

Form #4

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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Dennis D. Jarrell, Board Administrator
 Authorized Signature

TITLE 23
LEGISLATIVE RULE
BOARD OF PROFESSIONAL SURVEYORS

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 OFFICE WEST VIRGINIA
 SECRETARY OF STATE

SERIES 1
EXAMINATION AND LICENSING OF
PROFESSIONAL SURVEYORS IN WEST VIRGINIA

§23-1-1. General Information and Purpose.

1.1. Scope. -- This rule is promulgated by the Board of Professional Surveyors, hereinafter referred to as the Board or WVBPS, to govern licensing of Professional Surveyors in West Virginia (WV).

1.2. Authority. -- W. Va. Code §30-13A-6.

1.3. Filing Date. -- April 30, 2008.

1.4. Effective Date. -- May 1, 2008.

1.5. This Rule for qualifying for examination, licensing and endorsing of Professional Surveyors 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 W. Va. Code §30-13A-1 et seq.

1.6. Repeal of Former Rules. -- This legislative rule, ~~together with legislative rules 23 CSR 4 "Fees for Surveyors and Surveying Firms" and 23 CSR 5 "Standards for the Practice of Surveying in West Virginia"~~ repeals and replaces West Virginia 23 CSR 1 ~~"Rules and Minimum Standards for Practice of Land Surveying Examination and Licensing of Professional Surveyors in West Virginia"~~ filed and effective ~~June 6, 2005~~ May 1, 2008.

§23-1-2. Definitions.

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. "Active Status" means the licensee has met all the requirements for the current annual renewal period and is permitted to practice as a professional surveyor in West Virginia.

2.2. "Certificate of Licensure" means a certificate issued to the applicant who has met the licensing requirements of W. Va. Code §30-13A-1 et seq. and has been approved by the Board. The certificate will be signed as required by the Board and will show the license number and seal of the Board and shall be displayed conspicuously at the principal place of practice.

2.3. "Comity Applicant" means a person who is applying to become a professional surveyor in West Virginia and is currently in possession of a professional surveyor license or certificate of licensure issued by a proper authority of a jurisdiction other than WV.

2.4. "Continuing Education" means mandatory continuing education required by the Board as set forth in 23 CSR 2.

2.5. “Delinquent Status” means the licensee has failed to meet the requirements for renewal or paid the renewal fee and upon such failure is not permitted to practice as a professional surveyor in West Virginia. The licensee can remain in delinquent status up to thirty-six (36) months without reapplication.

2.6. “Endorsement Applicant” means a person who is a current licensee of the Board and is applying to survey in a specialized field of practice.

2.7. “Expired Status” means the licensee has failed to meet the requirement for renewal while in delinquent status and must ~~make application to be reinstated~~ reapply for a new license and meet all of the current experience, education, and examination requirements.

2.8. “FS Exam” means the NCEES Fundamentals of Surveying Examination.

2.9. “Inactive Status” means the licensee has met all the requirements for the current annual renewal period, except for continuing education, and/or has ~~applied for~~ been granted inactive status and ~~has agreed not to~~ cannot practice as a professional surveyor in West Virginia.

2.10. “License” means a surveying license issued under the provisions of W. Va. Code §30-13A-1 et seq. authorizing a licensee to practice as a professional surveyor for a designated period of time approved by the Board.

2.11. “NCEES” means the National Council of Examiners for Engineering and Surveying.

2.12. “Professional Charge” means a person who holds a current license in active status with the Board and is the lead professional responsible to directly supervise other professionals, technicians or support staff and to affix his or her signature and seal to survey documents.

2.13. “PS” means a licensed Professional Surveyor who has met all of the examination and licensing requirements as set forth in W. Va. Code §30-13A-1 et seq. and is an acronym used after the surveyor’s name to indicate he or she is a current licensee with the Board.

2.14. “PS Exam” means the NCEES Principles and Practice of Surveying Examination.

2.15. “Responsible Charge” means direct control of work or projects under the direct supervision of a licensee or person licensed as a professional surveyor in a jurisdiction other than WV 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.

