monumentation. The reason for moving the standards from the code to the rules is to better organize and clarify the standards and enable future additions. Current technology is creating a greater need for expanding the minimum standards to include GPS (Global Positioning System) surveys, GIS (Geographic Information Systems), as well as other types of surveying. Another major addition is Section §23-5.7., *Standards of Professional Conduct*, that specifically addresses the obligations a Professional Surveyor has to the public, the profession and to other professionals. Section §23-5.8., *Unethical Practices*, is the same except for surveyors making derogatory statements to the public, disseminating work product to the public without the permission of the client and making a violation of Section §23-5.7, an unethical practice.

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TITLE 23
LEGISLATIVE RULE
BOARD OF PROFESSIONAL SURVEYORS

**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

SERIES 5
STANDARDS FOR THE PRACTICE
OF SURVEYING IN WEST VIRGINIA

§23-5-1. General Information and Purpose

1.1. Scope. -- This rule is promulgated by the Board of Professional Surveyors to govern the practice of surveying in West Virginia.

1.2. Authority. -- W. Va. Code §§30-1-7a and 30-13A-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. This Rule for the practice of surveying is promulgated for the purpose of administration and enforcement of W. Va. Code §§30-1-1 et seq. and 30-13A-1 et seq. and shall be binding upon persons or firms involved in the practice of surveying under §30-13A-1 et seq.

1.6. In addition to the provisions and requirements of this rule, the Model Rules of the National Council of Examiners for Engineering and Surveying (NCEES) may be considered as guidance in matters of licensing and practice of surveying. The Board will also consider the NCEES Model Rules as an evidence of "generally accepted standards for the practice of surveying" as that phrase is used in this rule.

§23-5-2. Definitions

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:

2.1. "Boundary survey" means a survey in which the record lines, ownership lines or possession lines of a parcel of land, claim area, possession area or encroachment area have been established by a survey. All boundary surveys require proper monumentation and the preparation of a written description and plat of survey. A report of survey is required when the description and plat do not adequately address the facts and evidence used to control the boundaries.

2.2. "Ownership line" means a line or series of lines that define the limits of ownership claimed by a landowner and can only be established as a boundary by an order of the court.

2.3. "Possession line" means a line or series of lines that define the limits of possession or use by a landowner and can only be established as a boundary by an order of the court.

2.4. "Professional charge" refers to a licensee having the responsibility to certify documents that meet certain professional standards or the responsibility to supervise, direct and control the execution of a professional project involving technical or responsible charge personnel or one or more professional disciplines.

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2.5. "Record line" means the line between the position of the original monuments cited in the original operative conveyance that a surveyor is required to retrace or establish as the boundary of a parcel of land.

2.6. "Responsible charge" means direct control of surveying work under the direct supervision of a licensee or person authorized in another state or country to engage in the practice of surveying in order to gather, prepare or analyze data, evidence or information that will aid and assist the licensed professional in resolving boundaries or managing data or information regarding other work related to the practice of surveying.

2.7. "SU" means "surface and underground" and is the designation following the license number of a licensee who has met the requirements to be endorsed by the Board as an underground surveyor pursuant to §30-13A-11.

2.8. "Technician" means a person who performs technical work related to surveying under the direction of a designated field or office supervisor or licensed professional. Examples of a technician may be, but is not limited to, an instrumentperson, rodperson, drafter or computer operator.

2.9. "Unlicensed practice" means a person who holds him/herself out to the public as being a surveyor or land surveyor and has failed to maintain an active surveying license under the provisions of §30-13A-1 et seq. or has not obtained the qualifications and requirements for licensure under the provisions of §30-13A-1 et seq.

2.10. "Unlicensed practitioner" means a person engaged in the unlicensed practice of surveying.

§23-5.3. Seals and Document Certification.

3.1. The seal of the Board shall be affixed to each certificate of licensure or license issued by the Board.

3.2. Seal of Licensee

3.2.a. When an applicant is granted licensure, he/she must obtain a professional seal from a company approved by the Board within thirty (30) days.

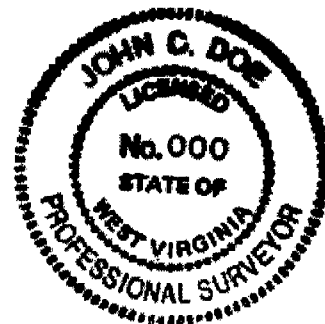
3.2.b. The seal must be either a rubber stamp or embossing seal, or both, and must contain the following information (see example):

3.2.b.1. The first and last name and middle initial of the licensee shall be on the top between the two concentric circles.

