

Department of State

Division of Publications

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Sequence Number: 11-16-14
Rule ID(s): 5834
File Date: 11/17/14
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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Tennessee Board of Examiners for Land Surveyors
Division: Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person: Robert Herndon, Assistant General Counsel
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Nashville, Tennessee
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0820-04	Rules of Professional Conduct
Rule Number	Rule Title
0820-04-.02	Proper Conduct of Practice
0820-04-.03	Service in Areas of Competence
0820-04-.04	Public Statements
0820-04-.05	Conflicts of Interest
0820-04-.07	Misconduct
0820-04-.08	Seals
0820-04-.09	Responsible Charge of Service
0820-04-.10	Practice – Disclosure

Substance of Proposed Rules

Chapter 0820-04
Rules of Professional Conduct

Repeal/Amendments/New Rule

Chapter 0820-04 Rules of Professional Conduct Table of Contents is amended by adding 0820-04-.10 Practice – Disclosure so that, as amended, the Table of Contents shall read as follows:

TABLE OF CONTENTS

0820-04-.01 Applicability	0820-04-.06 Acceptance of Work
0820-04-.02 Proper Conduct of Practice	0820-04-.07 Misconduct
0820-04-.03 Service in Areas of Competence	0820-04-.08 Seals
0820-04-.04 Public Statements	0820-04-.09 Responsible Charge of Service
0820-04-.05 Conflicts of Interest	0820-04-.10 Practice – Disclosure

Authority: T.C.A. § 62-18-105(d).

Rule 0820-04-.02 Proper Conduct of Practice is amended by substituting the words "shall" for "should" in paragraph (2). The rule is further amended to add paragraphs (3) and (4) so that, as amended, the rule in its entirety shall read:

0820-04-.02 Proper Conduct of Practice

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of the registrant's professional duties.
- (2) A registrant possessing knowledge of a violation of T.C.A. Title 62, Chapter 18, or any rules promulgated thereunder shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (3) The registrant shall respond to all inquiries and correspondence from the Board within fifteen days from the day of receipt and shall timely claim undelivered correspondence from the U.S. Postal Service, or other delivery service, upon notice thereof.
- (4) The registrant shall not assist in any way in the application for licensure of a person known by the registrant to be unqualified in respect to education, training, or experience.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.03 Service in Areas of Competence is amended by deleting paragraph (1) in its entirety, and amending paragraphs (2) and (3) to remove "his" or "her" and substituting "the registrant", so that the new rule in its entirety shall read:

0820-04-.03 Service in Areas of Competence

- (1) The registrant shall undertake to perform land surveying assignments only when qualified by education or experience in the specific technical field of professional land surveying involved.
- (2) The registrant may accept an assignment requiring education or experience outside of the registrant's own field of competence, but only to the extent that the registrant's services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
- (3) The registrant shall not affix his or her signature or seal to any document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any document not prepared by the registrant or under the registrant's supervision.

- (4) In providing services, the registrant shall take into account all applicable laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.
- (5) Incompetence. The following acts or omissions, among others, may be deemed to be "incompetence" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension or revocation of a certificate of registration to practice land surveying.
 - (a) Malpractice. Incompetence includes, but is not limited to recklessness, or excessive errors or omissions in the registrant's record of professional practice.
 - (b) Disability. Incompetence includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in providing professional services.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.04 Public Statements is amended by deleting the word "he" in paragraph (1) and substituting instead the words "the registrant." The rule is further amended by adding paragraph (3) so that the rule in its entirety shall read:

0820-04-.04 Public Statements

- (1) The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. The registrant shall include all relevant and pertinent information in such reports, statements, or testimony.
- (2) The registrant, when serving as an expert witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of experience and competence in the subject matter, and upon honest conviction of the accuracy and propriety of the registrant's testimony.
- (3) The registrant 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.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.05 Conflicts of Interest is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.05 Conflicts of Interest

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with the registrant's employer or client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client.
- (2) The registrant shall avoid all known or potential conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client of any business association, interests, or circumstances which could influence the registrant's judgment or the quality of his or her services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one party for services on or pertaining to the same project rendered in the same time frame, unless the circumstances are fully disclosed to, and agreed to in writing, by all interested parties.
- (4) When engaged in public service on a project as a member, advisor, or employee of a governmental body or department, the registrant and the registrant's organization shall not perform services for any other client regarding or connected to the project.