2.16. “Retired Status” means the licensee has applied for and been approved by the Board for ~~retirement~~ retired status and ~~has agreed not to~~ cannot practice as a professional surveyor in West Virginia.

2.17. “SI” means a certified Surveyor Intern who has passed the FS exam.

2.18. “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 W. Va. Code §30-13A-1 et seq.

2.19. “Technician” means a person who performs technical work related to surveying under the direction of a designated field or office supervisor or a person in responsible charge or licensed professional. Examples of a technician may be, but are not limited to, an instrument person, rod person, drafter or computer operator.

2.20. “WV Exam” means the state-specific West Virginia Professional Surveyors Examination developed by the Board.

§23-1-3. Application and Qualification for Licensure or Certification.

3.1. Applications Generally.

3.1.a. Each application shall be accompanied by an examination fee determined by the Board as set forth in 23 CSR 4 et seq.

3.1.b. Any applicant is required to notify the Board within thirty (30) days of any change in name, address, employment, or other relevant information.

3.1.c. In support of an applicant’s statement of experience, the Board may require designated records and documentation of surveys made by the applicant.

3.1.d. The Board deems that statements provided as references for an applicant, personal data, and other such information are personal in nature and public disclosure of those statements would constitute an unreasonable invasion of privacy and, therefore, shall be exempt from disclosure under W. Va. Code 29B-1-4(a)(2) et seq.

3.1.e. The application and associated documents shall be kept as a permanent record, except for any survey documents submitted with the application that justify the applicant’s experience which shall be kept for a maximum of six (6) years.

3.1.f. An applicant may request reconsideration of an application which has been denied when the request is based upon additional information or evidence which could affect the original decision. A request for reconsideration or hearing must be made within fifteen (15) days after the applicant receives notice of the denial of application for licensure.

3.1.g. The Board has the discretion to make exceptions for any applicant who is serving on active duty in the Armed Forces of the United States or who is experiencing physical disability, illness, or other extenuating circumstances.

3.2. Types of Applications.

~~3.2.a. Any person may apply to the Board for examination and certification as a Surveyor Intern; examination and licensure as a Professional Surveyor; comity or reinstatement as a Professional Surveyor; or for an endorsement in a specialized field of practice.~~

~~3.2.b.~~ 3.2.a. All applications and related documentation shall be submitted to the Board on forms prescribed by the Board.

3.3. Eligible Candidates for SI Certification.

3.3.a. A person who began his or her survey related education or experience and submitted the proper documentation to the board on or before the thirty-first (31st) day of December, 2004, ~~as set forth in W. Va. Code §30-13A-8(a)(1)~~ is eligible to apply for the FS exam upon completion of the education and experience or experience requirements ~~contained therein~~.

~~3.3.b. A person who began his or her survey related education or experience on or after the first (1st) day of January, 2005, as set forth in W. Va. Code §30-13A-8(a)(2), is eligible to apply for the FS exam upon graduation of a Board approved survey related degree program.~~

~~3.3.c. As set forth in W. Va. Code §30-13A-8(b), a person who is a student of a Board approved surveying degree program is eligible to apply for the FS exam during the final semester if his or her grade point average is 3.0 or higher, based on a 4.0 system or the equivalent thereof.~~

3.4. Application for SI Certification under ~~W. Va. Code §30-13A-8(a)(1)~~.

~~3.4.a. A person qualifying for the FS exam under W. Va. Code §30-13A-8(a)(1), shall submit a completed application to the Board office on or before the thirty first (31st) day of December, 2012. All applications received in the Board office after the aforementioned date shall meet the requirements as set forth in subsection 3.5 of this rule.~~

~~3.4.a.1. In addition to the application and supporting documentation required by the Board at the time of application, the applicant shall attach documentation that proves his or her surveying related education or experience began on or before the thirty first (31st) day of December, 2004.~~

~~3.4.a.2. The applicant shall also attach a letter notifying the Board of his or her intent to make application under W. Va. Code §30-13A-8(a)(1)(D), except in such cases where the Board has on file a letter of intent submitted by the applicant beforehand.~~

~~3.4.a.3. Applicants who have been approved under W. Va. Code §30-13A-8(a)(1), and this subsection, to begin the examination process on or about the thirty first (31st) day of December, 2012 will be permitted to complete the process as set forth in section 4 of this rule, except if he or she fail to pass any parts of the examination after six (6) attempts then he or she shall make reapplication under the requirements of W. Va. Code §30-13A-8(a)(2).~~

~~3.4.b.~~ 3.4.a. Education and Experience Reporting.