3.2.b.2. "Professional Surveyor" shall be on the bottom between the two concentric circles.

3.2.b.3. "Licensed" shall be at the inside top of the smaller circle.

3.2.b.4. "West Virginia" shall be at the inside bottom of



the smaller circle.

3.2.b.5. The license number and "State of" shall be in the center of the seal. A space and "SU" shall append the license number if so endorsed.

3. 3. Seal on Documents

3.3.a. The seal and signature of the licensee and date of signing shall be placed on all surveys, reports, plats, drawings, plans, and calculations whenever presented to a client or any public agency to certify that the work thereon was done by or under the professional charge of the licensee. Working drawings or unfinished documents are not required to have a seal and signature if the working drawing or preliminary document contains a statement to the effect "Preliminary, not for construction, recording purposes, or implementation."

3.3.b. The seal and signature shall be placed on all originals, tracings, or other reproducible documents so that the seal and signature will be reproduced when copies are made.

3.3.c. When the document contains more than one sheet, the first or title page shall be sealed and signed by the licensee who was in professional charge. Two or more licensees may affix their signatures and seals provided it is designated by a note under the seal the specific subject matter for which each is responsible. In addition, each drawing shall be sealed and signed by the licensee or licensees responsible for each sheet. When a firm, partnership or corporation performs the work, each drawing shall be sealed by the licensee or licensees who were in professional charge of the work.

3.3.d. The seal and signature shall be placed on work only when it was under the licensee's complete direction and professional charge.

3.3.e. The licensee shall sign and seal only work within the licensee's area(s) of competence.

3.3.f. Plats, descriptions, reports, drawings, or other documents will be deemed to have been prepared under the professional charge of a licensee only when all the following conditions have been met and documented:

3.3.f.1. The client requesting preparation of such plats, descriptions, reports, drawings, or other documents makes the request directly to the licensee, or a member or employee of the licensee's firm.

3.3.f.2. The licensee supervises the preparation of the plats, descriptions, reports, drawings, or other documents and has input into their preparation prior to their completion;

3.3.f.3. The licensee reviews the final plats, descriptions, reports, drawings, or other documents.

3.3.f.4. The licensee has the authority to, and does, make any necessary and appropriate changes to the final plats, descriptions, reports, drawings, or other documents.

3.3.f.5. The licensee is responsible for meeting all of the preceding requirements whether the work is being performed remotely or locally.

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3.3.f.6.. Any revision to a document containing the seal and signature of a licensee shall be described and dated. If the revisions are not done by the original licensee, the revisions must also be signed and sealed by the licensee in professional charge.

3.3.f.7. In circumstances where a licensee in professional charge of the work is unavailable to complete the work, a successor licensee may take professional charge by performing all professional services to include calculations, research, and any necessary and appropriate changes to the work. The non-professional (technical) services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

3.3.g. Digital Seals and Signatures

3.3.g.1. Computer-generated seals not signed with a digital signature may be used on final original drawings provided a handwritten signature is placed adjacent to or across the seal and the date is written below the seal. Documents which do not require certification may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of licensee, P.S.#--- on (date of sealing)). This document should not be considered a certified document."

3.3.g.2. Drawings, reports, or documents that are signed using a digital signature must have an electronic authentication process attached to or logically associated with the electronic document. The digital signature must be: unique to the person using it; capable of verification, under the sole control of the person using it; and linked to a document in such a manner that the digital signature is invalidated if any data in the document are changed.

3.3.g.3. A digital signature that uses a process approved by the Board will be presumed to meet the criteria set forth in the preceding paragraph. Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and be a confirmation that the electronic file was not altered after the initial digital signing of the file. Any alterations to the file shall cause the facsimile of the signature to be voided.

§23-5-4. General Survey Policies.

4.1. A surveyor shall undertake to perform surveying assignments only when qualified by education or experience in the specific technical field of surveying involved.

4.2. A surveyor may accept an assignment requiring education or experience outside of his or her own field of competence, but only to the extent that his or her services are restricted to those phases of the project in which he or she is qualified. All other phases of the project shall be performed by qualified associates, consultants or employees.

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4.3. A surveyor shall not affix his or her signature and/or seal to any surveying plan or document dealing with subject matter to which he or she lacks competence by virtue of education or experience, nor to any plan or document not prepared under his or her direct supervisory control.

4.4. In the event a question arises as to the competence of a surveyor to perform a surveying assignment in a specific technical field of surveying which cannot be otherwise resolved to the Board's satisfaction, the Board, either upon request of the surveyor or by its own volition, may require the surveyor to submit to an appropriate examination as determined by the Board.