- (5) The registrant shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client, employer, or public body on which the registrant serves except as authorized or required by law. The registrant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.07 Misconduct is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.07 Misconduct

- (1) The registrant shall not partner, practice, or offer to practice with any person or firm that the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, state, and local surveying and planning laws and regulations, or
 - (b) Registration requirements of T.C.A., Title 62, Chapter 18.
- (3) The following acts, among others, may be deemed to be "misconduct" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension, or revocation of a certificate of registration to practice land surveying:
 - (a) Conviction in a court of competent jurisdiction of a felony or any offense that has a directly unfavorable reflection on the registrant's ability to practice land surveying.
 - (b) Revocation, suspension, or disciplinary voluntary surrender of a license or certificate of registration to practice land surveying in another jurisdiction.

Nothing in this paragraph should be construed as precluding the Board from deeming other acts and conduct to be "misconduct."

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.08 Seals is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-4-.08 Seals

- (1) The design of the registrant's seal required by T.C.A. §§62-18-119, shall be as follows:



- (2) The seal and signature of the registrant and the date of signing shall be placed on all land 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 the registrant or under the responsible charge of the registrant. Working drawings or preliminary documents are not required to have a

seal and signature if the working drawing or preliminary document contains a statement in large bold letters to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES, OR IMPLEMENTATION." The size of the seal shall be two inches in diameter in all cases and on all documentation requiring the registrant's seal, regardless of the size of the document.

- (3) The registrant shall superimpose his or her signature (not a rubber stamp) and date of signature across the face and beyond the circumference of or adjacent to the seal on documents to which the registrant's seal is affixed.
- (4) The seal and signature shall be placed on all original copies, tracings, or other reproducible documents so that the seal and signature will be reproduced when copies are made.
- (5) When the document contains more than one sheet, the first or title page shall be sealed and signed by the registrant who was in responsible charge. In addition, each sheet shall be sealed and signed by the registrant or registrants responsible for that sheet. Two or more registrants may affix their signatures and seals, provided that the registrants designate by note under the seals the specific subject matter for which each is responsible. When a firm performs the work, each sheet shall be sealed and signed by the registrant or registrants who were in responsible charge of that sheet as required by T.C.A. § 62-18-122(b).
- (6) The seal and signature shall be placed on work only when it was under the registrant's responsible charge. The registrant shall sign and seal only work within the registrant's area(s) of competence.
- (7) Maps, plats, surveys, or other documents will be deemed to have been prepared under the responsible charge of a registrant only when all the following conditions have been met and documented:
 - a. The client requesting preparation of such maps, plats, surveys, or other documents makes the request directly to the registrant, or a member or employee of the registrant's firm;
 - b. The registrant supervises the preparation of the maps, plats, surveys, or other documents and has input into their preparation prior to their completion;
 - c. The registrant reviews the final maps, plats, surveys, or other documents; and
 - d. The registrant has the authority to, and does, make any necessary and appropriate changes to the final maps, plats, surveys, or other documents. The registrant is responsible for meeting all of the preceding requirements whether the work is being performed remotely or locally.
- (8) Any revision to a document containing the seal and signature of a registrant shall be described and dated in a manner that conforms to current industry standards. If the revisions are not done by the original registrant, the revisions must also be signed and sealed by the registrant in responsible charge of those revisions and otherwise identified in the same manner.
- (9) In circumstances where a registrant in responsible charge of the work is unavailable to complete the work, a successor registrant may take responsible charge by performing all professional services to include developing maps, plats, surveys or other documents and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor registrant but must clearly and accurately reflect the successor registrant's work. The burden is on the successor registrant to show such compliance. The successor registrant shall have control of and responsibility for the work product and the signed and sealed originals of all documents.
- (10) Computer-generated seals not signed with a digital signature may be used on final original drawings provided a handwritten signature is placed across the seal and the date is hand-written below the seal. Maps, plats, surveys or other 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:

- a. Unique to the individual using it;
- b. Capable of verification;
- c. Under the sole control of the individual using it; and,
- d. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

A digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in subsections 10 a–d above. Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and shall 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.

Authority: T.C.A. §§62-18-105(d), 62-18-106(c), and 62-18-119(d).