~~3.4.b.1.~~ 3.4.a.1. An applicant ~~person who applies for the FS exam under W. Va. Code §30-13A-8(a)(1) in effect on or before the thirty first (31st) day of December, 2004,~~ shall clearly and concisely document his or her survey related education and experience history and list separately the years of education, technical experience and responsible charge experience with the estimated number of allotted years clearly shown and the sum shall be a minimum of eight (8) years.

~~3.4.b.2.~~ 3.4.a.2. The applicant shall document a minimum of two (2) years experience in responsible charge of survey related work in order to qualify for examination.

~~3.4.b.3.~~ 3.4.a.3. The final determination for allotted years for each category shall rest entirely with the Board.

~~3.4.e.~~ 3.4.b. The degrees and certificates ~~as set forth in W. Va. Code §30-13A-8(a)(1)~~ may be awarded the following experience equivalents:

~~3.4.e.1.~~ 3.4.b.1. Baccalaureate degree with at least 10 credit hours in surveying courses may be substituted for two (2) years experience.

~~3.4.e.2.~~ 3.4.b.2. Baccalaureate degree with less than 10 credit hours in surveying courses and at least six (6) credit hours of college math and trigonometry may be substituted for one (1) year experience.

~~3.4.e.3.~~ 3.4.b.3. Associate degree with at least ten (10) credit hours in surveying courses may be substituted for one (1) year experience.

~~3.4.e.4.~~ 3.4.b.4. Associate degree with less than 10 credit hours in surveying courses and at least six (6) credit hours of college math and trigonometry may be substituted for one-half (1/2) year experience.

~~3.4.e.5.~~ 3.4.b.5. Surveying specific certificate degree or no degree but at least eight (8) credit hours of surveying courses may be substituted for one-half (1/2) year experience.

~~3.4.e.6.~~ 3.4.b.6. Related technical certificate degree may be substituted for one-fourth (1/4) year experience.

~~3.4.d.~~ 3.4.c. Applicants who have been approved under this subsection, shall begin the examination process on or before December 31, 2012. If the applicant fails to pass any parts of the examination after six (6) attempts then he or she shall make reapplication under the current statutory requirements.

~~3.4.e.~~ 3.4.d. Applications for licensure under this section shall not be considered after December 31, 2012.

~~3.5.~~ Application for SI Certification under W. Va. Code §30-13A-8(a)(2).

~~3.5.a.~~ All applications received in the Board office on or after the first (1st) day of January, 2013 shall qualify for the FS exam by completing the education requirements as set forth in W. Va. Code §30-13A-8(a)(2).

~~3.6.~~ 3.5. Application for PS Licensure.

~~3.6.a.~~ 3.5.a. An applicant shall first apply for and pass the FS exam before making application for the next level of examinations.

~~3.6.b.~~ 3.5.b. An applicant shall be an SI in good standing at the time of application.

~~3.6.e.~~ 3.5.c. An applicant shall meet all of the education or experience requirements as set forth in W. Va. Code §30-13A-8 and approved by the Board prior to sitting for the next level of examinations.

~~3.7.~~ 3.6. Comity Applicants.

~~3.7.a.~~ 3.6.a. The Board shall honor the acts of licensing, certification or registration of surveyors by licensing agencies in other ~~states and countries~~ jurisdictions, and shall ~~accordingly~~ license those ~~surveyors~~ applicants upon proper application and payment of fees and upon verification(s) from all jurisdiction(s) in which the applicant has been licensed, ~~Provided that the requirements to obtain a license or certificate or to become registered in the other state or country are found by the Board to be at least as great as~~ which are substantially equivalent to those prescribed by W. Va. Code §30-13A-1 et seq. and by rule of the Board, and the other jurisdiction reciprocates the same privileges to applicants who are licensed in WV.