§23-5-5. Specialized Survey Policies.

5.1. Experience and Documentation Requirements

5.1.a. The Board may require an applicant or licensee to submit designated records and documentation of surveys to support a claim to experience in a specific field of surveying and mapping.

5.1.b. The Board may also require an examination on procedures and knowledge on specific fields of surveying and mapping.

5.1.c. The Board may require an application and examination fee to cover cost incurred for review, verification and examination of a licensee's qualifications and experience to practice in a specific field.

5.2. Underground Surveying

5.2.a. All licensees must receive the "SU" endorsement before affixing their signature and seal on any documents associated with underground surveying.

5.2.a. Underground surveys and maps shall comply with the requirements in W. Va. Code §22A-2-1.

5.2.b. For licensees seeking an endorsement to engage in underground surveying, the Board may require designated records and documentation of underground surveys to support a claim of expertise.

§23-5-6. Minimum standards for surveys.

6.1. The purpose of these standards is to establish minimum technical criteria to govern the performance of surveyors when more stringent specifications are not required. Further, the purpose is to protect the inhabitants of this state from dishonest or incompetent surveying and generally to protect the public welfare.

6.2. General standards for all surveys:

6.2.a. The licensee in professional charge, or a designated representative, shall discuss with the client the purpose of the survey, scope of services to be provided, time frames, fees and all pertinent details of the contract prior to performing the work.

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6.2.b. A licensee, endorsee, an exempt person under §30-13A-1 et seq. or persons under the direct supervision of a licensee, endorsee or exempt person shall physically go to the site and perform a field survey.

6.2.c. The surveyor shall use methods and equipment suitable for the purpose of the survey.

6.2.d. Field notes shall be recorded for all surveys and shall include the raw data, boundary evidence and other relevant information collected in the field.

6.2.d.1. Notes may be handwritten or by electronic data collection or a combination thereof. When electronic data collection is used in conjunction with handwritten notes, the electronic files and the written notes constitute the entirety of the field notes.

6.2.d.2. The surveyor must retain all field notes as a permanent record indefinitely.

6.2.e. All measuring devices shall be checked periodically for accuracy and condition. The observations shall be measured to a precision that will produce the desired level of accuracy.

6.3. Boundary Surveys

6.3.a. In addition to the general standards in subsection 6.2., the discussion prior to the survey shall also cover disputes with adjoining, claim or possession areas, encroachments and other relevant information that will affect the final location of the boundary.

6.3.b. A search of the public records shall include the courthouse and other sources of information to identify and resolve potential conflicts in descriptions of the subject property and the adjoining, easements, and other information that may affect the outcome of the survey. The record search shall include:

6.3.b.1. A reasonable search to determine the current ownership, addresses, tax map and parcel number and assessed area of the subject property and all the adjoining.

6.3.b.2. A thorough search to determine the record descriptions of the conveyance to the current owner and the original operative conveyance for each section of the boundary that comprises the subject property. The search may include prior deeds, conveyance from common grantor, or if necessary, the original survey or grant.

6.3.b.3. A reasonable search of the record descriptions for all adjoining properties to resolve possible conflicts with the subject property.

6.3.b.4. All records gathered during the course of the survey and information sources used shall be retained as a permanent record indefinitely.

6.3.c. Notification to the public

6.3.c.1. A reasonable attempt shall be made to notify the adjoining of the pending survey through the mail or personal contact.

6.3.c.2. A reasonable attempt shall be made to contact and discuss the field evidence with others having a practical firsthand knowledge of the property boundaries. The surveyor

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must use his or her discretion when deciding which individuals have knowledge that will help to establish the record line.

6.3.d. The field survey shall consist of the following:

6.3.d.1. A field search for controlling evidence.

6.3.d.2. The location of evidence by appropriate methods and procedures.

6.3.d.3. In addition to the general standards in subsection 6.2., the field notes shall include, but is not limited to, the date, field crew members and responsibilities, weather conditions, horizontal and vertical circle readings, distances (whether slope or horizontal), traverse stations, sideshots, offsets and other such stations and their descriptions.

6.3.d.4. Distance shall be reported in feet or meters, or parts thereof, and angles or directions shall be reported in degrees or parts thereof.

6.3.d.5. The area of the tract being surveyed shall be measured and reported to a precision consistent with the purpose of the survey.

6.3.e. Corner monuments shall be positioned as close as possible to the position of the original monument cited in the original operative conveyance after a thorough review of all the available record search and the evidence recovered in the field. Evidence of subsequent surveyors may be used if it is determined their work is as close as possible to the corner's original position.