Rule 0820-04-.09 Responsible Charge of Service is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.09 Responsible Charge of Service

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.
- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide land surveying services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered land surveyor.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.10 Practice – Disclosure is created and added to Chapter 0820-04 Rules of Professional Conduct and shall read as follows:

0820-04-.10 Practice – Disclosure

- (a) A corporation, partnership, or firm offering service to the public may engage in the practice of surveying in this state, provided that at least one (1) of the principals or officers of the corporation, partnership, or firm is in responsible charge of the practice and is registered as required in this chapter, or is otherwise authorized to practice under this chapter. The same exemptions shall apply to corporations, partnerships, and firms as apply to individuals under this chapter.
- (b) Corporations, partnerships, or firms offering surveying service to the public shall file with the board, on a form prescribed by the board, a listing of names and addresses of all principals and

officers, as well as the principals or officers duly registered to practice surveying in this state who are in responsible charge of the practice in this state. The corporations, partnerships, or firms shall advise the board in writing within sixty (60) days of any change of status.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Timothy Lingerfelt, Chairman	X				
Galyon Northcutt, Vice-Chairman	X				
Jay Caughman, RLS Board Member	X				
Sue Braly, Public Member	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Examiners for Land Surveyors on 10/24/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/06/2013

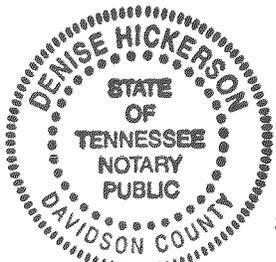
Rulemaking Hearing(s) Conducted on: (add more dates). 10/24/2013

Date: 10/24/2014

Signature: [Handwritten Signature]

Name of Officer: Robert E. Herndon

Title of Officer: Assistant General Counsel



My Commission Expires SEPT. 11, 2017

Subscribed and sworn to before me on: October 24, 2014

Notary Public Signature: [Handwritten Signature]

My commission expires on: 9-11-2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
 Herbert H. Slattery III
 Attorney General and Reporter
11/7/14 Date

Department of State Use Only

2014 NOV 17 PM 4:28
 OFFICE OF THE SECRETARY OF STATE

Filed with the Department of State on: 11/17/14

Effective on: 2/15/15

[Handwritten Signature]
 Tre Hargett
 Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Please see attached documentation for copies of letters that the Board sent in response to public comments.

Rule 0820-04-.07 Misconduct

Subsection (a): Jimmy Cleveland, President of the Tennessee Association of Professional Surveyors (TAPS), submits written comments on behalf of the Association regarding this rule's subsections (a), stating that construing a conviction of any offense that "has a directly unfavorable reflection" on the registrant's professional ability as misconduct is far too general and has the potential to be abused (by the Board) in the future. The Association suggests that the language be altered to substitute the proposed amendment to subsection (a) with "or other crime of moral turpitude that reflects unfavorably on the registrant's ability to practice land surveying." In response, the Board explains that the expansion of the rule to include conviction of offenses other than felonies is intended to capture criminal conduct that shows disrespect for the law and a lack of good judgment that do not necessarily rise to the level of a felony and that the Board has no intention of applying this rule to issues that fall outside this category, such as traffic violations. The Board voted to retain the original, proposed language without changes.

Subsection (b): In the same written comments, the TAPS proposes that the proposed amended language to subsection (b) is likewise too general, asserting that recent economic difficulties have resulted in several registrants holding a license in other states, who have surrendered those licenses. A suggested alternative revision would replace "disciplinary voluntary surrender" with "voluntary surrender (as a punitive action by a licensing board)." Mr. Cleveland, acting as himself, made an oral comment in reflection of this as well. The Board explained that the intention of the revision was to incorporate the surrender of a license to avoid discipline, or if a Board issues an order that a license is surrendered as if revoked, as grounds for reciprocal discipline in Tennessee.

Bart Crattie, a registrant, asked for further clarification as to the distinction between a standard voluntary surrender, an act taken by a registrant that is not a result of any disciplinary action, and a surrender associated with professional discipline. The Board provided clarification based on the previous discussion, and voted to retain the original, proposed language without changes.

Rule 0820-04-.08 Seals

Mr. Crattie asked if this rule amendment requires a professional seal to appear on all documents produced by a registrant. The Board explained that a registrant's seal is to appear on all work product documentation that is intended for distribution for bidding purposes and is to be reproduced must be sealed.

Stephen Ward, a registrant, made a comment in support of the rule amendments.

