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Sequence Number: 11-17-14
 Rule ID(s): 5835
 File Date: 9/17/14
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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 State Board of Examiners for Land Surveyors
Division: Department of Commerce and Insurance, Division of Regulatory Boards
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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 |
|----------------|--|
| 0820-05 | Continuing Education |
| Rule Number | Rule Title |
| 0820-05-.02 | Definitions |
| 0820-05-.03 | Basic Requirements |
| 0820-05-.04 | Conversion Table |
| 0820-05-.05 | Types of Acceptable Continuing Education |
| 0820-05-.06 | Inactive and Retired Registrants |
| 0820-05-.07 | Reinstatement to Active Registration |
| 0820-05-.08 | Noncompliance |
| 0820-05-.09 | Hardships and Exemptions |
| 0820-05-.10 | Reports and Records |
| 0820-05-.12 | Approval of Programs |
| 0820-05-.13 | Comity |

Chapter 0820-05
Continuing Education

Amendments

Chapter 0820-05 Continuing Education Table of Contents is amended by deleting the title to Rule 0820-05-.06 and replacing it with "Inactive and Retired Registrants" and the title to Rule 0820-05-.09 and replacing it with "Hardships and Exemptions" so that, as amended, the Rule title shall read as follows:

TABLE OF CONTENTS

| | |
|--|--------------------------------------|
| 0820-05-.01 Purpose | 0820-05-.09 Hardships and Exemptions |
| 0820-05-.02 Definitions | 0820-05-.10 Reports and Records |
| 0820-05-.03 Basic Requirements | 0820-05-.11 Sponsors |
| 0820-05-.04 Conversion Table | 0820-05-.12 Approval of Programs |
| 0820-05-.05 Types of Acceptable Continuing Education | 0820-05-.13 Audits |
| 0820-05-.06 Inactive and Retired Registrants | 0820-05-.14 Comity |
| 0820-05-.07 Reinstatement to Active Registration | 0820-05-.15 Advisory Committee |
| 0820-05-.08 Noncompliance | |

Authority: T.C.A. § 62-18-105(d).

Rule 0820-05-.02 Definitions is amended by adding Paragraphs (5) – (8), so that, as amended, rule 0820-05-.02 shall read:

Rule 0820-05-.02 Definitions

- (1) "Active" means a registered land surveyor who has complied with the continuing education requirements prescribed herein.
- (2) "Board" means the Tennessee State Board of Examiners for Land Surveyors.
- (3) "Inactive" means a registered land surveyor who has obtained inactive status from the Board pursuant to Rule 0820-05-.06 and is not required to comply with the continuing education requirements prescribed herein. An inactive registrant may not engage in the practice of land surveying in the State of Tennessee.
- (4) "Professional Development Hour (PDH)" means an hour of continuing education found acceptable by the Board.
- (5) "Retired" means a registered land surveyor who has obtained retired status from the Board pursuant to TCA §62-18-128 and is not required to comply with the continuing education requirements prescribed herein. A retired registrant may not engage in the practice of land surveying in the State of Tennessee.
- (6) Ethics/Business-Related Course or Activity-A qualifying course or activity with content areas related to: (1) the awareness of ethical concerns and conflicts; (2) an enhanced familiarity with the codes of conduct; (3) an understanding of standards of practice or care; (4) project management and risk-assessment management; or (5) other similar topics aimed at maintaining, improving, or expanding the skills set and knowledge to the licensee's field and methods of practice.
- (7) Continuing Education Unit (CEU)-Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course.
- (8) College/Unit Semester/Quarter Hour-Credit for course in ABET-approved programs or other related college course approved in accordance with subsection E of this section.

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

Rule 0820-05-.03 Basic requirements is repealed in its entirety and replaced with the following language so that, as amended, the new rule shall read:

Rule 0820-05-.03 Basic Requirements

- (1) Every licensee is required to obtain the equivalent of thirty (30) PDH's per biennial renewal period. These PDH's may be obtained any time during the applicable renewal period. A minimum of two (2) PDH's shall be earned by successfully completing a course or activity that has content areas focused on surveying ethics and standards of practice. If a licensee exceeds the biennial requirement in any renewal period, a maximum of fifteen (15) PDH's may be carried forward to the subsequent renewal period. PDH's may be earned as follows:
 - a. Successful completion of college courses;
 - b. Successful completion of continuing education courses;
 - c. Presenting or attending qualifying seminars, webinars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences;
 - d. Teaching or instructing in 1 through 3 above;
 - e. Authoring published papers, articles, books, or accepted licensing examination items;
 - f. Active participation in professional or technical societies (limited to two (2) PDH's per organization and requires that the registrant serve as an officer and/or actively participate on a committee of that organization);
 - g. Receiving a patent; or,
 - h. Active participation in educational outreach activities pertaining to professional licensure or the surveying profession which involve grades K-12 or higher education students.
- (2) A registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH's during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included).
- (3) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for the initial one (1) year period of active registration; however, a new registrant is required to obtain continuing education requirements for application toward the second year of the initial licensing period, if initial licensure includes two (2) years.

