



Montana – Rules, Statutes and Ethics for Professional Engineers

Three (3) Continuing Education Hours
Course #MT101

Approved Continuing Education for Licensed Professional Engineers

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Course Description:

The Montana Rules, Statutes and Ethics course presents all current regulations Montana licensed professional engineers shall follow and also presents the canons of ethics all professional engineers shall adhere to.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to examine the canons of ethics as well as keep up to date on the legal aspects that govern the practice of engineering in the state of Montana.

Objectives:

The primary objective of this course is to familiarize the student with the canons of ethics and familiarize the student with the laws and rules regulating the practice of engineering in the state of Montana.

Upon successful completion of the course, the student will have increased understanding of ethical practices and be well versed with the MT rules and statutes.

Grading:

Students must achieve a minimum score of 70% on the online quiz to pass this course. The quiz may be taken as many times as necessary.

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Montana Code Annotated 2019

TITLE 2. GOVERNMENT STRUCTURE AND ADMINISTRATION

CHAPTER 15. EXECUTIVE BRANCH OFFICERS AND AGENCIES

Part 17. Department of Labor and Industry

Board of Professional Engineers and Professional Land Surveyors

2-15-1763. Board of professional engineers and professional land surveyors.

- (1) There is a board of professional engineers and professional land surveyors.
- (2) The board consists of nine members appointed by the governor with the consent of the senate. The members are:
 - (a) five professional engineers who have been engaged in the practice of engineering for at least 12 years and who have been in responsible charge of engineering teaching or important engineering work for at least 5 years and licensed in Montana for at least 5 years. No more than two of these members may be from the same branch of engineering.
 - (b) two professional and practicing land surveyors who have been engaged in the practice of land surveying for at least 12 years and who have been in responsible charge of land surveying or important land surveying work for at least 5 years and licensed in Montana for at least 5 years;
 - (c) two representatives of the public who are not engaged in or directly connected with the practice of engineering or land surveying.

- (3) Each member must be a citizen of the United States and a resident of this state. A member, after serving three consecutive terms, may not be reappointed.
- (4) (a) Except as provided in subsection (4)(b), each member shall serve for a term of 4 years.
- (b) The governor may remove a member for misconduct, incompetency, or neglect of duty or for any other sufficient cause and may shorten the term of one public member so that it is not coincident with the term of the other public member.
- (5) The board is allocated to the department for administrative purposes only, as prescribed in **2-15-121**.

History: (1) thru (4)En. Sec. 4, Ch. 150, L. 1957; amd. Sec. 2, Ch. 282, L. 1969; Sec. 66-2327, R.C.M. 1947; amd. and redes. 82A-1602.11 by Sec. 215, Ch. 350, L. 1974; amd. Sec. 1, Ch. 366, L. 1975; Sec. 82A-1602.11, R.C.M. 1947; (5)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.11; amd. Sec. 3, Ch. 408, L. 1979; amd. Sec. 21, Ch. 247, L. 1981; MCA 1979, 2-15-1653; redes. 2-15-1873 by Sec. 4, Ch. 274, L. 1981; amd. Sec. 1, Ch. 553, L. 1985; amd. Sec. 4, Ch. 492, L. 2001; Sec. 2-15-1873, MCA 1999; redes. 2-15-1763 by Sec. 221(2), Ch. 483, L. 2001.

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TITLE 37. PROFESSIONS AND OCCUPATIONS

CHAPTER 67. ENGINEERS AND LAND SURVEYORS

Part 1. General

37-67-101 Definitions. As used in this chapter, the following definitions apply:

- (1) "Board" means the board of professional engineers and professional land surveyors provided for in **2-15-1763**.
- (2) "Branch office" means any office or location where business is conducted that is not the headquarters, main office, home office, or other primary location of a sole proprietorship, firm, partnership, or corporation for purposes of regulation under **37-67-328**.
- (3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (4) "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.
- (5) (a) "Engineering survey" means all survey activities required to support the sound conception, planning, design, construction, maintenance, operation, and association of engineering projects.

(b) The term does not include the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.
- (6) "Land surveyor intern" means a person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying, as provided in this chapter.
- (7) (a) "Practice of engineering" means:
 - (i) any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering

sciences to the services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of water, teaching of advanced engineering subjects, engineering surveys, and the inspection of construction for the purpose of ensuring compliance with drawings and specifications;

(ii) any of the functions described in subsection (7)(a)(i) that embrace the services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life, health, or property.

(b) The term includes other professional services necessary to the planning, progress, and completion of any engineering services.

(c) The term does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

(8) "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions;

(g) preparation and perpetuation of maps, plats, field note records, and property descriptions; and

(h) locating, relocating, establishing, reestablishing, laying out, or retracing of any property line or boundary of any tract of land or road, right-of-way, easement, right-of-way easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

(9) "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, is qualified to practice engineering and who has been licensed as a professional engineer by the board.

(10) "Professional land surveyor" means a person who:

(a) has been licensed as a land surveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of land surveying.

(11) "Responsible charge" means direct charge and control and personal supervision either of engineering work or of land surveying. Only a professional engineer or a professional land surveyor may legally assume responsible charge under this chapter.

History: En. Sec. 2, Ch. 366, L. 1975; R.C.M. 1947, 66-2350(part); amd. Sec. 25, Ch. 22, L. 1979; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 553, L. 1985; amd. Sec. 1, Ch. 108, L. 1995; amd. Sec. 150, Ch. 483, L. 2001; amd. Sec. 49, Ch. 492, L. 2001; amd. Sec. 1, Ch. 4, L. 2015.

37-67-102 Representation as practitioner to be considered as practice

(1) A person must be considered to practice or offer to practice engineering, within the meaning and intent of this chapter, who:

(a) practices any branch of the profession of engineering;

(b) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is a professional engineer or through the use of some other title implies that the person is a professional engineer or is licensed under this chapter; or

- (c) represents that the person is able to perform or does perform any engineering service or work or any other service designated by the practitioner that is recognized as engineering.
- (2) A person must be considered to practice or offer to practice land surveying, within the meaning and intent of this chapter, who:
- (a) engages in land surveying;
 - (b) by verbal claim, sign, letterhead, card, or in any other way represents that the person is a professional land surveyor or through the use of some other title implies that the person is a professional land surveyor; or
 - (c) represents that the person is able to perform or does perform any land surveying service or work or any other service designated by the practitioner that is recognized as land surveying.

History: En. 66-2369 by Sec. 17, Ch. 366, L. 1975; R.C.M. 1947, 66-2369; amd. Sec. 3, Ch. 553, L. 1985; amd. Sec. 50, Ch. 492, L. 2001.

37-67-103 Exemptions

The following are exempt from licensure under this chapter:

- (1) the practice of any other legally recognized professions or trades;
- (2) the mere execution of work by a contractor, as distinguished from its planning or design or the supervision of the construction of work as a lead supervisor or superintendent;
- (3) the work of an employee or a subordinate of a person holding a license under this chapter or an employee of a person practicing lawfully under this chapter if the work does not include final engineering or land surveying designs or decisions and is done under the direct supervision of a person holding a license under this chapter or a person practicing lawfully under this chapter;
- (4) the practice of professional engineering by licensed architects when the practice is purely incidental to their practice of architecture.

History: En. 66-2367 by Sec. 15, Ch. 366, L. 1975; R.C.M. 1947, 66-2367; amd. Sec. 4, Ch. 553, L. 1985; amd. Sec. 51, Ch. 492, L. 2001; amd. Sec. 2, Ch. 4, L. 2015.

Part 2. Board of Professional Engineers and Professional Land Surveyors

37-67-201. Organization -- meetings -- seal. (1) The board shall hold at least two regular meetings each year. Special meetings must be held at the time that the rules of

the board provide. Notice of all meetings must be given in the manner that the rules provide.

(2) The board shall elect annually the following officers: a presiding officer, a vice presiding officer, and a secretary.

(3) The board shall adopt an official seal.

History: (1) thru (3)En. Sec. 8, Ch. 150, L. 1957; Sec. 66-2331, R.C.M. 1947; redes. 66-2352 by Sec. 3, Ch. 366, L. 1975; amd. Sec. 1, Ch. 317, L. 1977; Sec. 66-2352, R.C.M. 1947; (4)En. Sec. 9, Ch. 150, L. 1957; amd. Sec. 3, Ch. 282, L. 1969; Sec. 66-2332, R.C.M. 1947; redes. 66-2353 by Sec. 3, Ch. 366, L. 1975; Sec. 66-2353, R.C.M. 1947; R.C.M. 1947, 66-2352, 66-2353(part); amd. Sec. 4, Ch. 408, L. 1979; amd. Sec. 52, Ch. 492, L. 2001.