Allen Crawford, a registrant, asked for clarification on the security for electronic seals, and the Board explained that this subject was explained in a previous rulemaking hearing and that the proper use of electronic seals is addressed in the rule based on industry standards around the country.

Mr. Ward and Mr. Cleveland asked for clarification on subsection (5)'s requirement that all plat sheets be stamped. The Board confirmed that this was the intention.

Mr. Leonard Tusar, a registrant, asked if computer-generated professional seals must also conform to the rule's requirement that all seals must be two inches in diameter. The Board responded that the rule would be leniently applied in situations where reproduction of electronic plats would possibly render the seal a smaller size.

Rule 0820-04-.09 Responsible Charge of Service

Mr. Crawford expressed concern about the requirement that a registrant must "be in responsible charge for thirty hours per week" in order to comply with the new rule. The Board did not alter its position on this point.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

1. Types of small businesses directly affected:

These amendments would require small businesses offering land surveying services to the public to register with the Board.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Board of Examiners for Land Surveyors licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0820-04-.02 Proper Conduct of Practice is amended to make reporting violations of any provision of the land surveying licensing authority that become known to the registrant mandatory rather than elective. The rule is also amended to require registrants to claim all correspondence from the Board and respond to it within fifteen days, and forbids any registrant from assisting an unqualified individual in the application for a license.

Rule 0820-04-.03 Service in Areas of Competence is amended to include a requirement that a registrant only accept projects for which the registrant is qualified through education or experience, and to notify an employer, client, or other in authority over the project of any circumstances surrounding the project that endanger the life, health, property or welfare of the public.

Rule 0820-04-.04 Public Statements is amended to clarify that a registrant, when serving as an expert witness, may only express opinions based on the registrant's experience and competence in the subject matter.

Rule 0820-04-.05 Conflicts of Interest is amended by adding prohibitions against a registrant revealing any of the client's information obtained in a professional capacity without prior consent of the client or receiving any gratuities from any third parties in connection with the project.

Rule 0820-04-.07 Misconduct is amended by removing the provision that only conviction of a felony may be considered for discipline of a registrant's license and instead allows consideration of conviction of any offense that reflects unfavorably on a registrant's honesty and integrity.

Rule 0820-04-.08 Seals is amended to clarify that a registrant must affix the registrant's seal to all land surveying documents that are to be used as proof that the project is prepared by a licensed registrant, and all professional documentation not requiring a professional stamp that is classified as "preliminary" and "not for construction, recording or implementation" shall be clearly marked as such. Documentation requiring a seal shall be stamped as to allow the reproduction of the seal when such documents are copied. When a project involves two registrants, the seal of both shall appear on the produced documentation. The rule is amended to clarify the application of seals to documents in order to properly indicate the registrant in responsible charge of the project as defined by rule, and all revisions to such documents must be described and dated, and bear the seal of the registrant making such revisions if not the original registrant. The rule also is amended to accommodate the application of electronic seals as defined in the National Conference of Examiners for Engineers and Surveyors (NCEES) as provided in the Model Rules.

Rule 0820-04-.09 Responsible Charge of Service is amended to further define the meaning of "responsible charge" for a land surveying firm doing business in Tennessee by expanding the terms to include the requirement that such firm maintain a full-time (30 hours per week) registrant on location of any such business.

Proposed rule 0820-04-.10 Practice – Disclosure is added to require that any corporation, partnership or firm offering land surveying services in this state shall have at least one principle registered as a professional land surveyor by the Board and shall register the business with the Board on a form prescribed by the Board listing the names and addresses of all principles and officers of the business, as well as all registrants in responsible charge of the services provided by the business. All registered business shall advise the Board in writing within 60 days of any change in the business' status. This proposed rule closely mirrors the provisions in Chapter 0120-06 [Corporations, Partnerships and Firms] for the Board of Architectural and Engineering Examiners; it is common for professionals registered with both agencies to become employed by a single firm offering both services.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Examiners for Land Surveyors are made pursuant to Tenn. Code Ann. §§ 62-18-105(d), 62-18-106(c) and 62-18-119(d).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Examiners for Land Surveyors will affect holders in good standing of registration certificates in land surveying. There was one written and six oral comment made in connection with this rulemaking hearing, primarily in support of the proposed changes to the rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna Moulder, Administrative Director of the Tennessee State Board of Examiners for Land Surveyors, and Robert Herndon, attorney for the Board, have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Ms. Moulder, a designated Board member or Robert Herndon will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Robert Herndon may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 741-9461.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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0820-04-.03 Service in Areas of Competence	0820-04-.08 Seals
0820-04-.04 Public Statements	0820-04-.09 Responsible Charge of Service
0820-04-.05 Conflicts of Interest	<u>0820-04-.10 Practice – Disclosure</u>

Authority: T.C.A. § 62-18-105(d).