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

Rule 0820-05-.04 Conversion table is repealed in its entirety and replaced with the following language so that, as amended, the new rule shall read:

Rule 0820-05-.04 Conversion Table

- (1) Conversion of other units of credit to PDH's is as follows:
 - (a) 1 college or unit semester hour.....45 PDH
 - (b) 1 college or unit quarter hour.....30 PDH
 - (c) 1 continuing education unit..... 10 PDH
 - (d) 1 hour of professional development in coursework, seminars, webinars or professional or technical presentations made at meetings, conventions or conferences.....1 PDH

- (e) Teaching any of (a) through (d) above.....PDH value times 2
Teaching credit shall only be valid for the first offering or presentation. Full-time faculty may not claim teaching credit associated with regular duties of employment.
- (f) Publications:
 - (1) Each published peer-reviewed paper or book in the registrant's area of professional practice.....10 PDH
 - (2) Each published paper or article, other than (f)(1) above, in the registrant's area of professional practice.....5 PDH
- (g) Active participation as an officer or committee member in professional and technical societies.....2 PDH
- (h) Each patent obtained.....10 PDH
- (i) 1 hour of outreach activities.....1 PDH (not to exceed 3 PDH)

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

Rule 0820-05-.05 Types of acceptable continuing education is amended by deleting Paragraph (4) in its entirety and by renumbering the remaining paragraphs. The rule is further amended to add the word "webinars" to Paragraph (1) so that, as amended, the rule shall read:

Rule 0820-05-.05 Types of Acceptable Continuing Education

- (1) Continuing education activities for which credit may be given by the board include college and university courses which are awarded continuing education units (CEU's), and those portions of technical meetings, seminars, webinars, tutorials, short courses and correspondence courses that are related to practice of land surveying.
- (2) The Board will grant credit for only such continuing education activities that satisfy the following criteria:
 - (a) There is clear purpose and objectivity for each activity;
 - (b) The content of each presentation is well organized and presented in a sequential manner;
 - (c) There is evidence of pre-planning which should include the opportunity for input by the target group to be served;
 - (d) The presentation will be made by persons who are well-qualified by reason of education or experience; and,
 - (e) There is provision for individual participant registration which will include information required for record keeping and reporting.
- (3) The Board will grant no credit to a registrant for a course, technical meeting, seminar, webinar or tutorial repeated by the registrant within three (3) years (if credit was originally granted), unless, in the Board's opinion, there is a substantial change in the content of such course, technical meeting, seminar, webinar or tutorial of the complexity of the subject matter that warrants award of additional credit.
- (4) All activities submitted to the Board for continuing education credit are subject to approval by the Board.

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

Rule 0820-05-.06 Inactive registrants is amended by adding the words "or retired" to each paragraph. The rule is further amended by deleting "annual renewal" from Paragraph (2) so that, as amended, the rule shall read:

Rule 0820-05-.06 Inactive and Retired Registrants

- (1) A registered land surveyor in good standing may request in writing to be placed on the Board's inactive or retired roll, thereby obtaining inactive or retired status.
- (2) An inactive or retired registrant will be permitted to retain that registrant's original certificate of registration by paying the fee for registration without submitting proof of complying with the continuing education requirements prescribed herein.
- (3) An inactive or retired registrant may not engage in the practice of land surveying in the State of Tennessee. Any practice or offer to practice land surveying in the State of Tennessee by an inactive or retired registrant shall constitute misconduct for the purpose of Tennessee Code Annotated, Section 62-18-116(a)(1)(B) (grounds for revocation or suspension of certificate by the Board.)

Authority: T.C.A. §§62-18-105(d), 62-18-106(d) and 62-18-128.