37-67-202. Rulemaking. The board may adopt rules reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

History: En. Sec. 9, Ch. 150, L. 1957; amd. Sec. 3, Ch. 282, L. 1969; Sec. 66-2332, R.C.M. 1947; redes. 66-2353 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2353(part); amd. Sec. 121, Ch. 429, L. 1995; amd. Sec. 3, Ch. 4, L. 2015.

37-67-203. Compensation of board members -- expenses. Each member of the board shall receive compensation and travel expenses as provided for in **37-1-133**.

History: En. Sec. 6, Ch. 150, L. 1957; Sec. 66-2329, R.C.M. 1947; amd. Sec. 40, Ch. 439, L. 1975; redes. 66-2351 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2351; amd. Sec. 32, Ch. 474, L. 1981.

37-67-204. Record of proceedings -- register of applicants. (1) The department shall keep a record of its proceedings and a register of the board's proceedings.

(2) The department shall keep a register of applicants for licensure, which must show:

- (a) the name, age, and residence of each applicant;
- (b) the date of the application;
- (c) the place of business of the applicant;
- (d) the applicant's educational and other qualifications;
- (e) the branch or branches of engineering in which the applicant qualified;
- (f) whether an examination was required;
- (g) whether the applicant was rejected;
- (h) whether a license was granted;
- (i) the date of the action of the board; and
- (j) other information considered necessary by the board.

(3) The records of the department are prima facie evidence of the proceedings of the board, and a transcript of the proceedings, certified by the department, is admissible in evidence as if the original were produced.

History: En. Sec. 11, Ch. 150, L. 1957; Sec. 66-2334, R.C.M. 1947; amd. Sec. 27, Ch. 93, L. 1969; amd. Sec. 217, Ch. 350, L. 1974; redes. 66-2355 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2355; amd. Sec. 53, Ch. 492, L. 2001.

Part 3. Licensing

37-67-301. License required to practice or offer to practice. In order to safeguard life, health, and property and to promote the public welfare, a person in either a public or private capacity practicing or offering to practice engineering or land surveying is required to submit evidence that the person is qualified to practice and is licensed as provided in this chapter. It is unlawful for a person to practice or to offer to practice in this state engineering or land surveying or to use in connection with the person's name or otherwise assume, use, or advertise any title or description tending to convey the impression that the person is a professional engineer or a professional land surveyor unless the person has been licensed under the provisions of this chapter.

History: En. Sec. 1, Ch. 150, L. 1957; Sec. 66-2324, R.C.M. 1947; redes. 66-2349 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2349; amd. Sec. 6, Ch. 553, L. 1985; amd. Sec. 54, Ch. 492, L. 2001.

37-67-304. Local government not to impose fee or examination. A license fee or examination may not be imposed by a local government on a person licensed under this chapter to practice engineering or land surveying.

History: En. Sec. 14, Ch. 150, L. 1957; Sec. 66-2337, R.C.M. 1947; amd. Sec. 5, Ch. 282, L. 1969; amd. Sec. 2, Ch. 364, L. 1971; amd. Sec. 219, Ch. 350, L. 1974; amd. Sec. 7, Ch. 215, L. 1975; redes. 66-2358 by Sec. 6, Ch. 366, L. 1975; amd. Sec. 21, Ch. 101, L. 1977; amd. Sec. 3, Ch. 317, L. 1977; R.C.M. 1947, 66-2358(9); amd. Sec. 3, Ch. 108, L. 1995; amd. Sec. 56, Ch. 492, L. 2001.

37-67-312. Licensure of professional engineers without examination by comity. A person holding a license or certificate of registration to engage in the practice of engineering in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in **37-67-323**, and has passed the principles and practices of engineering examination. An applicant whose initial licensure in another state does not meet the experience requirements of **37-67-323** must be required to demonstrate 2 years of postlicensure experience for each year of prelicensure deficiency.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(1)(a)(i); amd. Sec. 9, Ch. 108, L. 1995; amd. Sec. 63, Ch. 492, L. 2001; amd. Sec. 21, Ch. 100, L. 2011; amd. Sec. 10, Ch. 4, L. 2015.

37-67-313. Licensure of professional land surveyors by comity. A person holding a license or certificate of registration to engage in the practice of land surveying in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in **37-67-325**, and has passed the principles and practices of surveying examination and the Montana state-specific land surveyor examination. The experience requirements of **37-67-325** may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice land surveying. An applicant whose initial licensure in

another state does not meet the experience requirements of **37-67-325** must be required to demonstrate 2 years of postlicensure experience for each year of prelicensure deficiency.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(2)(a)(iii); amd. Sec. 12, Ch. 553, L. 1985; amd. Sec. 10, Ch. 108, L. 1995; amd. Sec. 22, Ch. 100, L. 2011; amd. Sec. 11, Ch. 4, L. 2015.

37-67-314. Issuance of licenses -- seal of professional engineer or professional land surveyor. (1) The department shall issue to an applicant who, in the opinion of the board, has met the requirements of this chapter a license authorizing the applicant to engage in the practice of engineering or the practice of land surveying and to assume responsible charge of engineering or land surveying projects in this state. The license for a professional engineer must carry the designation "professional engineer" and for a professional land surveyor "professional land surveyor" and must include the full name and license number of the licensee.

(2) Each licensee may, upon licensure, obtain a seal of a design authorized by the board. The licensee shall sign, date, and seal professional or technical documents created in the practice of professional engineering or professional land surveying.

(3) A license is prima facie evidence that the named person is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while the license remains valid.

(4) It is unlawful for a licensee whose license has expired to sign or seal any professional or technical document or be in responsible charge of a professional engineering or professional land surveying project.

History: En. 66-2360 by Sec. 8, Ch. 366, L. 1975; R.C.M. 1947, 66-2360; amd. Sec. 13, Ch. 553, L. 1985; amd. Sec. 11, Ch. 108, L. 1995; amd. Sec. 64, Ch. 492, L. 2001; amd. Sec. 12, Ch. 4, L. 2015.

37-67-317. Deposit of moneys collected. The department shall collect all moneys under this chapter and shall deposit these moneys in the state special revenue fund for the use of the board, subject to **37-1-101(6)**.

History: En. Sec. 10, Ch. 150, L. 1957; Sec. 66-2333, R.C.M. 1947; amd. Sec. 123, Ch. 147, L. 1963; amd. Sec. 28, Ch. 177, L. 1965; amd. Sec. 216, Ch. 350, L. 1974; redes. 66-2354 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2354; amd. Sec. 1, Ch. 277, L. 1983.

37-67-322. Application -- contents -- fees. An application must include a completed form that must be accompanied by a nonrefundable application fee prescribed by the board and all other required supplemental documents and information. The form must be approved by the department.

History: En. Sec. 4, Ch. 4, L. 2015.

37-67-323. Qualifications of applicant for examination and licensure as professional engineer. (1) An applicant who meets any of the following sets of requirements must be admitted to the principles and practices of engineering examination:

(a) a baccalaureate degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(b) a master's degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(c) a baccalaureate degree in an engineering, engineering technology, or other science curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 20 years of experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, with at least 10 years of that experience under the supervision of a licensed professional engineer, and references as required by the board;

(d) a doctoral degree in engineering from an institution with an engineering program approved by the board, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 2 years of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant is competent to practice engineering, and references as required by the board; or

(e) a doctoral degree in engineering from an institution with an engineering program approved by the board, a specific record of at least 4 years of progressive experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, and references as required by the board.

(2) Upon passage of the principles and practices of engineering examination, an applicant must be granted a license to practice engineering in this state.

History: En. Sec. 5, Ch. 4, L. 2015.

37-67-324. Qualifications of applicant for certification as engineer intern. (1) An applicant who meets any of the following sets of requirements must be granted a certificate as an engineer intern:

(a) a baccalaureate or master's degree in engineering or engineering technology in a curriculum approved by the board, passage of the fundamentals of engineering examination, and references as required by the board; or

(b) a baccalaureate degree in a science curriculum other than a board-approved engineering or engineering technology curriculum, passage of the fundamentals of engineering examination, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board. An applicant approved for certification pursuant to this subsection is eligible for licensure as a professional engineer only under **37-67-323(1)(c)**.