Rule 0820-04-.02 Proper Conduct of Practice is amended by substituting the words “shall” for “should” in paragraph (2). The rule is further amended to add paragraphs (3) and (4) so that, as amended, the rule in its entirety shall read:

0820-04-.02 Proper Conduct of Practice

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of the registrant's professional duties.
- (2) A registrant possessing knowledge of a violation of T.C.A. Title 62, Chapter 18, or any rules promulgated thereunder ~~should~~ shall report such knowledge to the Board in writing and ~~should~~ shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (3) The registrant shall respond to all inquiries and correspondence from the Board within fifteen days from the day of receipt and shall timely claim undelivered correspondence from the U.S. Postal Service, or other delivery service, upon notice thereof.
- (4) The registrant shall not assist in any way in the application for licensure of a person known by the registrant to be unqualified in respect to education, training, or experience.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.03 Service in Areas of Competence is amended by deleting paragraph (1) in its entirety, and amending paragraphs (2) and (3) to remove “his” or “her” and substituting “the registrant”, so that the new rule in its entirety shall read:

0820-04-.03 Service in Areas of Competence

- (1) The registrant shall ~~perform his services only in areas of his competence~~ undertake to perform land surveying assignments only when qualified by education or experience in the specific technical field of professional land surveying involved.
- (2) The registrant may accept an assignment requiring education or experience outside of his the registrant's own field of competence, but only to the extent that the registrant's services are restricted to those phases of the project in which he the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
- (3) The registrant shall not affix his or her signature ~~and/or~~ seal to any plan or document dealing with subject matter in which he the registrant lacks competence acquired through education or

experience, nor to any ~~plan~~ or document not prepared by the registrant or under his the registrant's supervision.

- (4) In providing services, the registrant shall take into account all applicable laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.
- (5) Incompetence. The following acts or omissions, among others, may be deemed to be "incompetence" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension or revocation of a certificate of registration to practice land surveying.
 - (a) Malpractice. Incompetence includes, but is not limited to recklessness, or excessive errors or omissions in the registrant's record of professional practice.
 - (b) Disability. Incompetence includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in providing professional services.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.04 Public Statements is amended by deleting the word "he" in paragraph (1) and substituting instead the words "the registrant." The rule is further amended by adding paragraph (3) so that the rule in its entirety shall read:

0820-04-.04 Public Statements

- (1) The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. ~~He~~ The registrant shall include all relevant and pertinent information in such reports, statements, or testimony.
- (2) The registrant, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of ~~technical~~ experience and competence in the subject matter, and upon honest conviction of the accuracy and propriety of his The registrant's testimony.
- (3) The registrant 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.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.05 Conflicts of Interest is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.05 Conflicts of Interest

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with his the registrant's employer or client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client.
- (2) The registrant shall avoid all known or potential conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client of any; business association, interests, or circumstances which could influence his the registrant's judgment or the quality of his or her services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one party for services on or pertaining to the same project rendered in the same time frame, unless the circumstances are fully disclosed to, and agreed to in writing, by all interested parties.

- (4) When engaged in public service on a project as a member, advisor, or employee of a governmental body or department, the registrant and his the registrant's organization shall not perform services for any other client regarding or connected to the project.
- (5) The registrant shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client, employer, or public body on which the registrant serves except as authorized or required by law. The registrant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.07 Misconduct is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.07 Misconduct

- (1) ~~The registrant shall not knowingly associate with, or permit the use of his name or firm name in, a business venture by partner, practice, or offer to practice with any person or firm which he that~~ the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, state, and local surveying and planning laws and regulations, or
 - (b) Registration requirements of T.C.A., Title 62, Chapter 18.
- (3) ~~Misconduct.~~ The following acts, among others, may be deemed to be "misconduct" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension, or revocation of a certificate of registration to practice land surveying:
 - (a) Conviction in a court of competent jurisdiction of a felony or any offense that has a directly unfavorable reflection on the registrant's ability to practice land surveying.
 - (b) Revocation, suspension, or disciplinary voluntary surrender of a license or certificate of registration to practice land surveying in another jurisdiction.