Rule 0820-05-.07 Reinstatement to active registration is amended by adding the words "or retired," "biennial," "Tennessee State Specific Land Surveying" to the rule. The rule is further amended by changing one (1) year to two (2) years in Paragraph (2) so that, as amended, the rule shall read:

Rule 0820-5-.07 Reinstatement to Active Registration

- (1) An inactive or retired registrant seeking to reinstate an inactive or retired registration of one (1) year or more must submit a request in writing to the Board with a fee of twenty-five dollars (\$25.00) and must satisfy one (1) of the following requirements:
 - (a) Satisfaction of the biennial PDH requirement multiplied by the number of years of inactive or retired status up to a maximum of thirty (30) PDH's; or
 - (b) Successful completion of the Tennessee State Specific Land Surveying examination within one (1) year immediately prior to application for reinstatement.
- (2) An inactive or retired registrant seeking to reinstate an inactive or retired registration of less than two (2) years must meet the biennial PDH requirement.

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

Rule 0820-05-.08 Noncompliance is amended by adding the words "or retired" to the rule so that, as amended, the rule shall read:

Rule 0820-05-.08 Noncompliance

Unless a request for inactive or retired status is made, any registrant failing to furnish the required continuing education form, properly completed and signed, shall not be granted renewal of registration by the Board and shall lose the right to practice land surveying in the State of Tennessee upon the expiration of registration.

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

Rule 0820-05-.09 Hardships is amended by adding Paragraph (1)(c) to the rule so that, as amended, the rule shall read:

Rule 0820-05-.09 Hardships and Exemptions

- (1) Notwithstanding any other provision of this Chapter to the contrary, the Board may exempt a registrant from complying with all or part of the continuing education requirements for a given year in the following cases:
 - (a) A registrant affected by physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board; provided that adequate supporting documentation is furnished to the Board.
 - (b) A non-career military registrant serving on active duty in the armed forces of the United States for a period of one hundred twenty (120) consecutive days in a calendar year; provided that the adequate supporting documentation is furnished to the Board.
 - (c) Those who are sixty-five (65) years of age or older who also have twenty-five (25) or more years of active registration; provided that adequate supporting documentation is furnished to the Board. Registrants under this exemption must still obtain the two (2) PDH's relative to surveying ethics and standards of practice as provided by rule 0820-05-.03(1).

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

Rule 0820-05-.10 Reports and records is amended by deleting the text of Paragraph (1) in its entirety and substituting instead the following so that, as amended, the rule shall read:

Rule 0820-05-.10 Reports and Records

- (1) Each registrant shall report, on a form provided by the Board, the continuing education activities undertaken during the preceding renewal period.
- (2) The registrant shall maintain a file in which records of the activities are kept, including dates, subjects, duration of programs, printed program schedules, registration receipts or other proof of participation, and other appropriate documentation, for a period of three (3) years after the date of the program or activity.

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

Rule 0820-05-.12 Approval of programs is repealed in its entirety and substituting instead the following language so that, as amended, the new rule shall read:

Rule 0820-05-.12 Approval of Programs

- (1) Approval of any program may be granted for a period of two (2) years from the date of approval to a sponsoring organization or individual if the following information is submitted to the Board:
 - (a) Instructors and their qualifications; and,
 - (b) Synopsis of course material.
- (2) No sponsor may provide any continuing education course(s) without prior approval from the Board.
- (3) Upon completion of the approved course the sponsor shall submit to the Board the record of attendees as provided in Rule 0820-05-.11 above and time, place and schedule of activities.

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

Rule 0820-05-.14 Comity is repealed in its entirety and substituting instead the following language so that, as amended, the new rule shall read:

Rule 0820-05-.14 Comity

- (1) The Board will deem a registrant to have met the continuing education requirements provided herein if such registrant, when making submission of continuing education toward renewal of Tennessee registration, certifies in writing the following:
 - (a) The registrant resides in another state or territory which has been recognized by the Tennessee Board and shall satisfy all continuing education requirements for renewal in Tennessee.

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

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

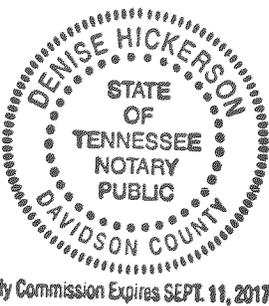
| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|---------------------------------|-----|----|---------|--------|-------------------------|
| Timothy Lingerfelt, Chairman | X | | | | |
| Galyon Northcutt, Vice Chairman | X | | | | |
| Jay Caughman, RLS Board Member | X | | | | |
| 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 Tennessee State 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: 07/09/2013

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



Date: 10/24/2014

Signature: [Handwritten Signature]

Name of Officer: Robert E. Herndon

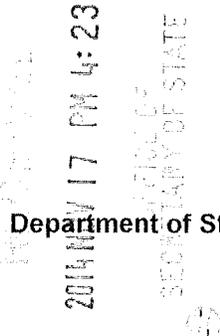
Title of Officer: Assistant General Counsel

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

Notary Public Signature: [Handwritten Signature]

My commission expires on: 9.11.2014

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. Slatery, III
 Attorney General and Reporter
11/7/2014
 Date

Department of State Use Only

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 0820-05-.03 Basic Requirements

Steve Ward made a comment about the acceptability of belonging to a professional society for continuing education credit. The Board clarified that the proposed rules are to provide that only active, not passive, participation in a professional society will be acceptable for a minimum of two professional development hours (PDH's).