(2) Certification as an engineer intern does not authorize the holder to practice as a professional engineer.

History: En. Sec. 6, Ch. 4, L. 2015.

37-67-325. Qualifications of applicant for examination and licensure as professional land surveyor. (1) An applicant who meets any of the following sets of requirements must be admitted to the principles and practices of surveying examination and the Montana state-specific land surveyor examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 4 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 3 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land

surveying projects, and references and exhibits of land surveying projects as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 10 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 6 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board.

(2) Upon passage of both examinations, the applicant must be granted a license to practice land surveying in this state.

History: En. Sec. 7, Ch. 4, L. 2015.

37-67-326. Qualifications of applicant for examination and certification as land

surveyor intern. (1) An applicant who meets any of the following sets of requirements must be admitted to the fundamentals of surveying examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience in charge of land surveying projects, and references and exhibits as required by the board.

(2) Upon passage of the fundamentals of surveying examination, an applicant must be granted a certificate as a Montana land surveyor intern.

(3) Certification as a land surveyor intern does not authorize the holder to practice as a professional land surveyor.

History: En. Sec. 8, Ch. 4, L. 2015.

37-67-327. Examinations -- fees -- third-party services. (1) Examinations will be at times and places established by the board or by a third-party examination services provider. The board recognizes the following examinations for licensure or certification:

- (a) the fundamentals of engineering examination;
- (b) the principles and practices of engineering examination;
- (c) the fundamentals of surveying examination;
- (d) the principles and practices of surveying examination; and
- (e) the Montana state-specific land surveyor examination.

(2) The fees for examinations must be set by the board or by a third party contracted by the board to provide examination services. The board may charge a fee for reexamination, a rescheduling of an examination, or an additional examination not required for licensure or certification.

(3) The board may use a third party to provide examination and grading services.

(4) The board reserves the right to require applicants to meet all requirements for licensure or certification prior to being admitted to an exam but may waive this requirement as part of an agreement with a third-party examination services provider.

(5) All examination fees are nonrefundable.

History: En. Sec. 9, Ch. 4, L. 2015.

37-67-328. Certificate of authorization. (1) A business entity registered with the Montana secretary of state:

(a) shall obtain a certificate of authorization from the board before engaging in the practice of professional engineering or professional land surveying; and

(b) may engage in the practice of professional engineering or professional land surveying in this state if at least one employee of the business entity is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(2) A business entity with one or more branch offices or business locations in Montana shall apply for a certificate of authorization for the main office and list each branch office or business location and at least one employee of the business entity who is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(3) A sole proprietor who is not required to register with the Montana secretary of state is not required to apply for a certificate of authorization.

History: En. Sec. 13, Ch. 4, L. 2015.

37-67-329. Emeritus status. On October 1, 2015, any licensee previously approved for emeritus status under this chapter becomes an inactive licensee subject to rules of the board regarding inactive licensee status.

History: En. Sec. 14, Ch. 4, L. 2015.

37-67-331. Revocation, suspension, restriction, or limitation of license -- grounds. The board may reprimand a licensee or revoke, suspend, or restrict or limit the license of a licensee found responsible for:

- (1) gross negligence, incompetency, or misconduct in the practice of professional engineering or professional land surveying;
- (2) a violation of rules for professional conduct for professional engineers and professional land surveyors adopted by the board; or
- (3) failing to comply with state laws and rules pertaining to the practice of professional engineering or professional land surveying.

History: En. 66-2365 by Sec. 13, Ch. 366, L. 1975; R.C.M. 1947, 66-2365(part); amd. Sec. 8, Ch. 408, L. 1979; amd. Sec. 17, Ch. 553, L. 1985; amd. Sec. 13, Ch. 108, L. 1995; amd. Sec. 70, Ch. 492, L. 2001; amd. Sec. 15, Ch. 4, L. 2015.

37-67-332. Violations -- penalties -- enforcement. (1) (a) A person commits a criminal offense if the person knowingly:

- (i) practices or offers to practice engineering or land surveying in this state without being licensed under this chapter;
- (ii) presents or attempts to use the license or the seal of another person;
- (iii) gives false or forged evidence to the board or department in obtaining a license;
- (iv) impersonates another licensee;
- (v) attempts to use an expired, revoked, or emeritus license; or
- (vi) violates a provision of this chapter.

(b) A person convicted under subsection (1)(a) shall be fined an amount of not less than \$100 or more than \$500 or be incarcerated in the county jail for a period not exceeding 3 months, or both.

(2) All officers of the law of this state or one of its political subdivisions shall enforce this chapter and prosecute persons violating it. The attorney general shall act as legal adviser of the board and render legal assistance necessary in carrying out this chapter.

(3) The board may apply to the appropriate court for an injunction against a person found by the board to have practiced or attempted or offered to practice engineering or land surveying in this state without a valid license.

(4) If a person violates an injunction against practice without a valid license, the court may impose a fine in an amount not to exceed \$25,000.

History: En. Sec. 23, Ch. 150, L. 1957; Sec. 66-2346, R.C.M. 1947; amd. Sec. 225, Ch. 350, L. 1974; redes. 66-2366 by Sec. 14, Ch. 366, L. 1975; R.C.M. 1947, 66-2366; amd. Sec. 18, Ch. 553, L. 1985; amd. Sec. 3, Ch. 107, L. 1995; amd. Sec. 71, Ch. 492, L. 2001.

Montana Administrative Code

24.183 : BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

Subchapter 1 Organizational Rules

24.183.101 BOARD ORGANIZATION

(1) The Board of Professional Engineers and Professional Land Surveyors adopts and incorporates the organizational rules of the Department of Labor and Industry as listed in chapter 1 of this title.

History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2023 MAR p. 300, Eff. 3/25/23.

Subchapter 2 Procedural Rules

24.183.201 PROCEDURAL RULES

(1) The Board of Professional Engineers and Professional Land Surveyors adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title.

History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2023 MAR p. 300, Eff. 3/25/23.

24.183.202 PUBLIC PARTICIPATION RULES

(1) The Board of Professional Engineers and Professional Land Surveyors adopts and incorporates the public participation rules of the Department of Labor and Industry as listed in chapter 2 of this title.

History: 2-3-103, MCA; IMP, 2-3-103, MCA; NEW 1978 MAR p. 77, Eff. 1/25/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2023 MAR p. 300, Eff. 3/25/23.

Subchapter 3 Definitions

24.183.301 STANDARDS OF RESPONSIBLE CHARGE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

- (1) A professional engineer in responsible charge shall:
- (a) personally make engineering decisions, perform reviews, and consider alternatives or approve proposed technical decisions prior to their implementation;
 - (b) be physically present or available by electronic or voice communications prior to evaluation and implementation of technical decisions;
 - (c) judge the qualifications and recommendations of technical personnel before such recommendations are implemented; and
 - (d) be qualified and have sufficient knowledge to explain decisions related to the project, including, but not limited to:
 - (i) design criteria applied;
 - (ii) methods of analysis;
 - (iii) methods of manufacture and construction utilized;
 - (iv) materials and systems selected;
 - (v) economic analysis of alternate solutions; and
 - (vi) environmental considerations.
- (2) A professional land surveyor in responsible charge shall:
- (a) personally make land surveying decisions;
 - (b) be physically present or able to verify their personal knowledge of the land surveying work; and
 - (c) be qualified and have sufficient knowledge to explain decisions related to signed land survey documents.

History: 37-67-202, MCA; IMP, 37-67-101, 37-67-328, MCA; NEW, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.303 DEFINITIONS

- (1) "ABET" means the Accreditation Board of Engineering and Technology.

(2) "Advanced engineering subjects" means engineering class instruction of courses at the junior-class level and above within a board-approved curriculum.

(3) "Board-approved curricula" means:

(a) For engineering applicants, baccalaureate engineering or engineering technology programs accredited by ABET or equivalent curricula as approved by the board.

(b) For land surveying applicants, a minimum of 60 semester credits comprised of:

(i) at least six credits in English, seven credits in math, six credits in drafting, including three credits in survey drafting, nine credits in basic science, five credits in humanities and social sciences or approved associate of applied science degree benchmarks; and

(ii) 12 credits in surveying techniques and 15 credits in principles and practice of land surveying courses taught by a licensed professional land surveyor.