Nothing in this paragraph should be construed as precluding the Board from deeming other acts and conduct to be "misconduct."

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.08 Seals is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.08 Seals

- (1) The design of the registrant's seal required by T.C.A. §§62-18-119, shall be as follows:



- (2) ~~The registrant shall stamp this seal, all maps, plats, surveys and other documents issued in the course of his land surveying practice.~~

The seal and signature of the registrant and the date of signing shall be placed on all land 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 the registrant or under the responsible charge of the registrant. Working drawings or preliminary documents are not required to have a seal and signature if the working drawing or preliminary document contains a statement in large bold letters to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES, OR IMPLEMENTATION." The size of the seal shall be two inches in diameter in all cases and on all documentation requiring the registrant's seal, regardless of the size of the document.

- (3) ~~The registrant shall superimpose his or her signature (not a rubber stamp) and date of signature across the face and beyond the circumference of or adjacent to the seal on documents to which his the registrant's seal is affixed.~~
- (4) ~~No registrant shall affix his seal or signature to maps, plats, surveys or other documents developed by others not under his personal supervision and not subject to the authority of that registrant in critical professional judgments. The seal and signature shall be placed on all original copies, tracings, or other reproducible documents so that the seal and signature will be reproduced when copies are made.~~
- (5) ~~Personal Supervision. Maps, plats, surveys or other documents will be deemed to have been prepared under the personal supervision of a registrant only when:~~
- ~~(a) — The client requesting preparation of such plans, specifications drawings, reports or other documents makes the request directly to the registrant's employee so long as the employee works in the registrant's place of business and not at a separate location;~~
 - ~~(b) — The registrant supervises the preparation of the maps, plats, surveys or other documents and has input into their preparation prior to their completion;~~
 - ~~(c) — The registrant reviews the final maps, plats, surveys or other documents; and~~
 - ~~(d) — The registrant has the authority to, and does, make any necessary and appropriate changes to the final maps, plats, surveys or other documents.~~

When the document contains more than one sheet, the first or title page shall be sealed and signed by the registrant who was in responsible charge. In addition, each sheet shall be sealed and signed by the registrant or registrants responsible for that sheet. Two or more registrants may affix their signatures and seals, provided that the registrants designate by note under the seals the specific subject matter for which each is responsible. When a firm performs the work, each sheet shall be sealed and signed by the registrant or registrants who were in responsible charge of that sheet as required by T.C.A. § 62-18-122(b).

- (6) The seal and signature shall be placed on work only when it was under the registrant's responsible charge. The registrant shall sign and seal only work within the registrant's area(s) of competence.
- (7) Maps, plats, surveys, or other documents will be deemed to have been prepared under the responsible charge of a registrant only when all the following conditions have been met and documented:
- a. The client requesting preparation of such maps, plats, surveys, or other documents makes the request directly to the registrant, or a member or employee of the registrant's firm;

- b. The registrant supervises the preparation of the maps, plats, surveys, or other documents and has input into their preparation prior to their completion;
 - c. The registrant reviews the final maps, plats, surveys, or other documents; and
 - d. The registrant has the authority to, and does, make any necessary and appropriate changes to the final maps, plats, surveys, or other documents. The registrant is responsible for meeting all of the preceding requirements whether the work is being performed remotely or locally.
- (8) Any revision to a document containing the seal and signature of a registrant shall be described and dated in a manner that conforms to current industry standards. If the revisions are not done by the original registrant, the revisions must also be signed and sealed by the registrant in responsible charge of those revisions and otherwise identified in the same manner.
- (9) In circumstances where a registrant in responsible charge of the work is unavailable to complete the work, a successor registrant may take responsible charge by performing all professional services to include developing maps, plats, surveys or other documents and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor registrant but must clearly and accurately reflect the successor registrant's work. The burden is on the successor registrant to show such compliance. The successor registrant shall have control of and responsibility for the work product and the signed and sealed originals of all documents.
- (10) Computer-generated seals not signed with a digital signature may be used on final original drawings provided a handwritten signature is placed across the seal and the date is hand-written below the seal. Maps, plats, surveys or other 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:
- a. Unique to the individual using it;
 - b. Capable of verification;
 - c. Under the sole control of the individual using it; and,
 - d. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

A digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in subsections 10 a–d above. Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and shall 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.