3.6.b. When considering a comity applicant, the board shall take into consideration when its licensure qualifications changed and consider the application within that context when reviewing that application for approval.

3.6.b.1. The board shall require a comity applicant, licensed after 2004, to obtain the education requirements as stated in W.Va. Code 30-13A-8(a)(1)(2)or(3) for that applicant's qualifications to be considered substantially equivalent.

~~3.7.e.~~ 3.6.c. Notwithstanding the provisions of subdivision ~~3.7.a~~ 3.6.a. of this rule, an individual licensed as a professional surveyor in a jurisdiction other than WV shall apply for and pass the WV exam as a condition precedent to obtaining a license to engage in the practice of surveying in this state.

3.8. Reinstatement Applicants

~~3.8.a. Licensees applying for reinstatement while in expired status or retired status for more than five (5) years, shall pay all fees and meet all the current examination requirements at the time of reapplication.~~

~~3.8.b. A person who has voluntarily surrendered his or her license shall pay all fees and meet the current licensing requirements at the time of reapplication.~~

§23-1-4. Examination for Licensure or Certification.

4.1. Examinations Generally.

4.1.a. The Board will ~~conduct~~ administer at least one (1) examination per year at a time and place as determined by the Board.

4.1.b. The scope of the examination and methods of procedure for the FS and PS exams are determined by the NCEES.

4.1.c. The scope of the examination and methods of procedure for the WV exam or any other licensing or endorsement examination will be determined by the Board.

4.1.d. An applicant who fails to pass any parts of the examination fewer than six (6) times may reapply at any time to take the failed parts and shall furnish additional information as requested by the Board.

4.1.e. An applicant who fails to pass any parts of the examination for six (6) attempts is precluded from taking any part of the examination for two (2) full years, and may be required to obtain additional educational requirements as determined by the Board. After the passage of the mandatory two-year period and the completion of any additional educational requirements, the applicant shall file a new application under the current licensing requirements as provided in W. Va. Code §30-13A-1 et seq.

4.1.f. An applicant who fails to attend an examination for which he/she has been scheduled will forfeit the fee paid for the examination, except, with a request to and approval by the Board, the fee may be applied to the next test administration in the case of illness, death in the family, or other unavoidable causes for absence. Failure of an applicant to attend an examination for which he/she has been scheduled does not count as a failure of the examination.

4.1.g. An applicant who does not pass the examination for which they have applied within six (6) years from the date of application shall be required to submit a new application under the current examination requirements as provided in W. Va. Code §30-13A-1 et seq.

4.2. Examination Results.

4.2.a. The Board shall provide ~~written~~ notification to an applicant that he or she passed or failed the examination.

4.2.b. Applicants are not permitted access to, or review of, any ~~exam~~ examination administered by the Board.

§23-1-5. Survey Certificates and License.

5.1. Certificates and Licenses Generally.

5.1.a. When a certificate or license is lost, stolen, destroyed or mutilated, the Board may issue a duplicate certificate or license upon written request by a licensee in good standing and a payment of a fee as set forth in 23 CSR 4 et seq.

5.1.b. A licensee or certificate holder is required to notify the Board within thirty (30) days of any change in name, address, employment, or other relevant information.

5.2. Surveyor Intern Certificate.

5.2.a. Whenever the Board finds that an applicant has passed the FS exam, it shall issue a SI certificate which shall contain the legal name of the SI, the SI number assigned by the Board and the expiration date. All certificates shall expire ten (10) years from the passing date of the FS exam and cannot be renewed.

5.2.b. A certified SI shall display the certificate issued by the Board at his or her principal place of practice.

5.2.c. A person holding a SI certificate may not be required to pay any fees other than the application and examination fees or a replacement fee as set forth in 23 CSR 4 et seq. if the certificate is lost, stolen or damaged.

5.2.d. Pursuant to W. Va. Code §30-13A-1 et seq., a surveyor-in-training recognized by the Board prior to the first (1st) day of July, 2004 shall for all purposes be considered a Surveyor Intern under this section.