Rule 0820-05-.04 Conversion Table

Leonard Tusar, a registrant and professional society officer, asked if online and correspondence PDHs would be accepted in the future. The Board confirmed that they would not, due to the inconsistencies in quality and price of such courses.

Allen Crawford, a registrant, discussed the same issue. The Board discussed inserting "webinar" in order to accept continuing education credit for courses that are online but the registrant can participate in the class as if he or she were physically present. The Board approved this addition to the proposed rules.

Rule 0820-05-.10 Reports and Records

Jimmy Cleveland, President of the Tennessee Association of Professional Surveyors (TAPS), submits written comments on behalf of the Association regarding the amendments to rule regarding reporting continuing education hours and the keeping of the records thereof. In making this comment, TAPS suggests that the Board should instead be more focused on an auditing process and provides an alternative writing of the rule. TAPS also suggests communication with adjoining states for the purpose of aligning the Board's rule with those jurisdictions. In response, the Board determines that an audit of a small percentage of its registrants would diminish its ability to review continuing education; at the present time, all registrants are required to provide a continuing education report to the Board.

Rule 0820-05-.12 Approval of Programs

The TAPS written comments suggest the complete removal of the pre-approval system currently in place or, in the alternative a suggestion to replace the current Rule 0820-05-.12 with a rule that concerns auditing of continuing education hours, which is based on the language contained in the rules of some of the adjoining states. The Board respectfully maintained its proposed amendments as written.

Mark Crattie, a registrant and member of the Advisory Committee that the Board maintains to review continuing education courses for pre-approval, expressed that the pre-approval system is not working perfectly and favors an audit system instead. The Board discussed a possible fee implemented for vendors who submit continuing education courses and indicated this would involve legislation.

Steve Ward, a registrant, noted that there was concern at the local level about the time it currently takes to obtain pre-approval for continuing education courses and the uncertainty it creates for registrants taking those courses. The Board clarified the procedures involved.

Allen Crawford, a registrant, suggested that peer registrants would be suitable to provide continuing education rather than corporate vendors. The Board expressed a willingness to consider this option.

Leonard Tusar asked about the transfer of continuing education credits from other jurisdictions. The Board responded that this was acceptable, as long as sufficient hours were submitted and the content of the course met

the Board's expectations.

Jimmy Cleveland expressed support in accepting out-of-state continuing education credits due to a number of registrants holding licenses in one or more states other than Tennessee.

The Board discussed and clarified the amendment of the rules to require thirty (30) continuing education hours every two years.

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 not impact small businesses because the Board licenses individuals, not entities.

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

There are no projected administrative costs on small businesses 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 0820-05-.02 Definitions is amended to add definitions for "retired" status and to describe the expected duration and content of continuing education courses.

Rule 0820-05-.03 Basic Requirements is amended to delete outdated requirements for registrants renewing in past years and to list some acceptable course content and activities for continuing education; this rule also further develops the two-year renewal cycle.

Rule 0820-05-.04 Conversion Table is amended to update the previous table, which contains discontinued conversion values and adds equivalent values for some non-linear activities, such as obtaining a patent.

Rule 0820-05-.05 Types of Acceptable Continuing Education is amended by deleting some activities that the Board no longer feels is no longer worthy to be considered for continuing education credit.

Rule 0820-05-.06 Inactive and Retired Registrants is amended to add provisions to accommodate retired land surveyors.

Rule 0820-05-.07 Reinstatement to Active Registration is amended to provide a method for retired registrants to become reactivated and also changes "annual" to "biennial" to reflect the Board's renewal cycle.

Rule 0820-05-.08 Noncompliance is amended to provide that retired registrants may not be renewed if they fail to meet reactivation requirements.

Rule 0820-05-.09 Hardships and Exemptions is amended to add an exemption to continuing education requirements for registrants who have reached the age of 65 and have been actively practicing for at least 25 years.

Rule 0820-05-.10 Reports and Records is amended by deleting the requirement to report continuing education hours at renewal to allow for reporting continuing education hours obtained during the non-renewal year of the biennial cycle.