Authority: T.C.A. §§62-18-105(d), 62-18-106(c), and 62-18-119(d).

Rule 0820-04-.09 Responsible Charge of Service is repealed in its entirety and the following language is substituted so that the new rule shall read:

0820-04-.09 Responsible Charge of Service

~~Corporations, partnerships and firms maintaining any place of business in the state of Tennessee for the purpose of providing or offering to provide land surveying to the public, shall have in responsible charge of such service at any and each location a registered land surveyor who shall be employed full-time at such location.~~

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's

practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.

- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide land surveying services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered land surveyor.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

Rule 0820-04-.10 Practice – Disclosure is created and added to Chapter 0820-04 Rules of Professional Conduct and shall read as follows:

0820-04-.10 Practice – Disclosure

- (a) A corporation, partnership, or firm offering service to the public may engage in the practice of surveying in this state, provided that at least one (1) of the principals or officers of the corporation, partnership, or firm is in responsible charge of the practice and is registered as required in this chapter or is otherwise authorized to practice under this chapter. The same exemptions shall apply to corporations, partnerships, and firms as apply to individuals under this chapter.
- (b) Corporations, partnerships, or firms offering surveying service to the public shall file with the board, on a form prescribed by the board, a listing of names and addresses of all principals and officers, as well as the principals or officers duly registered to practice surveying in this state who are in responsible charge of the practice in this state. The corporations, partnerships, or firms shall advise the board in writing within sixty (60) days of any change of status.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Timothy Lingerfelt, Chairman	X				
Galyon, Northcutt, Vice-Chairman	X				
Jay Caughman, RLS Board Member	X				
Sue Braly, Public Member	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Examiners for Land Surveyors on 10/24/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/06/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 10/24/2013

Date: _____

Signature: _____

Name of Officer: Robert E. Herndon

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Stately, III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Please see attached documentation for copies of letters that the Board sent in response to public comments.

Rule 0820-04-.07 Misconduct

Subsection (a): Jimmy Cleveland, President of the Tennessee Association of Professional Surveyors (TAPS), submits written comments on behalf of the Association regarding this rule's subsections (a), stating that construing a conviction of any offense that "has a directly unfavorable reflection" on the registrant's professional ability as misconduct is far too general and has the potential to be abused (by the Board) in the future. The Association suggests that the language be altered to substitute the proposed amendment to subsection (a) with "or other crime of moral turpitude that reflects unfavorably on the registrant's ability to practice land surveying." In response, the Board explains that the expansion of the rule to include conviction of offenses other than felonies is intended to capture criminal conduct that shows disrespect for the law and a lack of good judgment that do not necessarily rise to the level of a felony and that the Board has no intention of applying this rule to issues that fall outside this category, such as traffic violations. The Board voted to retain the original, proposed language without changes.

Subsection (b): In the same written comments, the TAPS proposes that the proposed amended language to subsection (b) is likewise too general, asserting that recent economic difficulties have resulted in several registrants holding a license in other states, who have surrendered those licenses. A suggested alternative revision would replace "disciplinary voluntary surrender" with "voluntary surrender (as a punitive action by a licensing board)." Mr. Cleveland, acting as himself, made an oral comment in reflection of this as well. The Board explained that the intention of the revision was to incorporate the surrender of a license to avoid discipline, or if a Board issues an order that a license is surrendered as if revoked, as grounds for reciprocal discipline in Tennessee.

Bart Crattie, a registrant, asked for further clarification as to the distinction between a standard voluntary surrender, an act taken by a registrant that is not a result of any disciplinary action, and a surrender associated with professional discipline. The Board provided clarification based on the previous discussion, and voted to retain the original, proposed language without changes.

Rule 0820-04-.08 Seals

Mr. Crattie asked if this rule amendment requires a professional seal to appear on all documents produced by a registrant. The Board explained that a registrant's seal is to appear on all work product documentation that is intended for distribution for bidding purposes and is to be reproduced must be sealed.

Stephen Ward, a registrant, made a comment in support of the rule amendments.

Allen Crawford, a registrant, asked for clarification on the security for electronic seals, and the Board explained that this subject was explained in a previous rulemaking hearing and that the proper use of electronic seals is addressed in the rule based on industry standards around the country.