(4) "Direct supervision" means regular and direct oversight and guidance of engineering or land surveying work, including plans, designs, surveys, and client advice at the time the work occurs, and licensee's acceptance of responsibility for the work.

(5) "Engineer-surveyor" means an individual licensed in Montana as both a professional engineer and professional land surveyor, with a license designation as "ES."

(6) "Land surveying subjects" means surveying class instruction of courses that cover the principles and practices of land surveying and surveying techniques, excluding those courses that involve construction surveying, route surveying, or photogrammetry.

(7) "NCEES" means the National Council of Examiners for Engineering and Surveying.

(8) "Preprofessional experience" means engineering experience obtained after completion of a baccalaureate degree, which must be obtained under the supervision of a licensed professional engineer or professional land surveyor or be approved by the board and may include one or more of the following:

(a) experience on engineering projects which indicates progressive quality and increasing responsibilities over time;

(b) experience teaching advanced undergraduate or post-graduate courses offered as part of a board-approved curriculum; or

(c) experience obtained in engineering research or design projects by faculty teaching a board-approved curriculum.

(9) "Principles and practices of land surveying courses" means instruction in the application of surveying techniques and legal principles to analyze and resolve practical surveying problems.

(10) "Professional experience" means experience obtained after initial licensure by a state, territory, or possession of the United States, the U.S. District of Columbia, or any foreign country.

(11) "Progressive land survey experience" means experience obtained under the supervision of a licensed professional land surveyor and may include one or more of the following:

(a) experience on land surveying projects which, over time, are of increasing quality and require greater responsibility of the applicant;

(b) experience with aliquot part subdivision of sections, retracing existing boundaries, establishing new boundaries, corner search and reestablishment, research existing public records, survey computations, preparation of legal descriptions, certificates of survey, subdivision plats, corner recordation forms, exhibits, and other documents pertinent to such work; or

(c) experience teaching advanced undergraduate or post-graduate land survey courses offered as part of a board-approved curriculum.

(12) "Resident" means a person possessing an active professional engineer or registered professional license or land surveyor license issued by the board.

(13) "Signature" means:

(a) licensee's or applicant's original manual signature; or

(b) licensee's or applicant's digital equivalent.

(14) "Subprofessional experience" means supervised engineering or construction experience obtained prior to completion of a baccalaureate degree, and which must occur after an applicant has commenced a college-level education.

(15) "Surveying techniques courses" means instruction in basic field methodology, measurement, data collection, and calculations.

History: 37-67-202, MCA; IMP, 37-67-101, 37-67-103, 37-67-314, 37-67-322, 37-67-323, 37-67-324, 37-67-325, 37-67-326, 37-67-328, MCA; NEW, 2016 MAR p. 2424, Eff. 12/24/16; AMD, 2019 MAR p. 635, Eff. 5/25/19.

Subchapter 4

General Provisions

24.183.401 BOARD ELECTED OFFICERS

(1) The board shall elect from its members a presiding officer, vice-presiding officer and a secretary annually.

(2) The presiding officer shall be the executive officer of the board. When present, the presiding officer shall preside at all meetings and shall appoint such committees as the board may authorize from time-to-time. The presiding officer shall sign all certificates and other official papers and shall perform all other duties usually pertaining to the office of presiding officer and permitted by law.

(3) The vice-presiding officer, in the absence of the presiding officer, shall perform the duties delegated to the presiding officer in the preceding subsections, except the presiding officer shall sign all official papers of the board.

(4) In the absence of the presiding officer and vice-presiding officer from a regular or special meeting of the board, the remaining members shall appoint a board member to serve as the presiding officer, who shall serve until the conclusion of the meeting or until the arrival of the elected presiding officer.

History: 37-67-202, MCA; IMP, 37-67-201, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 1687, Eff. 12/8/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756.

24.183.402 BOARD MEETINGS

(1) The board shall hold at least two meetings annually, with public notice as prescribed by the Department of Labor and Industry, and as called by the presiding officer.

History: 37-67-202, MCA; IMP, 37-67-201, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2014 MAR p. 2840, Eff. 11/21/14.

24.183.403 BOARD SEAL

(1) The seal of the board shall be an embossed circular seal, one and one-half inches in diameter, consisting of two concentric circles. The inner circle shall contain the Great Seal of the state of Montana and the seal shall contain the wording: "Montana Board of Professional Engineers and Professional Land Surveyors".

History: 37-67-202, MCA; IMP, 37-67-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1756.

24.183.404 FEE SCHEDULE

(1) Fees shall be paid to the board, except for payment of examination fees for examinations administered by third-party vendors, which shall be paid directly to the vendor. The board assumes no responsibility for loss of examination fees remitted between examinees and third-party vendors.

(2) Fees are:

(a) Engineer intern (EI) initial application	\$25
(b) Land surveyor intern (LSI) initial application	25
(c) Professional engineer (PE) initial application	75
(d) Professional land surveyor (PLS) initial application	75
(i) Montana state-specific land surveyor examination, initial, or subsequent exam	100
(ii) Reschedule Montana state-specific land surveyor exam	25
(e) Certificate of authorization	
(i) Initial application	75
(ii) Annual renewal fee	25
(f) Biennial renewal	
(i) PE	75
(ii) PLS	75
(iii) Engineer-surveyor	75
(iv) EI, LSI	25
(g) Miscellaneous	
(i) Reexamination fee for PE, PS, FS	25
(ii) Exam reschedule fee for PE, PS, FS	25

(3) Additional standardized fees are specified in ARM 24.101.403.

History: 37-1-134, 37-67-202, 37-67-322, 37-67-327, MCA; IMP, 37-1-134, 37-1-141, 37-1-319, 37-67-312, 37-67-313, 37-67-322, 37-67-327, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1984 MAR p.

922, Eff. 6/15/84; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1987 MAR p. 1555, Eff. 9/11/87; AMD, 1988 MAR p. 1979, Eff. 9/9/88; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2000 MAR p. 743, Eff. 3/17/00; AMD, 2001 MAR p. 2288, Eff. 11/22/01; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2012 MAR p. 80, Eff. 1/13/12; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16; AMD, 2019 MAR p. 635, Eff. 5/25/19; AMD, 2022 MAR p. 1668, Eff. 8/6/22.

24.183.405 FEE ABATEMENT

(1) The Board of Professional Engineers and Professional Land Surveyors adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2006 MAR p. 1630, Eff. 6/23/06.

24.183.406 BRANCH OFFICE

(1) Each branch office of an engineering firm must have a resident professional engineer in responsible charge.

(2) Each branch office of a surveying firm must have a resident professional land surveyor in responsible charge.

(3) Resident licensees in responsible charge of work performed in the branch office are not required to be physically located at the branch office.

History: 37-1-131, 37-67-202, MCA; IMP, 37-67-101, 37-67-202, 37-67-328, MCA; NEW, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.407 TEACHING OF ADVANCED ENGINEERING SUBJECTS

(1) When teaching advanced engineering subjects in Montana, either the class instructor or the person in responsible charge of the board-approved curriculum shall be a Montana licensed professional engineer and be in responsible charge of class instruction of engineering classes at the junior level and above.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-323, 37-67-324, MCA; NEW, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2016 MAR p. 2424, Eff. 12/24/16; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.408 CERTIFICATE OF AUTHORIZATION

(1) Certificates of authorization shall be renewed annually on or before the date set by ARM 24.101.413 and accompanied by the fee specified by ARM 24.183.404.

(2) The renewal form must identify by name and license number the professional engineer or professional land surveyor in responsible charge and affirm the business entity named on the certificate of authorization is in good standing with the Secretary of State.

(3) A professional engineer or professional land surveyor designated in responsible charge on a certificate of authorization who leaves the employment of a certificate holder shall notify the board office in writing within 45 working days. The certificate holder must designate a replacement professional engineer and/or professional land surveyor in responsible charge and notify the board in writing within 45 working days.

(4) In the event that a certificate holder no longer has a Montana licensee in responsible charge as required by 37-67-328, MCA, the certificate holder shall notify the board office. A certificate holder without a Montana licensed person in responsible charge must not offer or provide engineering or land surveying services in Montana until a Montana licensee in responsible charge has been identified.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-328, MCA; NEW, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2010 MAR p. 530, Eff. 2/26/10; AMD, 2012 MAR p. 80, Eff. 1/13/12; AMD, 2016 MAR p. 2424, Eff. 12/24/16; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.409 AFFILIATION WITH NATIONAL ASSOCIATIONS

(1) The board may affiliate with the National Council of Examiners for Engineering and Surveying (NCEES). Any delegate or delegates to the council appointed by the board shall attend meetings of the council at the expense of the board.