6.3.e.1. Permanent monumentation is required for all new or reestablished corner and reference monuments. Set monuments shall be made of durable material and set firmly in the ground. Pipes shall have a minimum inside diameter of one (1) inch, while rebars shall have a minimum outside diameter of five-eighths (5/8) inch and both shall have a minimum length of thirty (30) inches. Other markers shall have a minimum cross-sectional area of one-half square inch and shall be made of durable material, identifiable and unique. Natural objects chosen for corners shall be durable, unique and easily identifiable. Monumentation is encouraged but not required at intervisible points along the boundary between corners.

6.3.e.2. All rebars, pipes and other markers, except natural objects, shall have caps bearing the surveyor's license number or company name.

6.3.f. A plat shall be prepared for all retracement or partition boundary surveys and subdivisions, unless a certified plat of a boundary survey or subdivision has been recorded within the last ten (10) years that accurately depicts the location of the monument or monuments being reset. A monument replacement record, in lieu of a plat, shall be filed in the county clerk's office on a form prescribed by the Board.

6.3.g. The plat shall show the results of the field survey and be provided to the client. Plats shall be to a scale large enough to show significant details and the following information shall be shown, when applicable:

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- 6.3.g.1. A north arrow and the meridian used as the basis of directions (bearings);
- 6.3.g.2. The date or sequence of dates of the field survey;
- 6.3.g.3. The measured length and direction of each boundary line by distance, bearing and quadrant: Provided, That in the case of a strip survey the station and offset method may be utilized to describe the strip. When the station and offset method is used, the alignment geometry and the control point monumentation shall also be shown on the plat.
- 6.3.g.4. General location information including the municipality, district, county, state, watershed and other information that will aid in locating the subject property. Subdivisions will include the name, lot, block and plat reference;
- 6.3.g.5. Ties by direction and distance to significant monuments and objects;
- 6.3.g.6. The evidence of possession and claim areas and encroachments as they compare to the location of the record boundary line including any overlaps or gaps, as needed;
- 6.3.g.7. The description of all corners or reference monuments, including whether the monuments were found (fd) or set;
- 6.3.g.8. The outlined area of the property and all significant parts, including streets, alleys and nonlotted areas of a subdivision;
- 6.3.g.9. The area, acreage or square footage, of the property;
- 6.3.g.10. The tax map and parcel number, if available, of all the tracts or parcels shown on the plat;
- 6.3.g.11. The name of the current or past owners of the subject property, or both, and the adjoining landowners;
- 6.3.g.12. The current conveyance reference for the subject property and the adjoining landowners;
- 6.3.g.13. The name and location of any creeks, rivers or roads within the scope of the survey;
- 6.3.g.14. The title of the plat for reference when recording;
- 6.3.g.15. The name, address, license number, signature and seal of the surveyor in professional charge.
- 6.3.h. A description of survey shall be prepared for all, partition and retracement boundary surveys, except mortgage inspection surveys, and be provided to the client.
- 6.3.i. The following shall be included in a description of survey, when applicable:
 - 6.3.i.1. A metes and bounds description, or strip description, if applicable, of the property;
 - 6.3.i.2. The point of beginning;

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6.3.i.3. The description of monumentation at each corner and objects encountered along the line, including the adjoining landowners;

6.3.i.4. The length and direction of each line;

6.3.i.5. The radius, chord bearing and distance of a curved boundary line;

6.3.i.6. The lot and block numbers for newly platted partitions or subdivisions;

6.3.i.7. The area, acreage or square footage, of the property;

6.3.i.8. The watershed or topographic location where the property is located;

6.3.i.9. A reference to the conveyance by which the current owner claims title, including the grantor, grantee, date and recording reference;

6.3.i.10. A reference to the accompanying plat attaching it to and making it a part of the description;

6.3.i.11. The district or municipality, county and state where the property is located;

6.3.i.12. The name of the individual preparing the description and the name, address, license number, signature and seal of the surveyor in professional charge.

6.3.j. The report of survey shall be used when the plat and the description of survey do not adequately address all matters considered by the surveyor in performing the survey and shall be attached to and made a part of the plat and description of survey and provided to the client. The report of survey shall include:

6.3.j.1. Documentation of the research and the weight given to the significant documents;

6.3.j.2. The names of persons contacted and the information they supplied.

6.3.j.3. All unusual circumstances surrounding the survey, with weight being given to conflicting evidence and encroachments, overlaps or gaps and how they were resolved

6.3.j.4. The name of the individual preparing the report and the name, address, license number, signature and seal of the surveyor in professional charge.

