

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

Form #4 ■

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OFFICE WEST VIRGINIA
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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Statewide Addressing and Mapping Board TITLE NUMBER: 169

CITE AUTHORITY: WV Code 24E-1-6, 7,9(b) 29A-3-15

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

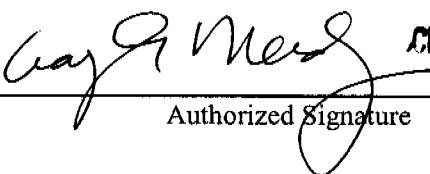
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 169-CSR2

TITLE OF RULE BEING PROPOSED: Addressing and Mapping Standards and Participation by
Public Agencies in Statewide Addressing and Mapping
Project

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


CRAIG A. NEIDIG
Authorized Signature

**TITLE 169
LEGISLATIVE RULES**

WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING BOARD

**SERIES 2
ADDRESSING AND MAPPING STANDARDS
AND
PARTICIPATION BY PUBLIC AGENCIES
IN STATEWIDE ADDRESSING AND MAPPING PROJECT**

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§169-2-1. General.

1.1. Scope. Pursuant to Chapter 24E, Article 1, Sections 6, 7 and 9(b) of the West Virginia Code, the West Virginia Statewide Addressing and Mapping Board does hereby adopt the following rules governing statewide addressing and mapping standards; governing participation by public agencies in the statewide addressing and mapping project undertaken by the Board pursuant to Chapter 24E, Article 1; and governing protections of privacy of the state's citizens and of the homeland security during the project, as well as governing the distribution generally of works created as a result of the project.

1.2 Authority. W. Va. Code §§ 24E-1-6, 7 & 9(b); 29A-3-15.

1.3 Filing Date. June 16, 2003.

1.4 Effective Date. --

1.5 Application.

1.5.a. In general. These rules establish statewide addressing and mapping standards, and regulations for participation in the statewide addressing and mapping project undertaken by the Board pursuant to Chapter 24E, Article 1 of the West Virginia Code.

1.5.b. Waiver. If these rules result in an unreasonable or undue hardship, application may be made to the Board for temporary exemption from these rules under the circumstances for which application is made, for unreasonable or undue hardship and good cause shown. The Board may also grant waivers upon its own motion.

1.6 Definitions.

1.6.a. "Board" means the West Virginia statewide addressing and mapping board.

1.6.b. "City-type address" means a unique address for a structure using a building number and street name. "City-type addresses" are based on an address system, which means that they usually appear in a consistent numeric sequence along a street and reflect parity conventions (that is, odd numbers all appear on one side of the street and even numbers on the other). If number assignment is based on a standard numbering interval, then the "city-type address" will also logically provide a distance location from the beginning point of the road.

1.6.c. "Emergency services purposes" means use related to 9-1-1 or enhanced 9-1-1 dispatch and response.

1.6.d. "Fund" means the West Virginia statewide addressing and mapping fund.

1.6.e. "Local exchange telephone company" means any public utility that is engaged in the provisions of local exchange service in this state and that operates and maintains an automatic location identification database of addresses of subscribers for use with enhanced emergency telephone systems.

1.6.f. "Project" means the project for the creation of a statewide addressing and mapping system for emergency services purposes, but usable as a base for other purposes, in accordance with and consistent with Chapter 24E, Article 1 of the West Virginia Code.

1.6.g. "Project manager" means the project manager hired by the Board for the Project.

1.6.h. "Public agency" means any municipality, county, public district or public authority that provides or has the authority to provide firefighting, police, ambulance, medical rescue or other emergency services.

1.6.i. "Statewide Addressing and Mapping System" or "the System" means the system to be created as a result of the Project, with the participation of public agencies and other entities, including, without limitation, the establishment of city-type addressing and mapping systems essential to the prompt and accurate dispatch of emergency service providers. The terms "Statewide Addressing and Mapping System" and "the System" also include any local modifications that may be made to the System in order to tailor it to meet specialized local concerns.

§169-2-2. Addressing and Mapping Standards.