History: 37-67-202, MCA; IMP, 37-67-202, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1994 MAR p. 2935, Eff. 11/11/94; TRANS, from Commerce, 2002 MAR p. 1756.

24.183.410 ENGINEERING SERVICES INCIDENTAL TO THE PRACTICE OF ARCHITECTURE

(1) The performance of engineering services that are incidental to a licensee's work as an architect are those services which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property, and welfare of the public;

(b) are in an area where the licensee has demonstrated competence by adequate education, training, and experience;

(c) arise from, and are directly related to, work performed in the licensed profession;

(d) are substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) comply with all of the laws of Montana relating to the practice of engineering.

(2) Architects performing incidental practice as stated in (1) shall:

(a) perform only that part of the work for which the architect is professionally qualified;

(b) use professional engineers or other appropriately licensed professionals for those portions of the work in which the architect is not qualified;

(c) assume responsibility for compliance with all laws, codes, rules, and ordinances of the state or its political subdivisions pertaining to the documents; and

(d) not hold himself/herself out to be an engineer or as performing engineering services.

History: 37-67-202, MCA; IMP, 37-67-103, MCA; NEW, 2014 MAR p. 2840, Eff. 11/21/14.

24.183.411 TEACHING OF LAND SURVEYING SUBJECTS

(1) When teaching land surveying subjects in Montana, either the class instructor or the person in responsible charge of the board-approved curriculum shall be a Montana licensed professional land surveyor and be in responsible charge of class instruction of land surveying subjects.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-325, 37-67-326, MCA; NEW, 2016 MAR p. 2424, Eff. 12/24/16.

Subchapter 5 Licensing

24.183.501 BOARD-APPROVED CURRICULA – EVALUATION OF EDUCATION CREDITS

(1) In evaluating documentation of education credits, the board shall:

(a) credit the applicant two-thirds of one semester credit for each academic quarter credit earned;

- (b) make publicly available a list of Montana schools which offer land surveying curricula accepted by the board; and
- (c) accept all course credits deemed as transferable to the land surveying curricula of any school approved by the board.

History: 37-67-202, MCA; IMP, 37-67-323, 37-67-324, 37-67-325, 37-67-326, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.502 APPLICATIONS

- (1) Applicants shall complete all experience required for approval of an application prior to submission of an application.
- (2) The board shall accept an application as complete when the applicant submits to the department:
 - (a) board-approved application forms completed in entirety;
 - (b) all required supplemental documentation;
 - (c) all applicable fees paid in full; and
 - (d) for professional engineer and professional land surveyor applicants, the board's law and rule questionnaire completed in entirety.
- (3) Foreign-educated professional engineer applicants shall:
 - (a) arrange for a foreign degree evaluation performed by NCEES to verify whether the foreign degree is equivalent to an ABET-accredited engineering or engineering technology program;
 - (b) arrange for direct delivery of the evaluation from NCEES to the board; and
 - (c) pay all costs of the evaluation and delivery to the board.
- (4) Applicants shall provide explanations of information submitted in an application upon request by the board.
- (5) The board, after due consideration of an application shall:
 - (a) find the applicant eligible to sit for the appropriate exam;
 - (b) request such additional information as may be allowed by law; or
 - (c) advise the applicant of the status of the application.

(6) Applications received after a board-set application deadline will be processed for the following examination.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-104, 37-67-312, 37-67-313, 37-67-322, 37-67-323, 37-67-324, 37-67-325, 37-67-326, 37-67-327, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2010 MAR p. 530, Eff. 2/26/10; AMD, 2011 MAR p. 920, Eff. 5/27/11; AMD, 2012 MAR p. 80, Eff. 1/13/12; AMD, 2016 MAR p. 2424, Eff. 12/24/16; ; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.503 APPLICATION REFERENCES

(1) An applicant shall arrange for the submission of completed reference forms required by 37-67-323, 37-67-324, 37-67-325, and 37-67-326, MCA. The applicant shall provide a reference form to each person listed as a reference on the application. Each person providing a reference for the applicant shall complete and send the reference form directly to the board.

(2) For an application for licensure as a professional engineer, the board must receive five references, three of which must be from licensed professional engineers.

(3) For an application for certification as an engineer intern, the board must receive three references. None is required to be from licensed professional engineers.

(4) For an application for licensure as a professional land surveyor, the board must receive five references, three of which must be from licensed professional land surveyors.

(5) For an application for certification as a land surveyor intern under 37-67-326(1)(a), (b), or (c), MCA, the board must receive three references, one of which must be from a licensed professional land surveyor. This rule also applies to applicants who apply under 37-67-326(1)(d), MCA, but only until October 1, 2022.

(6) The board will accept a reference form only when it is fully completed and bears the signature of the person providing the reference. All completed and signed reference forms must be received before the board will take action on the application.

History: 37-67-202, MCA; IMP, 37-67-322, 37-67-323, 37-67-324, 37-67-325, 37-67-326, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2012 MAR p. 80, Eff. 1/13/12; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.504 EXPIRATION OF APPLICATIONS

(1) An application will expire one year from the date the fee is paid; except applications from exam applicants will expire one year from the date the applicant is approved to take the exam.

(2) If the applicant has not successfully completed all application and examination requirements within this period, and still desires to pursue licensure, the applicant must submit a new, original application, with supporting documents.

(3) Applications in which the applicant does not already possess the experience required for licensure or approval to take an examination are incomplete and will not be accepted.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-322, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 196, Eff. 1/28/97; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2011 MAR p. 920, Eff. 5/27/11; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.505 EXHIBITS OF LAND SURVEYING PROJECTS

(1) An applicant for licensure as a land surveyor shall submit no less than two and no more than four exhibits of land surveying projects demonstrating the diversity of the applicant's experience. A minimum of one exhibit shall be a certificate of survey or subdivision plat that demonstrates the applicant's knowledge of the principles and practices of boundary surveying.

(2) An applicant shall submit a written narrative describing each exhibit and the applicant's responsibilities and professional decision-making processes related to the land surveying project.

(3) Before October 1, 2022, an applicant applying for certification as a land surveyor intern under 37-67-326(1)(d), MCA, must comply with (1) and (2) of this rule.

History: 37-67-202, MCA; IMP, 37-67-326, MCA; NEW, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.506 EQUIVALENCY OF MILITARY EDUCATION, TRAINING, AND EXPERIENCE

(1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a professional engineer or professional land surveyor.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States armed forces;
 - (b) United States reserves;
 - (c) state national guard; or
 - (d) military reserves.
- (3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a professional engineer or professional land surveyor. Satisfactory evidence includes:
- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
 - (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
 - (c) any other documentation as required by the board.
- (4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 1088, Eff. 5/23/14.

24.183.509 EXAMINATION PROCEDURES

- (1) The examinations required are defined in 37-67-327, MCA.
- (2) Applicants for the Fundamentals of Engineering exam may register directly with NCEES without prior approval of the board.
- (3) Applicants for the Fundamentals of Land Surveying, Principles and Practices of Engineering, and Principles and Practices of Land Surveying exams must be approved by the board prior to registering with NCEES to take the examination.
- (4) An applicant who wishes to reschedule an exam other than the Fundamentals of Engineering exam, shall pay an exam reschedule fee specified by ARM 24.183.404.
- (5) A candidate failing to pass any exam, other than the Fundamentals of Engineering exam, may re-take the examination upon payment of the reexamination fee specified by ARM 24.183.404.
- (6) The minimum passing score for the Montana state-specific land surveyor exam shall be 70 percent.