Rule 0820-05-.12 Approval of Programs is amended to require continuing education providers to obtain approval from the Board prior to offering services to registrants.

Rule 0820-05-.14 Comity is amended by requiring that registrants located in another jurisdiction and maintain a Tennessee license must satisfy the Board's continuing education credit to obtain renewal rather than the registrant's home jurisdiction; this is due to some states having a lower number of hours necessary for renewal.

- (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) and 62-18-106(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 five oral comment made in connection with this rulemaking hearing, primarily in support of the proposed amendments.

(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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Chapter 0820-05
Continuing Education

Amendments

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TABLE OF CONTENTS

| | |
|--|---|
| 0820-05-.01 Purpose | 0820-05-.09 Hardships <u>and Exemptions</u> |
| 0820-05-.02 Definitions | 0820-05-.10 Reports and Records |
| 0820-05-.03 Basic Requirements | 0820-05-.11 Sponsors |
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Authority: T.C.A. § 62-18-105(d).

Rule 0820-05-.02 Definitions is amended by adding Paragraphs (5) – (8), so that, as amended, rule 0820-05-.02 shall read:

Rule 0820-05-.02 Definitions

- (1) "Active" means a registered land surveyor who has complied with the continuing education requirements prescribed herein.
- (2) "Board" means the Tennessee State Board of Examiners for Land Surveyors.
- (3) "Inactive" means a registered land surveyor who has obtained inactive status from the Board pursuant to Rule 0820-05-.06 and is not required to comply with the continuing education requirements prescribed herein. An inactive registrant may not engage in the practice of land surveying in the State of Tennessee.
- (4) "Professional Development Hour (PDH)" means an hour of continuing education found acceptable by the Board.
- (5) "Retired" means a registered land surveyor who has obtained retired status from the Board pursuant to TCA § 62-18-128 and is not required to comply with the continuing education requirements prescribed herein. A retired registrant may not engage in the practice of land surveying in the State of Tennessee.
- (6) Ethics/Business-Related Course or Activity-A qualifying course or activity with content areas related to: (1) the awareness of ethical concerns and conflicts; (2) an enhanced familiarity with the codes of conduct; (3) an understanding of standards of practice or care; (4) project management and risk-assessment management; or (5) other similar topics aimed at maintaining, improving, or expanding the skills set and knowledge to the licensee's field and methods of practice.
- (7) Continuing Education Unit (CEU)-Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course.
- (8) College/Unit Semester/Quarter Hour-Credit for course in ABET-approved programs or other related college course approved in accordance with subsection E of this section.

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

Rule 0820-05-.03 Basic requirements is repealed in its entirety and replaced with the following language so that, as amended, the new rule shall read:

Rule 0820-05-.03 Basic Requirements

- (1) ~~A registrant seeking annual renewal of active registration for the year 1995 must, as a prerequisite to renewal, submit evidence to the Board of having obtained four (4) PDH's during the year 1994.~~
- (1) Every licensee is required to obtain the equivalent of thirty (30) PDH's per biennial renewal period. These PDH's may be obtained any time during the applicable renewal period. A minimum of two (2) PDH's shall be earned by successfully completing a course or activity that has content areas focused on surveying ethics and standards of practice. If a licensee exceeds the biennial requirement in any renewal period, a maximum of fifteen (15) PDH's may be carried forward to the subsequent renewal period. PDH's may be earned as follows:
- a. Successful completion of college courses;
 - b. Successful completion of continuing education courses;
 - c. Presenting or attending qualifying seminars, webinars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences;
 - d. Teaching or instructing in 1 through 3 above;
 - e. Authoring published papers, articles, books, or accepted licensing examination items;
 - f. Active participation in professional or technical societies (limited to two (2) PDH's per organization and requires that the registrant serve as an officer and/or actively participate on a committee of that organization);
 - g. Receiving a patent; or,
 - h. Active participation in educational outreach activities pertaining to professional licensure or the surveying profession which involve grades K-12 or higher education students.
- (2) ~~A registrant seeking annual renewal of active registration for the year 1996 must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained eight (8) PDH's during the year 1995 (carryover hours, not exceeding eight (8) hours, from the year 1994 may be included.)~~
- (3)(2) ~~A registrant seeking annual biennial renewal of active registration for the year 1997 and each year thereafter must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained fifteen (15) thirty (30) PDH's during the one two-year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included.~~
- (4)(3) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for the initial annual renewal one (1) year period of active registration; however, a new registrant is required to obtain continuing education requirements for application toward the second year of the initial licensing period, if initial licensure includes two (2) years.