6.4. Mortgage or Loan Inspection

6.4.a. A mortgage or loan inspection is not a boundary survey as set forth in §30-13A-1 et seq. or the rules set forth by the Board.

6.4.b. The plat must be stamped "a mortgage inspection survey only, not a boundary survey".

6.4.c. The surveyor must supply written notice to the landowner or other person commissioning his/her services that an inspection was performed and not a boundary survey.

6.3.c. The name of the individual preparing the report and the name, address, license number, signature and seal of the surveyor in professional charge.

§23-5-7. Standards of Professional Conduct

7.1 Licensee's Obligation to the Public

7.1.a. Licensees, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public health, safety and welfare.

7.1.b. Licensees shall approve and seal only those documents and surveys that conform to accepted surveying standards and safeguard the life, health, property, and welfare of the public.

7.1.c. Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where the life, health, property, or welfare of the public is endangered.

7.1.d. Licensees shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.

7.1.e. Licensees shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

7.1.f. Licensees shall issue no statements, criticisms, or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking and reveal any interest they have in the matters.

7.1.g. Licensees shall not permit the use of their name or firm name by, nor associate in the business ventures with, any person or firm which is engaging in fraudulent or dishonest business or professional practices.

7.1.h. Licensees having knowledge of possible violations of any of these standards of professional conduct shall provide the Board with the information and assistance necessary to make the final determination of such violation.

7.2. Licensee's Obligation to Profession, Clients and Employer

7.2.a. Licensees shall undertake assignment only when qualified by education or experience in the specific technical fields of surveying involved.

7.2.b. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their direct control and personal supervision.

7.2.c. Licensees may accept assignments for coordination of an entire project, provided that each segment is signed and sealed by the licensee responsible for preparation of that segment.

7.2.d. Licensees shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law.

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Licensees shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.

7.2.e. Licensees shall make full prior disclosures to their employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their service.

7.2.f. Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

7.2.g. Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a government body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.

7.3. Licensee's Obligation to Other Licensees

7.3.a. Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

7.3.b. Licensees shall not offer, give, solicit, or receive, either directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

7.3.c. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensees, nor indiscriminately criticize other licensees' work.

§23-5-8. Unethical Practices.

8.1. In addition to the reasons for suspension or revocation of a license set forth in W. Va. Code §§30-1-8(a) or 30-13A-29, any licensee who has committed any of the following unethical practices may be subject to disciplinary action by the Board:

8.2. Signing or affixing a seal to any document prepared by persons who are not employees under supervision of the licensee;

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

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- 8.4. Associating with any survey project known by the licensee to be fraudulent or dishonest in character;
- 8.5. Failing or refusing to comply with any provision of W. Va. Code §30-13A-1 et seq. or any rule promulgated by the Board or any request, order or final decision of the Board. For the purposes of this subsection: (1) if any licensee orders, counsels, encourages, incites, supports, helps, or assists another person to fail or refuse to comply with any statutory provision, rule, request, order or final decision; or, (2) after the failure or refusal, if a licensee helps or assists the other person to avoid detection of the failure or refusal, then the licensee is considered to have also failed or refused to comply;
- 8.6. Knowingly or maliciously disseminating false statements which are intended to result in injury to the reputation of a licensee, to diminish the esteem, respect, goodwill or confidence in which the licensee is held, or to deter third persons from associating or dealing with the licensee;
- 8.7. Reviewing the work of another surveyor for the same client, except with the knowledge of the surveyor, or unless the connection of the surveyor with the work has been terminated;
- 8.8. Failing to respond within thirty (30) days to written communications from the Board and to make available any records relevant to an inquiry or complaint about the licensee's professional conduct. The thirty (30) day period begins on the date when the communication was sent by the Board by certified mail with return receipt requested to the last known address of the surveyor;
- 8.9. Making statements to the public that result in, or have the potential of resulting in, insult or injury.
- 8.10. Using advertising that is false, fraudulent, deceptive, misleading or unlawful; or
- 8.11. Accepting and undertaking to perform survey services which the surveyor is not competent to perform without obtaining qualified associates, consultants or employees, or failing to directly supervise the work of subordinates in performing these services.
- 8.12. The surveyor disseminating to the public, including other surveyors, any work product created under contract with a client without first being granted permission by that client. The right to preclude dissemination is non-transferable unless the client has done so in writing to another party.
- 8.13. Violate the Standards of Professional Conduct in 23 CSR 5-7 of this rule.