- (7) An examinee who fails the Montana state-specific land surveyor exam may:
- (a) request a diagnostic report on the exam results within 60 days after the date of notification of the failure; and
 - (b) re-take the exam as many as two times within two years of the date on which the applicant is approved to take the exam.
- (8) An applicant who fails the Montana state-specific land surveyor examination three times or whose application expires may reapply two years after the third failure or the application expiration date. Staff may approve the new application.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-327, MCA; Eff. 12/31/72; AMD, Eff. 11/4/74; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2010 MAR p. 530, Eff. 2/26/10; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.510 GRANT AND ISSUE LICENSES AND CERTIFICATES

- (1) When an applicant meets the requirements for licensure or certification by the board, the department shall assign the applicant a license or certificate number and issue the license or certificate. The department shall assign license or certificate numbers consecutively in the order in which the board approved the applications.
- (2) The board shall grant a license authorizing the practice of professional engineering or professional land surveying by a sole proprietorship, firm, partnership, or corporation after approval of an application for certificate of authorization and payment of the license fee.
- (3) Engineer intern certificates will be active for two years and may be renewed for additional two-year periods for a fee prescribed in ARM 24.183.404.
- (4) Land surveyor intern certificates will be active for two years and may be renewed for additional two-year periods for a fee prescribed in ARM 24.183.404.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-312, 37-67-313, 37-67-314, 37-67-323, 37-67-324, 37-67-325, 37-67-326, 37-67-328, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1678, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2012 MAR p. 80, Eff. 1/13/12; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.511 LICENSE SEAL – FORM AND USE

- (1) Individuals licensed as a Professional Engineer, Professional Land Surveyor, or Professional Engineer and Professional Land Surveyor may obtain a seal in the form of

an embossing or rubber stamp or digital seal to be used for purposes of sealing printed drawings, specifications, and other documents prepared by or under the supervision of the licensee.

(2) A licensee's seal must contain the licensee's name, license number (such as #####PE, #####LS, or #####ES), and the applicable legend "Professional Engineer," "Professional Land Surveyor," or "Professional Engineer and Land Surveyor."

(3) Seals of the following commercial designated sizes and types are authorized:

(a) 1 5/8" pocket seal;

(b) 2" desk seal; and

(c) 2" rubber stamp seal.

(d) A digital seal may be reduced in size to one-half of the size of the original seal.

(4) The seal, digital seal, and the signature must be of sufficient print quality to legibly reproduce on all copies or prints of final original drawings to which they are applied.

(5) The title page of all plans and documents filed with public authorities must bear the seal and original signature of the licensee in responsible charge.

(6) Licensees may use a digital seal for stamping plans, specifications, survey documents, and reports.

History: 37-67-202, MCA; IMP, 37-67-314, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.512 APPLICATION FOR EMERITUS STATUS

This rule has been repealed.

History: 37-67-202, MCA; IMP, 37-67-321, MCA; NEW, 1986 MAR p. 1958, Eff. 11/29/86; TRANS, from Commerce, 2002 MAR p. 1756; REP, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.514 NONROUTINE APPLICATIONS

(1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.

24.183.515 APPLICANTS WITH CRIMINAL CONVICTIONS

(1) The board incorporates ARM 24.101.406 by reference with no modifications.

History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.

Subchapter 7 Licensure of Professional Engineers

24.183.701 COMITY FOR PROFESSIONAL ENGINEERS

(1) The board may issue a professional engineer license by comity to any person who submits verification of licensure from any state, territory, or possession of the United States, or any foreign country, and meets the application requirements of this rule. All applicants shall submit to the department the appropriate fee and a completed engineer laws and rules questionnaire.

(2) Applicants with a NCEES record may arrange for NCEES to deliver their current record, updated within two years of the application date, directly to the board office. An applicant with a NCEES record also shall submit a department-approved application form and board-approved experience forms.

(3) Applicants without a NCEES record shall submit to the department the department-approved application form and the following:

- (a) educational transcripts;
- (b) five completed reference forms which meet the requirements of ARM 24.183.503;
- (c) verification of licensure from all states in which the applicant has ever been licensed;
- (d) verification of having passed the Fundamentals of Engineering examination; and
- (e) verification of having passed the Principles and Practices of Engineering examination.

(4) Professional experience claimed by an applicant to meet the provisions of 37-67-312, MCA, regarding a prelicensure deficiency of experience does not have to occur under the supervision of a professional engineer.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-304, 37-67-312, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff.

4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16; ; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.702 CLASSIFICATION OF ENGINEERING EXPERIENCE

(1) Engineering experience for the purpose of application for licensure or certification shall be classified as:

- (a) subprofessional experience;
- (b) preprofessional experience; or
- (c) professional experience.

(2) Engineering experience shall be quantified as follows:

(a) Subprofessional experience shall be credited at one-half the time value of preprofessional experience.

(b) No more than one year of subprofessional experience may be credited as preprofessional experience.

(c) A master's degree in engineering from an institution which offers a board-approved curriculum at the baccalaureate level will be credited as one year of preprofessional experience.

(d) A Ph.D. in engineering from an institution which offers a board-approved curriculum at the baccalaureate level will be credited as two years of preprofessional experience, which shall include a one year credit for any master's degree earned in the course of completing the Ph.D.

History: 37-67-202, MCA; IMP, 37-67-312, 37-67-323, 37-67-324, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1998 MAR p. 534, Eff. 2/27/98; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

Subchapter 8

Licensure of Professional Land Surveyors

24.183.801 COMITY CONSIDERATION FOR PROFESSIONAL LAND SURVEYORS

(1) The board may issue a professional land surveyor license by comity to any person who submits verification of licensure from any state, territory, or possession of the United States, or any foreign country, and meets the application requirements of this

rule. Applicants shall submit a department-approved application form, fee, a completed land surveyors laws and rules questionnaire, and:

- (a) educational transcripts, when applicable;
 - (b) five completed reference forms which meet the requirements of ARM 24.183.503;
 - (c) verification of licensure from all states in which the applicant has ever been licensed;
 - (d) verification of having passed the Fundamentals of Land Surveying examination;
 - (e) verification of having passed the Principles and Practices of Land Surveying examination; and
 - (f) exhibits as required by ARM 24.183.505.
- (2) Applicants with a current NCEES record may arrange for NCEES to deliver their current record directly to the board office.
- (3) Upon approval of the application by the board, the comity applicants shall pass a closed book, state-specific, land surveying examination.
- (4) Professional experience claimed by an applicant to meet the provisions of 37-67-313, MCA, regarding a prelicensure deficiency of experience does not have to occur under the supervision of a professional land surveyor.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-304, 37-67-313, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 645, Eff. 6/17/83; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16; ; AMD, 2019 MAR p. 635, Eff. 5/25/19.

24.183.802 CLASSIFICATION OF LAND SURVEYING EXPERIENCE

- (1) Applicants for land surveyor licensure or certification shall classify experience listed in their applications as progressive land surveying experience and nonprogressive land surveying experience.
- (2) Applicants shall provide documentation of combined office and field experience as follows:
- (a) for applicants seeking licensure under 37-67-325(1)(a), MCA, and are required to obtain at least four years of combined office and field experience, at least 12 months must be office experience, and at least 12 months must be field experience;

(b) for applicants seeking licensure under 37-67-325(1)(b) and (1)(c), MCA, and are required to obtain at least six years of combined office and field experience, at least 18 months must be office experience, and at least 18 months must be field experience;

(c) for applicants seeking licensure under 37-67-325(1)(d), MCA, and are required to obtain at least ten years of combined office and field experience, at least 48 months must be office experience, and at least 48 months must be field experience; and

(d) for applicants seeking certification under 36-67-326(1)(d), MCA, and are required to obtain at least six years of combined office and field experience, at least 29 months must be office experience, and at least 29 months must be field experience.

History: 37-67-202, MCA; IMP, 37-67-313, 37-67-325, 37-67-326, MCA; NEW, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16; ; AMD, 2019 MAR p. 635, Eff. 5/25/19.

Subchapter 10

Corner Recordation Requirements

24.183.1001 FORM OF CORNER RECORDS - INFORMATION TO BE INCLUDED

(1) The board-approved form for public land survey system corners and the board-approved form for non-public land survey system corners for recordation of corners pursuant to the Corner Recordation Act of Montana (Title 70, chapter 22, part 1, MCA) are available on the board web site.

(2) The information to be included in a corner record is as follows:

(a) A description or quotation of those portions of the original or subsequent record which were used in evaluating the corner position.

(i) The original record for corners of government surveys will usually be the general land office field notes.

(ii) The original record for nongovernment surveys will usually be subdivision plats, certificates of survey, or other surveys of record.

(iii) Subsequent record can come from sources such as previously filed corner records, maps and plats, private and public records, etc. Some of the subsequent record, even though not in the public record, but known to have validity by the surveyor, may be quoted and appropriately noted. The record data help support the reestablished corner position because they clearly show on what history the surveyor based the corner position. In some cases, however, the record may be unknown or not pertinent. A statement to that effect, if applicable, must appear on the corner record.

(b) A description of the original or subsequent record evidence found that locates the corner position.