2.1. Addressing Standards.

2.1.a. Unaddressed areas. By the time of the completion of the Project, all areas without city-type addresses must be addressed in accordance with, and otherwise conform to, the Statewide Addressing and Mapping System, including addresses and signage.

2.1.b. Established addresses and addressing systems. By the time of the completion of the Project, all public agency addressing systems, including addresses and signage, must conform to the Statewide Addressing and Mapping System, unless:

2.1.b.1. The public agency is exempt under W. Va. Code § 24E-1-6(b); or

2.1.b.2. The public agency has obtained a waiver under these rules.

2.1.c. Changes of addresses and addressing systems. Addresses and addressing systems in the state are not to be changed unless necessary to conform to requirements of the Statewide Addressing and Mapping System, and then, only after the Board finds that conformance to the System is necessary or advisable for prompt and accurate emergency services dispatch for the protection of human life, the protection of property or the maintenance of general community security, and the public agency responsible for the change of address makes the change. This subsection does not, however, prevent public agencies from making changes to addresses, without the participation of the Board, that are otherwise in compliance with these rules.

2.1.d. Addressing standards for the Statewide Addressing and Mapping System. The Statewide Addressing and Mapping System must follow the standards and guidelines in the attached "West Virginia 911 Addressing Handbook, First Edition, April 2003." Where the term "should" is used in those standards and guidelines, it means that the standard or guideline in question must be followed in good faith and consistent with prompt and accurate emergency services dispatch, but may be deviated from where compliance is not feasible or practical under the circumstances. The affected public agency has the right to determine, in the first instance, whether to comply with or deviate from the standards and guidelines in the West Virginia 911 Addressing Handbook, First Edition, April 2003, subject to review at the discretion of the Board.

2.2. Mapping Standards.

2.2.a. In general. By the time of the completion of the Project, all public agency mapping systems used for emergency services purposes must conform to the Statewide Addressing and Mapping System, unless:

2.2.a.1. The public agency is exempt under W. Va. Code § 24E-1-6(b); or

2.2.a.2. The public agency has obtained a waiver under these rules.

2.2.b. Use of mapping work product. In the absence of an exemption or a waiver, a public agency may comply with subsection 2.2.a. only by using the mapping work product and database systems of the Statewide Addressing and Mapping System to be created as a result of the Project.

2.2.c. Specific mapping standards. The Statewide Addressing and Mapping System must follow the specifications set forth in the attached Expression of Interest, SAMB 0202, and the response thereto selected by the Board, unless otherwise established by the Board.

§169-2-3. Creation of the Statewide Addressing and Mapping Systems; Participation by Public Agencies and Other Entities; Rights and Responsibilities of Participating Public Agencies and Other Entities.

3.1 Creation of the Statewide Addressing and Mapping System.

The Board shall create the Statewide Addressing and Mapping System with the participation of the public agencies and other entities under these rules. The Statewide Addressing and Mapping System may include local modifications in order to tailor it to meet specialized local concerns, where the Board finds them to be consistent with the Board's mission to develop the System within the financial and other constraints of the Project, and consistent with protecting human life and property, and maintaining general community security. Public agencies desiring to propose such local tailoring of the System (in the absence of an exemption or a waiver under subsection 2.1.b or subsection 2.2.a) must participate in the Project under these rules.

3.2 Rights and Responsibilities of the Board.

The Board has the following rights and responsibilities:

3.2.a. The Board shall adhere to Chapter 24E, Article 1 of the West Virginia Code;

3.2.b. The Board shall, upon request by a public agency and at no cost to participating public agencies, provide public agencies with a copy of the West Virginia 911 Addressing Handbook, First Edition, April 2003, when completed, which is to be written in plain English;

3.2.c. The Board shall, upon request by public agencies and at no cost to participating public agencies, provide public agencies with model addressing and mapping ordinances;

3.2.d. The Board shall, at no cost to participating public agencies, hire and supervise a project manager for the Project;