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

Rule 0820-05-.04 Conversion table is repealed in its entirety and replaced with the following language so that, as amended, the new rule shall read:

Rule 0820-05-.04 Conversion Table

- (1) ~~Conversions from other units of continuing education to PDH's is as follows:~~

- (a) 1 hour of acceptable professional activity.....1 PDH
- (b) 1 semester hour of acceptable university credit..... 15 PDH
- (c) 1 quarter hour of acceptable university credit.....10 PDH
- (d) 1 CEU (continuing education unite).....10 PDH

(1) Conversion of other units of credit to PDH's is as follows:

- (a) 1 college or unit semester hour.....45 PDH
- (b) 1 college or unit quarter hour.....30 PDH
- (c) 1 continuing education unit..... 10 PDH
- (d) 1 hour of professional development in coursework, seminars, webinars, or professional or technical presentations made at meetings, conventions or conferences.....1 PDH
- (e) Teaching any of (a) through (d) above.....PDH value times 2
Teaching credit shall only be valid for the first offering or presentation. Full-time faculty may not claim teaching credit associated with regular duties of employment.
- (f) Publications:
 - (1) Each published peer-reviewed paper or book in the registrant's area of professional practice.....10 PDH
 - (2) Each published paper or article, other than (f)(1) above, in the registrant's area of professional practice.....5 PDH
- (g) Active participation as an officer or committee member in professional and technical societies.....2 PDH
- (h) Each patent obtained.....10 PDH
- (i) 1 hour of outreach activities.....1 PDH (not to exceed 3 PDH)

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

Rule 0820-05-.05 Types of acceptable continuing education is amended by deleting Paragraph (4) in its entirety and by renumbering the remaining paragraphs. The rule is further amended to add the word "webinars" to Paragraph (1) so that, as amended, the rule shall read:

Rule 0820-05-.05 Types of Acceptable Continuing Education

- (1) Continuing education activities for which credit may be given by the board include college and university courses which are awarded continuing education units (CEU's), and those portions of technical meetings, seminars, webinars, tutorials, short courses and correspondence courses that are related to practice of land surveying.
- (2) The Board will grant credit for only such continuing education activities that satisfy the following criteria:
 - (a) There is clear purpose and objectivity for each activity;
 - (b) The content of each presentation is well organized and presented in a sequential manner;

- (c) There is evidence of pre-planning which should include the opportunity for input by the target group to be served;
 - (d) The presentation will be made by persons who are well-qualified by reason of education or experience; and,
 - (e) There is provision for individual participant registration which will include information required for record keeping and reporting.
- (3) The Board will grant no credit to a registrant for a course, technical meeting, seminar, webinar or tutorial repeated by the registrant within three (3) years (if credit was originally granted), unless, in the Board's opinion, there is a substantial change in the content of such course, technical meeting, seminar or tutorial of the complexity of the subject matter that warrants award of additional credit.
- ~~(4) Other activities which may be used to satisfy continuing education requirements are:~~
- ~~(a) Approved programs conducted by corporations, government agencies or other organizations;~~
 - ~~(b) Authorship of published papers, articles or books; and~~
 - ~~(c) First-time preparation and presentation of technical meetings, short courses or seminars.~~
- ~~(5)~~(4) All activities submitted to the Board for continuing education credit are subject to approval by the Board.

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

Rule 0820-05-.06 Inactive registrants is amended by adding the words "or retired" to each paragraph. The rule is further amended by deleting "annual renewal" from Paragraph (2) so that, as amended, the rule shall read:

Rule 0820-05-.06 Inactive and Retired Registrants

- (1) A registered land surveyor in good standing may request in writing to be placed on the Board's inactive or retired roll, thereby obtaining inactive or retired status.
- (2) An inactive or retired registrant will be permitted to retain that registrant's original certificate of registration by paying the ~~annual renewal~~ fee for registration without submitting proof of complying with the continuing education requirements prescribed herein.
- (3) An inactive or retired registrant may not engage in the practice of land surveying in the State of Tennessee. Any practice or offer to practice land surveying in the State of Tennessee by an inactive or retired registrant shall constitute misconduct for the purpose of Tennessee Code Annotated, Section 62-18-116(a)(1)(B) (grounds for revocation or suspension of certificate by the Board.)

Authority: T.C.A. §§62-18-105(d), 62-18-106(d) and 62-18-128.

