

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #4

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FILED

2005 OCT 11 A 11:32

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Statewide Addressing and Mapping Board (WVSAMB) TITLE NUMBER: 169

CITE AUTHORITY: W.Va. Code §§ 24-E-1-6, 7, and 9(a); § 29A-3-15

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

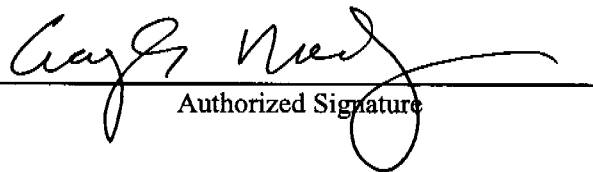
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Standard Fees for Planimetric Elevation Data

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.


Authorized Signature

BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES

Title 169, Series 4

Standard Fees for Planimetric Elevation Data

The W.Va. Legislature created the West Virginia Statewide Addressing and Mapping Board in 2001. Pursuant to W. Va. Code §24E-1-5, a special revenue fund was established with funding from private sources. Pursuant to W. VA. Code §24E-1-6, 7 &9(a), the Board also is authorized to collect fees for the license of its data. The proposed rule defines a standard fee structure, payment options, and ordering criteria for licensing of the planimetric elevation data to external users, and circumstances for termination of fee collection. The proposed rule enclosed herewith is filed to comply with the circumstances of this authorization concerning the licensing of planimetric elevation data.

TITLE 169
LEGISLATIVE RULES

FILED

WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING BOARD 11: 32

SERIES 4
STANDARD FEES FOR PLANIMETRIC ELEVATIONS DATA

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§169-4-1. General.

1.1. Scope. Pursuant to Chapter 24E, Article 1, Sections 6, 7, and 9(a) of the West Virginia Code, the West Virginia Statewide Addressing and Mapping Board does hereby adopt the following rules establishing standard fees for the license of its planimetric elevation data. These rules do not establish fees for hydrology, roads, railroads, structures or other planimetric data sets.

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

1.3. Filing Date.

1.4. Effective Date.

1.5 Application.

1.5.a. Planimetric Elevation Data. These rules establish standard fees for planimetric elevation data. The fees established by these rules are reasonable and, to the extent possible, are based on cost.

1.5.b. Other Planimetric Data. These rules do not establish fees for hydrology, roads, railroads, structures or other planimetric data sets created expressly for the statewide addressing and mapping project. Nothing in these rules, however, prevents the Board from entering into agreements governing the release of those data, or any portion of those data, if otherwise lawful and expressly approved by the Board.

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. "Emergency services purposes" means use for 9-1-1 or enhanced 9-1-1 ("E9-1-1") dispatch and response.

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

1.6.d. "Planimetric Elevation Data" means the digital mass point and breakline elevation data derived from photogrammetric interpretation of the surface terrain of West Virginia. The data are to be provided in either a Microstation or ESRI shapefile format to be used in a computer-aided drafting ("CAD") program or geographic information system ("GIS").

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

1.6.g. "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.h. "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-style 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.

§169-4-2. Standard Fees for Planimetric Elevation Data.

2.1. Applicable Standard Fees and Order Processing.

2.1.a. Base Price. The base price for elevation data is five (5) cents per acre. The Board may require ordering by a standard size area (i.e., a "tile"), may specify the tile size, and may require a minimum and maximum number of tiles per order. The Board may require orders of standard sizes to be specified by the Board. In addition, the Board may impose an upper limit on the amount of data per order.

2.1.b. Order Processing Charges. The Board may impose an order processing charge of no more than one hundred twenty-five dollars (\$125.00) per order. Additional order processing charges may apply for an order requiring more than one digital versatile disk ("DVD"), in an amount not to exceed \$125.00 per additional disk.

2.1.c. E-commerce. The Board may make the elevation data available on an e-commerce website on the Internet, and may establish a separate fee structure for orders placed via the e-commerce website. E-commerce fees will not exceed the fees established for non-internet orders.

2.1.d. Payment. The Board may specify the forms of acceptable payment, such as check, cash, or credit card, etc., for orders of the data, in accordance with State statute. State law requires that payment be received in advance of service delivery. The Board may create order forms and other documents, and establish relationships with other state agencies as necessary to conduct its business transactions.

2.2. Exemptions.

2.2.a. Certain Entities Exempt By Statute. Pursuant to W. Va. Code §24E-1-9(a), these rules exempt from the payment of fees any entity providing twenty-five percent or more of the funding to the Fund. However, additional copies of the data may be subject to order processing charges to recover the actual costs of making one or more additional DVD's.

2.2.b. County Commissions. Pursuant to W. Va. Code §24E-1-9(a), these rules exempt from the payment of fees any county commissions obtaining the data for emergency services purposes. However, additional copies of the data may be subject to order processing charges to recover the actual costs of making one or more additional DVD's.

§169-4-3. Ownership of Data; License Agreements; Other Contracts and Financial Arrangements.

3.1. Ownership of Data. All right, title and interest in the data produced by the Project vests solely in the Board.

3.2. Licenses. No person may receive a copy of any data produced by the Project without first signing a license or other agreement in a form acceptable to the Board.

3.3. Other Contracts and Financial Arrangements. Nothing in these rules restricts the ability of the Board to 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, pursuant to Series 2 of the Board's legislative rules.

§169-4-4. Termination of Fees.

4.1. Expiration of the Board. This rule and any fees for the licensure of planimetric elevation data provided herein shall expire and terminate on the first day of April, two thousand seven, in accordance with the termination of the West Virginia Statewide Addressing and

Mapping Board pursuant to W. Va. Code §24E-1-11, unless sooner terminated, continued or reestablished.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Standard Fees for Planimetric Elevation Data

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: W.Va. Statewide Addressing and Mapping Board (WVSAMB)

Address: Greenbrooke Bldg.
1124 Smith St., Suite LM-10
Charleston, WV 25301

Phone Number: 304-558-4218 Email: cneidig@gis.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.

- 1) The proposed measure will have no negative cost impact on state government.
- 2) The proposed measure will have a net positive impact on revenues.

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	0.00		
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other		1,500.00	1,000.00
2. Estimated Total Revenues	0.00	15,000.00	10,000.00

Rule Title:

Standard Fees for Planimetric Elevation Data

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

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

- 1) This is a new fee proposed for the licensing of specific data sets produced by the WVSAMB.

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.

- 1) The proposed costs and revenues are only estimates.
2) There is no previous case of licensing the specific data sets produced by the WVSAMB.
3) Therefore, proposed costs and revenues may vary from the initial estimates submitted for this measure.
4) The proposed fees shall be deposited in accordance with the special revenue account established by the Legislature for the WVSAMB.

Date: 10/11/05

Signature of Agency Head or Authorized Representative