3.2.e. The Board shall, at no cost to participating public agencies, hire a mapping contractor or contractors for the Project, who are to be subject to the supervision of the project manager;

3.2.f. The Board shall, at no cost to participating public agencies, hire an addressing contractor or contractors subject to the supervision of the project manager;

3.2.g. The Board has the power to review and approve all aspects of the Statewide Addressing and Mapping System;

3.2h. The Board has the power to review and approve all proposals for local modification of the Statewide Addressing and Mapping System;

3.2i. The Board has the power to make final approval of the Statewide Addressing and Mapping System, including, without limitation, all portions thereof such as addressing systems, mapping systems, databases and other systems; and

3.2j. The Board may remove from participating in the project any public agency that fails to comply with these rules, including, without limitation, the failure of the public agency to cooperate in good faith, and may remove any other entity from participation in the project for failure to comply with applicable contractual or other duties.

3.2k. The Board shall notify all public agencies of the final approval of the Statewide Addressing and Mapping System and the completion of the Project;

3.2l. The Board has any and all other rights and responsibilities as provided for by law.

3.3 Rights and Responsibilities of Participating Public Agencies with City-type Addresses.

Participating public agencies with city-type addresses have the following rights and responsibilities:

3.3.a. Such participating public agencies will receive the right to use, at no cost, all maps, compilations and other works created as a result of the Project, subject to present or future licensing rights of the Board and its assigns under these rules, and subject to the emergency or legislative rules establishing the conditions and requirements for the distribution of such works, to be filed by the Board, pursuant to Chapter 24E, Article 1, Section 9(b) of the West Virginia Code;

3.3.b. Such participating agencies may make proposals to the Board for the modification of the Statewide Addressing and Mapping System, on a localized basis, in order to tailor it to meet localized concerns;

3.3.c. Such participating public agencies shall cooperate in good faith with the Board, and shall appoint an employee or official as an addressing manager or officer who will work with the Board, its project manager, authorized agents and designated contractors;

3.3.d. Such participating public agencies shall make all reasonable efforts to enact any and all ordinances necessary to comply with the Statewide Addressing and Mapping System and complete the Project;

3.3.e. Such participating public agencies shall cooperate in good faith with the Board to update the maps, compilations and other works of the Statewide Addressing and Mapping System;

3.3.f. Such participating public agencies shall comply with the West Virginia 911 Addressing Handbook, First Edition, April 2003, including, but not necessarily limited to, reviewing road names for duplicate or similar-sounding names, reviewing existing city-type addresses to identify any issues with number assignment, considering making address changes, as needed, cooperating in good faith with the Board's addressing contractor to identify intersection address ranges and other required attributes for all streets and roads, completing 911 database requirements with the appropriate local telephone exchange carrier, and establishing an address maintenance system;

3.3.g. Such participating public agencies, if address changes are made, shall follow established notification procedures with the U.S. Postal Service and the appropriate local telephone exchange carrier, and notify property owners of any new addresses; and

3.3.h. Such participating public agencies have all other rights and responsibilities as provided for by law.

3.4 Rights and Responsibilities of Public Agencies Without City-type Addresses.

Participating public agencies without city-type addresses have the following rights and responsibilities:

3.4.a. Such participating public agencies will receive the right to use, at no cost, all maps, compilations and other works created as a result of the Project, subject to present or future licensing rights of the Board and its assigns under these rules, and subject to the emergency or legislative rules establishing the conditions and requirements for the distribution of such works, to be filed by the Board, pursuant to Chapter 24E, Article 1, Section 9(b) of the West Virginia Code;

3.4.b. Such participating agencies may make proposals to the Board for the modification of the Statewide Addressing and Mapping System, on a localized basis, in order to tailor it to meet localized concerns;

3.4.c. Such participating public agencies shall cooperate in good faith with the Board, and shall appoint an employee or official as an addressing manager or officer who will work with the Board, its project manager, authorized agents and designated contractors;

3.4.d. Such participating public agencies shall make all reasonable efforts to enact any and all ordinances necessary to comply with the Statewide Addressing and Mapping System and complete the Project;