~~5.2.e. Pursuant to W. Va. Code §30-13A-1 et seq., a Surveyor Intern shall pass the PS and WV exams within ten (10) years of passing the FS exam. If the PS and WV exams are not passed within ten (10) years, then the SI must reapply for the FS exam.~~

~~5.2.f. A person recognized by the Board as a surveyor-in-training (SIT) prior to the first (1st) day of July, 2004, shall apply for the WV and PS exams within the following time limits:~~

~~5.2.f.1. A person recognized by the Board as a SIT for more than ten (10) years prior to the effective date of this rule shall have one (1) year to apply for the PS and WV exams.~~

~~5.2.f.2. A person recognized by the Board as a SIT for less than ten (10) years prior to the effective date of this rule shall apply for the PS and WV exams within ten (10) years of passing the FS exam, unless the aforementioned period expires within the first year this rule is in effect. In such cases, the person will have one (1) year to apply for the PS and WV exam from the effective date of this rule.~~

~~5.2.f.3. A person who applies for the PS and WV exams within the time limits specified in this subdivision will be permitted to complete the process as set forth in subsection 4.1 of this rule, except if he or she fail to pass either examination after six (6) attempts. In such cases he or she shall forfeit the SI certification and be required to reapply for the FS exam.~~

~~5.2.f.4. A person who fails to apply for the PS and WV exams within the time limits specified in this subdivision shall forfeit his or her SI certification and be required to reapply for the FS exam.~~

5.3. PS License and Certificate.

5.3.a. Whenever the Board finds that an applicant meets all of the requirements for a license to engage in the practice of surveying, it shall issue the certificate of licensure and the annual license ~~otherwise the Board shall deny the license.~~

5.3.b. All licenses, whether original or renewal, expire on the thirtieth (30th) day of June following the date of issuance or renewal and are void without hearing after that date unless renewed in accordance with subsection 5.4 below.

5.3.c. A licensee shall conspicuously display the certificate of licensure and the annual license, issued by the Board, at his or her principal place of practice.

5.3.d. The Board will maintain as a current record of those licenses that are in active, inactive, retired or delinquent status. The licenses that have been voluntarily surrendered or in expired or deceased status will be kept as a sedentary record. Sedentary records will not receive renewal mailings or other relevant information from the Board.

~~5.3.e. A licensee may have his or her license to practice surveying either suspended, revoked or otherwise limited as set forth in 23 CSR 5 et seq.~~

~~5.3.f.~~ 5.3.e. A wallet card shall be issued simultaneously to be kept on the licensee's person.

5.4. PS License Renewal.

5.4.a. The ~~secretary-treasurer of the~~ Board shall mail to the last known address of every licensee, at least thirty (30) days prior to the July first (1st) expiration of a license, notice of the expiration date and the amount of the renewal fee.

5.4.b. A licensee may renew a license without examination upon meeting the continuing education requirements as set forth in 23 CSR 2 et seq. and submitting an application for renewal on a form prescribed by the Board and payment to the Board of an annual renewal fee as set forth in 23 CSR 4 et seq.

5.4.c. The Board may deny any application for renewal for any reason that would justify the denial of an original application for a license.

5.5. PS License Status.

5.5.a. Active Status. A licensee is current in all the licensing requirements and is authorized to practice as a PS and be in professional charge ~~of survey projects~~.

5.5.b. Delinquent Status. If a license is not renewed when due it immediately falls into "delinquent" status. The fee shall increase by twenty percent (20%) for each month or fraction of a month that the renewal fee is not paid, up to a maximum of thirty-six (36) months.

5.5.c. Expired Status. If a license is not renewed for a period of thirty-six (36) months it immediately falls into "expired" status and may not be renewed. The fact that a license cannot be renewed because of the expiration of a period of thirty-six (36) months may not prevent a person from making application ~~to reinstate his or her~~ for a new license and by meeting all the examination requirements in effect at the time of reapplication.

5.5.d. Inactive Status. Licensees may apply or reapply for "inactive" status while in active or delinquent status and must pay the annual renewal fee for licensure and any requisite late fees accrued for the license period.

5.5.d.1. The Board shall issue an annual license card noting "Inactive Status" to qualifying applicants.

5.5.d.2. Inactive licensees are not permitted to practice as a professional surveyor or be in professional charge ~~of survey related work~~.