Mr. Ward and Mr. Cleveland asked for clarification on subsection (5)'s requirement that all plat sheets be stamped. The Board confirmed that this was the intention.

Mr. Leonard Tusar, a registrant, asked if computer-generated professional seals must also conform to the rule's requirement that all seals must be two inches in diameter. The Board responded that the rule would be leniently applied in situations where reproduction of electronic plats would possibly render the seal a smaller size.

Rule 0820-04-.09 Responsible Charge of Service

Mr. Crawford expressed concern about the requirement that a registrant must "be in responsible charge for thirty hours per week" in order to comply with the new rule. The Board did not alter its position on this point.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

1. Types of small businesses directly affected:

These amendments would require small businesses offering land surveying services to the public to register with the Board.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The Board of Examiners for Land Surveyors licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0820-04-.02 Proper Conduct of Practice is amended to make reporting violations of any provision of the land surveying licensing authority that become known to the registrant mandatory rather than elective. The rule is also amended to require registrants to claim all correspondence from the Board and respond to it within fifteen days, and forbids any registrant from assisting an unqualified individual in the application for a license.

Rule 0820-04-.03 Service in Areas of Competence is amended to include a requirement that a registrant only accept projects for which the registrant is qualified through education or experience, and to notify an employer, client, or other in authority over the project of any circumstances surrounding the project that endanger the life, health, property or welfare of the public.

Rule 0820-04-.04 Public Statements is amended to clarify that a registrant, when serving as an expert witness, may only express opinions based on the registrant's experience and competence in the subject matter.

Rule 0820-04-.05 Conflicts of Interest is amended by adding prohibitions against a registrant revealing any of the client's information obtained in a professional capacity without prior consent of the client or receiving any gratuities from any third parties in connection with the project.

Rule 0820-04-.07 Misconduct is amended by removing the provision that only conviction of a felony may be considered for discipline of a registrant's license and instead allows consideration of conviction of any offense that reflects unfavorably on a registrant's honesty and integrity.

Rule 0820-04-.08 Seals is amended to clarify that a registrant must affix the registrant's seal to all land surveying documents that are to be used as proof that the project is prepared by a licensed registrant, and all professional documentation not requiring a professional stamp that is classified as "preliminary" and "not for construction, recording or implementation" shall be clearly marked as such. Documentation requiring a seal shall be stamped as to allow the reproduction of the seal when such documents are copied. When a project involves two registrants, the seal of both shall appear on the produced documentation. The rule is amended to clarify the application of seals to documents in order to properly indicate the registrant in responsible charge of the project as defined by rule, and all revisions to such documents must be described and dated, and bear the seal of the registrant making such revisions if not the original registrant. The rule also is amended to accommodate the application of electronic seals as defined in the National Conference of Examiners for Engineers and Surveyors (NCEES) as provided in the Model Rules.

Rule 0820-04-.09 Responsible Charge of Service is amended to further define the meaning of "responsible charge" for a land surveying firm doing business in Tennessee by expanding the terms to include the requirement that such firm maintain a full-time (30 hours per week) registrant on location of any such business.

Proposed rule 0820-04-.10 Practice – Disclosure is added to require that any corporation, partnership or firm offering land surveying services in this state shall have at least one principle registered as a professional land surveyor by the Board and shall register the business with the Board on a form prescribed by the Board listing the names and addresses of all principles and officers of the business, as well as all registrants in responsible charge of the services provided by the business. All registered business shall advise the Board in writing within 60 days of any change in the business' status. This proposed rule closely mirrors the provisions in Chapter 0120-06 [Corporations, Partnerships and Firms] for the Board of Architectural and Engineering Examiners; it is common for professionals registered with both agencies to become employed by a single firm offering both services.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Examiners for Land Surveyors are made pursuant to Tenn. Code Ann. §§ 62-18-105(d), 62-18-106(c) and 62-18-119(d).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Examiners for Land Surveyors will affect holders in good standing of registration certificates in land surveying. There was one written and six oral comment made in connection with this rulemaking hearing, primarily in support of the proposed changes to the rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna Moulder, Administrative Director of the Tennessee State Board of Examiners for Land Surveyors, and Robert Herndon, attorney for the Board, have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Ms. Moulder, a designated Board member or Robert Herndon will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Robert Herndon may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 741-9461.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.