3.4.e. Such participating public agencies shall cooperate in good faith with the Board to update the maps, compilations and other works of the Statewide Addressing and Mapping System;

3.4.f. Such participating public agencies shall comply with the West Virginia 911 Addressing Handbook, First Edition, April 2003, which necessarily requires more extensive participation, including, but not necessarily limited to, reviewing and updating current tax database mailing addresses, reviewing addressing issues with other public agencies, reviewing road names and soliciting input on potential road names, establishing city style addresses for all identifiable structures based on the West Virginia 911 Addressing Standards, completing 911 database requirements with the appropriate local exchange telephone carrier, and establishing an address maintenance system;

3.4.g. Such participating public agencies, if address changes are made, shall follow established notification procedures with the U.S. Postal Service and the appropriate local telephone exchange carrier, and notify property owners of any new addresses; and

3.4.h. Such participating public agencies have all other rights and responsibilities as provided for by law.

3.5. Participation by Public Agencies.

Any county commission and municipality is entitled to participate in the Project by notifying the Board, in writing, no later than December 31, 2004 of its intention to participate in the Project in accordance with these rules. Any other public agency, including county commissions and municipalities electing to participate after that date, may participate in the Project only upon the approval of the Board at a regularly scheduled or special meeting.

3.6. Contracts and Financial Arrangements.

3.6.a. The Board may enter into contracts, including financial arrangements, with public agencies or other entities, public or private, in order to accomplish the purposes of Chapter 24E, Article 1 of the West Virginia Code. Such contracts may, without limitation, include intergovernmental agreements or private contracts related to any aspect of the Project, including without limitation (1) data storage, data distribution, systems administration or any other function necessary or convenient to the Project, or (2) the creation of supplemental, modified or additional works.

3.6.b. No entity, other than a public agency, may participate in the creation of the Statewide Addressing and Mapping System without such a contract with the Board. All such contracts must be reduced to writing and approved by the Board in accordance with law.

3.6.c. The rights and obligations of any private entity participating in the Project, or of any federal, state or local agency participating in the Project, other than a public agency, are governed by its contract with the Board.

3.6.d. The rights and obligations of any public agency with a contract with the Board are governed by 3.3 and 3.4 above, whichever is applicable, and by the public agency's contract with the Board. In the event of a conflict between specified rights and obligations under these rules

and under a contract with the Board, the specific rights and obligations under the contract are to prevail.

3.6.e. No contracts entered into under these rules may be construed to grant rights to third parties beyond the limitations of Chapter 24E, Article 1, Section 8 of the West Virginia Code.

3.6.f. Such contracts may include provisions regarding the licensing of maps, compilations or other works created as a result of the Project. No such maps, compilations or other works may be distributed, however, except under any conditions imposed by the Board to protect reasonable expectations of privacy, if any, of the information in those works, consistent with the West Virginia Freedom of Information Act, Chapter 29B, Article 1 of the West Virginia Code, and consistent with Chapter 24E, Article 1, Section 9(b) of the Code.

3.7. Reimbursement of Public Agencies.

3.7.a. Standards for Reimbursement. The Board may consider applications of participating public agencies, including without limitation, county commissions and municipalities, for reimbursement from the Board's fund. Because the Board's funding is limited, however, reimbursement may occur only under exceptional circumstances. In deciding whether to grant reimbursement, the Board may consider the following factors:

3.7.a.1. Whether the activities for which reimbursement is sought will reduce the overall cost of the Project;

3.7.a.2. Whether the Board may equitably reimburse the public agency without also reimbursing other public agencies for similar or other activities;

3.7.a.3. Whether the Board may still accomplish the purposes of the Project by making the reimbursement in combination with like, but equitable reimbursements of other public agencies;

3.7.a.4. Whether the activities comply with the Board's rules and standards;

3.7.a.5. Whether, by making the reimbursement, the Board can still meet its obligations to its project manager and other vendors by making the reimbursement, keeping in mind the possibility of like, but equitable reimbursements of other public agencies;

3.7.a.6. Whether the activities for which reimbursement is sought are in addition to those activities that may be reasonably expected of all participating public agencies as a part of their emergency services mission;

3.7.a.7. Whether the activities for which reimbursement is sought are good and satisfactory consideration for the reimbursement;

3.7.a.8. The relative size of the participating agency and whether it may reasonably be expected to absorb the expense;

3.7.a.9 Whether the activities for which reimbursement is sought were already paid for, or are subject to reimbursement from, federal, state or other non-public agency funds; and

3.7.a.10. Any other relevant factors.