5.5.d.3. With supporting documentation, inactive licensees may request exemption from the license renewal fee in the following instances: serving on active duty in the Armed Forces of the United States for a period exceeding 120 consecutive days during that license year; experiencing physical disability; illness; or other extenuating circumstances.

5.5.d.4. Licensees in inactive status are not required to maintain professional development hours (PDHs); however, an inactive licensee who elects to return to the active practice of surveying shall acquire PDHs for up to a maximum of two (2) years' requirements as set forth in 23 CSR 2 et seq.

5.5.d.5. Licensees in inactive status for four (4) years or more must meet the quadrennial requirements for mandatory continuing education for minimum standards and ethics as set forth in 23 CSR 2 et seq. within the first year of returning to active status.

5.5.e. Retired Status.

5.5.e.1. Licensees who apply for "retired" status shall satisfy the following requirements at the time of application:

5.5.e.1.A. Licensee shall be in active or inactive license status.

5.5.e.1.B. Licensee shall be at least sixty-five (65) years of age, or older, or have a documented physical disability or debilitating illness. Licensees applying for retirement shall be in good standing with the Board before the application will be given consideration.

5.5.e.1.C. Licensee shall certify in writing to the Board that they are no longer practicing as a professional surveyor and agree not to be in professional charge of survey related work in West Virginia.

5.5.e.2. The change in status will be in effect once the application is approved by the Board which will issue a certificate noting the honorific title of "Professional Surveyor, Retired." Licensees that has been granted honorific retired status may use the title "Professional Surveyor, Retired" or "P.S., Retired" but only within the restrictions as set forth in the W. Va. Code and this rule.

5.5.e.3. Licensees in retired status will not be required to pay an annual renewal fee.

5.5.e.4. Licensees in retired status will not be required to meet the continuing education requirements set forth in 23 CSR 2 et seq.

5.5.e.5. Licensees in retired status who elect to return to the active practice of surveying shall provide a written explanation to the Board justifying their need to be reinstated to active status and satisfy one of the following requirements:

5.5.e.5.A. Licensees who have been in retired status for less than five (5) years shall acquire delinquent professional development hours (PDHs) for each year retired, up to a maximum of two (2) years' requirements as set forth in 23 CSR 2, and shall pay the current license renewal fee.

5.5.e.5.B. Licensees who have been in retired status for five (5) years or more, except those licensees approved for early retirement due to physical disability or debilitating illness, shall be required to meet all the examination requirements in effect at the time of application.

5.5.e.6. The change in status will be in effect when all fees are paid and all requirements are met by the licensee.

5.5.e.7. Licensees in retired status for four (4) years or more shall meet the quadrennial requirements for mandatory continuing education for minimum standards and ethics as set forth in 23 CSR 2 et seq. within the first year of returning to active status.

5.5.f. Voluntarily Surrendered Licenses.

5.5.f.1. Licensees who choose to voluntarily surrender his or her license may do so at any time and shall return his or her license to the Board and upon receipt by the Board shall be placed in expired status ~~and the license may only be reinstated under the license requirements in effect at the time of reapplication.~~

5.5.f.2. A person who has voluntarily surrendered his or her license will not be permitted to practice as a professional surveyor or be in professional charge ~~of survey-related work~~ in West Virginia.

5.5.g. Deceased Status. The Board shall place any license or endorsements in deceased status when it learns the licensee has passed away.

§23-1-6. Endorsements and Specialized Fields of Practice.

6.1. Experience and Documentation Requirements.

6.1.a. The Board may require an application and examination fee to cover costs incurred for review, verification and examination of a licensee's qualifications and experience to practice in a specialized field.

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

6.1.c. The Board may also require an examination on procedures and knowledge on specialized fields of surveying and mapping.

6.2. Surface and Underground (SU) Endorsement.

6.2.a. For licensees seeking an endorsement to engage in underground surveying, the Board may require designated records and documentation of underground surveys to support an applicant's claim of experience.

6.2.b. A licensee must receive the "SU" endorsement before affixing his or her signature and seal on any documents associated with underground surveying.

6.2.c. Underground surveys and maps shall comply with the requirements in W. Va. Code §22A-2-1 et seq.