Rule 0820-05-.07 Reinstatement to active registration is amended by adding the words "or retired," "biennial," "Tennessee State Specific Land Surveying" to the rule. The rule is further amended by changing one (1) year to two (2) years in Paragraph (2) so that, as amended, the rule shall read:

Rule 0820-5-.07 Reinstatement to Active Registration

- (1) An inactive or retired registrant seeking to reinstate an inactive registration of one (1) year ~~of~~ or more must submit a request in writing to the Board with a fee of twenty-five dollars (\$25.00) and must satisfy one (1) of the following requirements:

- (a) Satisfaction of the annual biennial PDH requirement multiplied by the number of years of inactive or retired status up to a maximum of thirty (30) PDH's; or
 - (b) Successful completion of the ~~Principles and Practice of Land Surveying~~ Tennessee State Specific Land Surveying examination within one (1) year immediately prior to application for reinstatement.
- (2) An inactive or retired registrant seeking to reinstate an inactive or retired registration of less than ~~one (1) year~~ two (2) years must meet the annual biennial PDH requirement.

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

Rule 0820-05-.08 Noncompliance is amended by adding the words "or retired" to the rule so that, as amended, the rule shall read:

Rule 0820-05-.08 Noncompliance

Unless a request for inactive or retired status is made, any registrant failing to furnish the required continuing education form, properly completed and signed, shall not be granted renewal of registration by the Board and shall lose the right to practice land surveying in the State of Tennessee upon the December 31 expiration of registration.

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

Rule 0820-05-.09 Hardships is amended by adding Paragraph (1)(c) to the rule so that, as amended, the rule shall read:

Rule 0820-05-.09 Hardships and Exemptions

- (1) Notwithstanding any other provision of this Chapter to the contrary, the Board may exempt a registrant from complying with all or part of the continuing education requirements for a given year in the following cases:
 - (a) A registrant affected by physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board; provided that adequate supporting documentation is furnished to the Board.
 - (b) A non-career military registrant serving on active duty in the armed forces of the United States for a period of one hundred twenty (120) consecutive days in a calendar year; provided that the adequate supporting documentation is furnished to the Board.
 - (c) Those who are sixty-five (65) years of age or older who also have twenty-five (25) or more years of active registration; provided that adequate supporting documentation is furnished to the Board. Registrants under this exemption must still obtain the two (2) PDH's relative to surveying ethics and standards of practice as provided by rule 0820-05-.03(1).

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

Rule 0820-05-.10 Reports and records is amended by deleting the text of Paragraph (1) in its entirety and substituting instead the following so that, as amended, the rule shall read:

Rule 0820-05-.10 Reports and Records

- (1) ~~At the time of application for registration renewal, e~~Each registrant shall report, on a form provided by the Board, the continuing education activities undertaken during the preceding year renewal period.
- (2) The registrant shall maintain a file in which records of the activities are kept, including dates, subjects, duration of programs, printed program schedules, registration receipts or other proof of

participation, and other appropriate documentation, for a period of three (3) years after the date of the program or activity.

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

Rule 0820-05-.12 Approval of programs is repealed in its entirety and substituting instead the following language so that, as amended, the new rule shall read:

Rule 0820-05-.12 Approval of Programs

- (1) Approval of any program may be granted for a period of two (2) years from the date of approval to a sponsoring organization or individual if the following information is submitted to the Board:
 - (a) Instructors and their qualifications; and,
 - (b) Synopsis of course material.
- (2) ~~The Board will approval of disapprove the request within ninety (90) days of the date the request is submitted to the Board. If the Board. If the Board fails to act upon the request within ninety (90) days, the program will be considered approved as submitted.~~ No sponsor may provide any continuing education course(s) without prior approval from the Board.
- (3) Upon completion of the approved course the sponsor shall submit to the Board the record of attendees as provided in Rule 0820-05-.11 above and time, place and schedule of activities.

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

Rule 0820-05-.14 Comity is repealed in its entirety and substituting instead the following language so that, as amended, the new rule shall read:

Rule 0820-05-.14 Comity

- (1) The Board will deem a registrant to have met the continuing education requirements provided herein if such registrant, when making annual submission of continuing education toward renewal of Tennessee registration, certifies in writing the following:
 - (a) The registrant resides in another state or territory which has been recognized by the Tennessee Board ~~as having continuing education requirements acceptable to the Tennessee Board;~~ and shall satisfy all continuing education requirements for renewal in Tennessee.
 - (b) ~~The registrant has satisfied all continuing education and registration requirements of that state or territory.~~

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

* 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 Tennessee State 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: 07/09/2013

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. Slatery, 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 0820-05-.03 Basic Requirements

Steve Ward made a comment about the acceptability of belonging to a professional society for continuing education credit. The Board clarified that the proposed rules are to provide that only active, not passive, participation in a professional society will be acceptable for a minimum of two professional development hours (PDH's).