The Board specifically expects public agencies to show the spirit of volunteerism that has long characterized the provision of emergency services in West Virginia and elsewhere in the United States, and encourages public agencies to submit only those applications that are consistent with that spirit, and that add significant value to the Project beyond the activities that may be reasonably expected of all public agencies as a part of their emergency services mission.

3.7.b. Conditions of Reimbursement. The Board may impose conditions on reimbursement, including requiring an otherwise exempt public agency to comply with the standards in these rules as a condition of receiving reimbursement. Any such conditions must be stated in writing. No disbursement may be made from the Board's fund unless the public agency agrees to such conditions in writing.

3.7.b. Form of Application for Reimbursement. Any application for reimbursement must be substantially in the form prescribed by the Board, SAMB Form # 1, "Application of Public Agency for Reimbursement."

§ 169-2-4 Protection of Privacy, Homeland Security and Distribution of Works.

4.1 Protection of Privacy.

4.1.a. Except as otherwise specified in these rules, no person may distribute any maps, compilations or other works created as a result of the Project without the express written permission of the Board, and then, only under conditions imposed by the Board to protect reasonable expectations of privacy of the information in those works, consistent with the West Virginia Freedom of Information Act, Chapter 29B, Article 1 of the West Virginia Code, and consistent with Chapter 24E, Article 1, Section 9(b) of the Code.

4.1.b. The following standards apply to the distribution of maps, compilations or other works under these rules:

4.1.b.1. Any such works may be distributed for emergency services purposes to public agencies, local exchange telephone companies and other persons with a legitimate need to know for such purposes. Except as otherwise permitted by the Board or these rules, such public agencies, local exchange telephone companies and other persons may use such works solely for emergency services purposes.

4.1.b.2. Except as otherwise specified in these rules, maps and mapping works may be distributed to any person paying the applicable fees to be established by the Board. The Board explicitly finds that there is no reasonable expectation of privacy by individual citizens in such maps or mapping data, and that the distribution of such works is consistent with the legislature's declaration of policy under Chapter 29B, Article 1, Section 1 of the West Virginia Code.

4.1.b.3. Addresses and other non-mapping works may be distributed at the sole discretion of the board, to the postal service, utilities and other entities with a legitimate need to know as determined by the Board. Other than the distribution of such works to the postal service, the Board may establish fees, terms and conditions for the distribution of such works, including without limitation such restrictions, if any, on the further distribution of such works to protect reasonable expectations of privacy.

4.2 Homeland Security.

No portion of any map, mapping work, address or other work may be distributed to any person or entity if the Board determines that the distribution of such portion of the work may have a likelihood of harm to homeland security. In making that determination, the Board may consult with any affected agencies of the state or federal governments. In such consultations,, certain areas may be deemed sensitive by federal, state or local agencies responsible for homeland security. Where the responsible agency has done so, the Board will accept the judgment of the responsible agency. Areas adjacent to secure areas may also not be divulged so as not to divulge the exact location of the secure areas, as determined by the Board after any consultation with the agency or agencies responsible for homeland security.

4.3 Procedure.

Except for the distributions of works under 4.1.b.1, any requests for the distribution of a work related to the Project must be made, in the first instance, to the Project manager. The Project manager shall make recommendations to the Board as to the requested distribution, and may consult with the Board's counsel prior to making such recommendation. No such works may be distributed (except for the distribution of works under 4.1.b.1) without the approval of the Board under these rules.