(i) If portions of the found evidence cannot be reconciled with the record, then the disregarded record must be noted, and if possible, an opinion as to its cause narrated.

(ii) If no physical evidence of the original or subsequent monuments and accessories can be found, then the method used to reestablish the lost or obliterated corner (single proportion, fence intersection, parcel evidence, terrain calls, centerline of road, etc.) shall be indicated.

(iii) Measurements used to establish proportioned positions must be shown on the corner recordation form or on a filed certificate of survey or subdivision plat referenced on the recordation form.

(c) A listing of all details about the corner and its location which will help exclusively identify the corner position, including size and type of monument and accessory, how marked if not shown in sketch, and distinguishing topographic calls which help locate the corner. In many cases, instructions on how to find the corner should be included.

(i) For public land survey system corners requiring recordation, sufficient information must be shown on the form to enable subsequent surveyors to verify the corner position identified on the form, and to reestablish the corner position if the monument is obliterated. Ideally, the references will be to at least two identifiable accessories or surveyed dimensions to two survey monuments.

(ii) References or ties to other corners are optional and may be drawn on the face or back of the corner record form, or references to certificate of survey may be made. Separate drawings may be attached to the corner form. If state plane coordinate values for the corner position are shown, then the control upon which they are based should be indicated.

(d) A sketch of the corner to show how a found or set corner is marked or show topography or accessory monuments found or set and their relation to the corner. There is no stipulated format; the sketch could be transcribed field note entries. For corners which were first shown on subdivision plats or on recorded or filed surveys, enough information must be shown so that the corner can be identified.

(e) The surveyor who performed or directed the field work which is depicted on the corner record shall sign and affix the licensee's seal in the certification.

(i) The affixing of the licensee's seal constitutes a certification by the surveyor that the corner record has been prepared in conformance with the Corner Recordation Act of Montana and the rules implementing the Act.

(ii) The employer blank is optional but useful in tracking down original field note data or adjacent record if, in the future, questions arise about the corner. The name and signature of the ground party chief is also optional information on the record form.

(f) For public land survey system corners, the cross index at the bottom of the page must be completed by the surveyor. Only the single township and range index where the corner is filed is to be completed.

(i) For corner records to be filed under the survey of record index, the index information must be filled in as completely as possible by the surveyor and made clear the name and number(s) of the recorded survey and the lot or parcel designation. The corner location diagram must have the pertinent section number filled in and a closed circle indicating the appropriate corner position in the section. This is intended to be an aid in searching the record once it has been filed.

History: 37-67-202, 70-22-107, MCA; IMP, 70-22-107, MCA; NEW, 1983 MAR p. 645, Eff. 6/17/83; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2005 MAR p. 1783, Eff. 9/23/05; AMD, 2014 MAR p. 2840, Eff. 11/21/14.

24.183.1002 REMONUMENTATION AND REHABILITATION OF PUBLIC LAND SURVEY CORNERS AND MONUMENTS

(1) The legal importance of the public land survey corner makes mandatory the construction of lasting monuments and accessories such that the greatest practicable permanence is secured. If it were necessary to alter the condition of a public land survey corner, then preserving the evidence of its original location is paramount. The public land survey corner monument should be carefully reconstructed (rehabilitated) or remonumented by such means as may be appropriate, without destroying the evidence which served to identify its original position.

(a) If a public land survey corner monument were to be rehabilitated only, then the monument shall primarily be restored as closely to its original state as practicable.

(b) If a public land survey corner monument were to be replaced with a more durable monument (remonumentation), then the following steps shall be performed:

(i) recovery and verification of the public land survey corner monument and/or its accessories;

(ii) removal of the public land survey corner monument and replacement with a monument conforming to ARM 24.183.1101;

(iii) placement and memorialization of the replacement monument so that there is only one monumented position. Unless local conditions are prohibitive, the public land

survey corner monument being replaced shall be buried upside down alongside the replacement monument; and

(iv) remonument according to the procedures describing monumentation in the most current edition of the U.S. Bureau of Land Management Manual of Surveying Instructions.

(c) If a reference or accessory to a public land survey corner monument were lost, obliterated, destroyed, or in advanced stages of decay, then the following steps shall be performed:

(i) unless prohibitive, placement of a reference or accessory conforming to material described in the most current edition of the U.S. Bureau of Land Management Manual of Surveying Instructions;

(ii) if practical, placement of references and accessories far enough from the corner monument to remain undisturbed if the corner monument itself were destroyed; and

(iii) marking of references and accessories clearly distinguishing them from the corner monument.

(d) If required by 70-22-104, MCA, a "PLSS Corner Record" form shall be completed pursuant to ARM 24.183.1001 and filed with the county clerk and recorder for the public land survey corner monuments and accessories described in (1)(a), (b), and (c).

History: 37-67-202, 70-22-107, MCA; IMP, 76-3-403, MCA; NEW, 2014 MAR p. 2840, Eff. 11/21/14.

Subchapter 11

Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats

24.183.1101 UNIFORM STANDARDS FOR MONUMENTATION

(1) The following standards govern the monumentation of land surveys:

(a) The terms "monument" and "permanent monument" as used in these regulations mean any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

(b) All metal monuments must be at least one-half inch in diameter and 18 inches in length with a cap not less than one inch in diameter marked in a permanent manner with the license number of the surveyor in charge of the survey and either the name of the surveyor or the company employing the surveyor. Metal monuments marking a

public land survey corner as described in 70-22-101, MCA, must be at least 24 inches long and 5/8 inch in diameter with an appropriately stamped metal cap at least two inches in diameter. A monument marking a public land survey corner may also consist of a cap as described in this rule set firmly in concrete.

(c) Before a subdivision plat or certificate of survey may be filed for record, the surveyor shall confirm the location of as many monuments as, in the surveyor's professional judgment, are necessary to reasonably assure the perpetuation of any corner or boundary established by the survey and to enable other surveyors to reestablish those corners and boundaries and retrace the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey all monuments pertinent to the survey, and the descriptions of these monuments must be sufficient to identify the monuments.

(d) The surveyor shall set all monuments prior to the filing of a plat or certificate of survey, except those monuments that will be disturbed by the installation of improvements, or because of severe weather conditions, may, in the surveyor's judgment, be more appropriately and accurately set after the weather has improved. In these two circumstances the surveyor may set monuments after the survey document is filed if the surveyor certifies on the survey document that the monuments will be set by a specified date. The surveyor shall set monuments, the placement of which has been deferred because of severe weather conditions, within 240 days of the date on which the survey document was filed.

(i) If during the later monumentation of the corners of a plat or certificate of survey that were not monumented before the plat or certificate was filed, the surveyor finds that it is necessary to set a reference monument to a corner, the surveyor shall prepare and file an amended certificate of survey or subdivision plat.

(ii) The failure of the surveyor to set the monuments by the date certified on the record of survey will be deemed a violation of these rules.

(e) The surveyor shall set monuments at the following locations:

(i) at each corner and angle point of all lots, blocks and parcels of land created by the survey;

(ii) at every point of intersection of the outer boundary of a subdivision with an existing road right-of-way line of record or a road right-of-way line created by the survey;

(iii) at every point of curve, point of tangency, point of reversed curve, point of compounded curve and point of intersection on each road right-of-way line created by the survey; and

(iv) at the intersection of a boundary line and a meander line. Meander line angle points need not otherwise be monumented.

(f) If the placement of a required monument at its proper location is physically impractical, the surveyor may set a reference or witness monument. This monument has the same status as other monuments of record if its location is properly shown. If the surveyor relies upon any existing monument in conducting a survey, he or she shall confirm the location of the monument and show and describe it on the resulting certificate of survey or subdivision plat.

(g) If the land surveyor sets a monument that is on, is a part of, and controls a property line, then the surveyor shall file a certificate of survey which complies with the requirements of ARM 24.183.1104. Alternatively, the surveyor may file a corner record in lieu of a certificate of survey pursuant to 70-22-105(2), MCA.

(2) Remonumentation of public land survey corner monuments shall conform to ARM 24.183.1002.

History: 76-3-403, MCA; IMP, 76-3-403, MCA; NEW, Eff. 1/5/74; EMERG, AMD, Eff. 7/1/74; AMD, Eff. 10/5/74; AMD, 1980 MAR p. 2806, Eff. 10/17/80; TRANS, from Dept. of Comm. Affairs, Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2000 MAR p. 462, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 966; AMD, 2014 MAR p. 2840, Eff. 11/21/14.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) A certificate of survey must comply with the following requirements:

(a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.