Rule 0820-05-.04 Conversion Table

Leonard Tusar, a registrant and professional society officer, asked if online and correspondence PDHs would be accepted in the future. The Board confirmed that they would not, due to the inconsistencies in quality and price of such courses.

Allen Crawford, a registrant, discussed the same issue. The Board discussed inserting "webinar" in order to accept continuing education credit for courses that are online but the registrant can participate in the class as if he or she were physically present. The Board approved this addition to the proposed rules.

Rule 0820-05-.10 Reports and Records

Jimmy Cleveland, President of the Tennessee Association of Professional Surveyors (TAPS), submits written comments on behalf of the Association regarding the amendments to rule regarding reporting continuing education hours and the keeping of the records thereof. In making this comment, TAPS suggests that the Board should instead be more focused on an auditing process and provides an alternative writing of the rule. TAPS also suggests communication with adjoining states for the purpose of aligning the Board's rule with those jurisdictions. In response, the Board determines that an audit of a small percentage of its registrants would diminish its ability to review continuing education; at the present time, all registrants are required to provide a continuing education report to the Board.

Rule 0820-05-.12 Approval of Programs

The TAPS written comments suggest the complete removal of the pre-approval system currently in place or, in the alternative a suggestion to replace the current Rule 0820-05-.12 with a rule that concerns auditing of continuing education hours, which is based on the language contained in the rules of some of the adjoining states. The Board respectfully maintained its proposed amendments as written.

Mark Crattie, a registrant and member of the Advisory Committee that the Board maintains to review continuing education courses for pre-approval, expressed that the pre-approval system is not working perfectly and favors an audit system instead. The Board discussed a possible fee implemented for vendors who submit continuing education courses and indicated this would involve legislation.

Steve Ward, a registrant, noted that there was concern at the local level about the time it currently takes to obtain pre-approval for continuing education courses and the uncertainty it creates for registrants taking those courses. The Board clarified the procedures involved.

Allen Crawford, a registrant, suggested that peer registrants would be suitable to provide continuing education rather than corporate vendors. The Board expressed a willingness to consider this option.

Leonard Tusar asked about the transfer of continuing education credits from other jurisdictions. The Board responded that this was acceptable, as long as sufficient hours were submitted and the content of the course met

the Board's expectations.

Jimmy Cleveland expressed support in accepting out-of-state continuing education credits due to a number of registrants holding licenses in one or more states other than Tennessee.

The Board discussed and clarified the amendment of the rules to require thirty (30) continuing education hours every two years.

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 not impact small businesses because the Board licenses individuals, not entities.

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

There are no projected administrative costs on small businesses 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 0820-05-.02 Definitions is amended to add definitions for "retired" status and to describe the expected duration and content of continuing education courses.

Rule 0820-05-.03 Basic Requirements is amended to delete outdated requirements for registrants renewing in past years and to list some acceptable course content and activities for continuing education; this rule also further develops the two-year renewal cycle.

Rule 0820-05-.04 Conversion Table is amended to update the previous table, which contains discontinued conversion values and adds equivalent values for some non-linear activities, such as obtaining a patent.

Rule 0820-05-.05 Types of Acceptable Continuing Education is amended by deleting some activities that the Board no longer feels is no longer worthy to be considered for continuing education credit.

Rule 0820-05-.06 Inactive and Retired Registrants is amended to add provisions to accommodate retired land surveyors.

Rule 0820-05-.07 Reinstatement to Active Registration is amended to provide a method for retired registrants to become reactivated and also changes "annual" to "biennial" to reflect the Board's renewal cycle.

Rule 0820-05-.08 Noncompliance is amended to provide that retired registrants may not be renewed if they fail to meet reactivation requirements.

Rule 0820-05-.09 Hardships and Exemptions is amended to add an exemption to continuing education requirements for registrants who have reached the age of 65 and have been actively practicing for at least 25 years.

Rule 0820-05-.10 Reports and Records is amended by deleting the requirement to report continuing education hours at renewal to allow for reporting continuing education hours obtained during the non-renewal year of the biennial cycle.

Rule 0820-05-.12 Approval of Programs is amended to require continuing education providers to obtain approval from the Board prior to offering services to registrants.

Rule 0820-05-.14 Comity is amended by requiring that registrants located in another jurisdiction and maintain a Tennessee license must satisfy the Board's continuing education credit to obtain renewal rather than the registrant's home jurisdiction; this is due to some states having a lower number of hours necessary for renewal.

- (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) and 62-18-106(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 five oral comment made in connection with this rulemaking hearing, primarily in support of the proposed amendments.

- (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.