(b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed on sheet number one of the certificate of survey.

(d) A certificate of survey must show or contain the following information:

(i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the surveyed land is located.

Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";

(ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;

(iii) the date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;

(iv) a north arrow;

(v) a scale bar. The scale of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;

(vi) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;

(A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

(vii) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as a control in the survey;

(viii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(ix) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(x) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

(xi) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xii) at least one record measurement reference for each line and curve, if available, must be shown;

(xiii) a narrative legal description of the parcel(s) surveyed.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the parcel;

(II) If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed;

(III) If the certificate of survey depicts the retracement of one or more parcels shown on a previously filed certificate of survey, plat, or amended plat, the narrative legal description may be the number of the previously filed certificate of survey or the name of the previously filed plat or amended plat, and the parcel number of the parcel(s) previously surveyed;

(IV) If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or

(V) If the narrative legal description does not fall within (1)(d)(xiii)(A)(I), (II), or (III), then the narrative legal description required by this subsection must conform with (1)(d)(xiii)(A)(IV).

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.

(C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.

(xiv) all parcels created or retraced by the certificate of survey designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in (1)(f)(iii). If a parcel created by the certificate of survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification;

(xv) the location, bearings, distances, and curve data of any easement that will be created by reference to the certificate of survey;

(xvi) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act;

(xvii) a memorandum of any oaths administered under 76-3-405, MCA;

(xviii) if applicable, the certificate of the examining land surveyor; and

(xix) space for the clerk and recorder's filing information.

(e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s) citing the applicable exemption in its entirety.

(f) Procedures for divisions of land exempted from review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under 76-3-207, MCA, then, except as provided in (1)(f)(iii) and (iv), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY". The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. The certificate of survey must meet the following requirements:

(i) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it shows or contains a signed and acknowledged recitation of the covenant in its entirety.

(ii) If a certificate of survey invokes the exemption for gift(s) or sale(s) to members of the landowner's immediate family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.

(iii) If a certificate of survey invokes the exemption for the relocation of common boundary line(s):

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a

notation) from the new boundary location or locations (shown, for example, by solid line(s) with a notation);

(B) The certificate of survey must show the boundaries of the area that is being removed from one tract of record and joined with another tract of record. The certificate of survey is not required to establish, but may establish, the exterior boundaries of the resulting tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation. Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and

(C) The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."

(iv) If a certificate of survey invokes the exemption for aggregation of parcels or lots:

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and

(B) The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.

(v) A survey document that modifies lots on a filed plat and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must be entitled "amended plat of [lot, block, and name of subdivision being amended]," but for all other purposes must comply with the requirements for form and descriptive content of certificates of survey contained in this rule.

(vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must contain or be accompanied by a certification by the county treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.

(vii) For purposes of this rule, when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.

(g) The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.

(h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the clerk and recorder. However, a certificate of survey of one of these divisions may be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY."

History: 37-67-202, 76-3-403, 76-3-411, MCA; IMP, 37-67-314, 76-3-101, 76-3-102, 76-3-103, 76-3-104, 76-3-105, 76-3-201, 76-3-203, 76-3-205, 76-3-206, 76-3-207, 76-3-209, 76-3-301, 76-3-302, 76-3-303, 76-3-304, 76-3-305, 76-3-306, 76-3-307, 76-3-401, 76-3-402, 76-3-403, 76-3-404, 76-3-405, 76-3-406, 76-3-411, MCA; NEW, Eff. 1/5/74; EMERG, AMD, Eff. 7/1/74; AMD, Eff. 10/5/74; AMD, Eff. 4/5/76; AMD, 1977 MAR p. 955, Eff. 1/26/77; AMD, 1980 MAR p. 2806, Eff. 10/17/80; TRANS, from Dept. of Comm. Affairs, Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2000 MAR p. 462, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 966; AMD, 2013 MAR p. 673, Eff. 4/26/13; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) A final subdivision plat must comply with the following requirements:

(a) the plat complies with the requirements contained in (2);

(b) the plat includes a Conditions of Approval sheet(s) that complies with the requirements contained in (4); and

(c) the plat is accompanied by documents listed in (5).

(2) A plat must comply with the following requirements:

(a) A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.

(b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in (4)(b), all certifications must be placed on sheet number one of the plat.

(d) A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must meet the filing requirements for final subdivision plats specified in this rule.

(e) A plat must show or contain the following information:

(i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";

(ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;

(iii) a north arrow;

(iv) a scale bar. The scale of the plat must be sufficient to legibly represent the required information and data on the plat;

(v) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;

(A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

(vi) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey;

(vii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(viii) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(ix) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

(x) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English

units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xi) at least one record measurement reference for each line and curve, if available, must be shown;

(xii) all lots and blocks in the subdivision designated by number, the bearings, distances, and curve data of each lot and block, the area of each lot, and the total area of all lots. (Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT";

(xiii) all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public record (if ascertainable); the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;

(xiv) all rights-of-way for streets, alleys, avenues, roads, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;

(xv) except as provided in (2)(e)(xiii) and (xiv), the location, bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;

(xvi) the total area of the subdivision;

(xvii) a narrative legal description of the subdivision.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;

(II) If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;

(III) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or

(IV) If the narrative legal description does not fall within (2)(e)(xvii)(A)(I) or (II), the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

(xviii) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act. The land surveyor's signature and certification do not include certification of the Conditions of Approval sheet(s);

(xix) a memorandum of any oaths administered under 76-3-405, MCA;

(xx) the dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this rule, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;

(xxi) certification by the governing body that the final plat is approved;

(xxii) if applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;

(xxiii) if applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:

(A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.

(B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.

(C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, secure the future construction of any remaining public improvements to be installed.

(xxiv) if applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements;

(xxv) if applicable, the certificate of the examining land surveyor;

(xxvi) space for the clerk and recorder's filing information; and

(xxvii) a minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in (5).

(f) The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.

(3) The following certifications of final plat approval must appear on the plat or on the Conditions of Approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:

(a) A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.

(4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town in which the subdivision is located, and shall contain:

(a) any text and/or graphic representations of requirements by the governing body for final plat approval including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;

(b) a certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and

(c) a notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.

(5) If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

(a) a title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land if other than the subdivider, and any lien holders or claimants of record against the land;

(b) any covenants or deed restrictions relating to the subdivision;

(c) for lots less than 20 acres in size, exclusive of public roadways, a certification from the Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4-104(2), MCA;

(d) if required by the governing body, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA;

(e) a copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed;

(f) unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the Conditions of Approval sheet that states where the plans can be obtained must be filed or recorded;

(g) if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and

(h) any other documents satisfying subdivision application approval required by the governing body to be filed or recorded.

History: 37-67-202, 76-3-403, 76-3-411, MCA; IMP, 37-67-314, 76-3-101, 76-3-102, 76-3-103, 76-3-104, 76-3-105, 76-3-201, 76-3-203, 76-3-205, 76-3-206, 76-3-207, 76-3-209, 76-3-301, 76-3-302, 76-3-303, 76-3-304, 76-3-305, 76-3-306, 76-3-307, 76-3-401, 76-3-402, 76-3-403, 76-3-404, 76-3-405, 76-3-406, 76-3-411, MCA; NEW, Eff. 1/5/74; EMERG, AMD, Eff. 7/1/74; AMD, Eff. 10/5/74; AMD, Eff. 4/5/76; AMD, 1977 MAR p. 959, Eff. 11/26/77; AMD, 1980 MAR p. 2806, Eff. 10/17/80; TRANS, from Dept. of Comm. Affairs, Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2000 MAR p. 1041, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 966; AMD, 2013 MAR p. 673, Eff. 4/26/13; AMD, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.1108 GENERAL PRINCIPLES

- (1) Boundary location and monumentation are considered the practice of land surveying.
- (2) National Geodetic Survey (NGS) is considered authoritative; however, their land surveyors, when acting under government authority, are not required to be a professional land surveyor to perform geodetic control surveys.
- (3) Numerical accuracy, for example, submeter, is not a basis for consideration as to whether a professional land surveyor is required.
- (4) Consideration of what is being mapped is not a basis for determining whether a professional land surveyor is required. Consideration of what the information will be used for should determine whether a professional land surveyor is required. In other words, it is not what is mapped, but the intended use for the data that determines whether or not a professional land surveyor is required.
- (5) Preparation of legal descriptions for transfer of interest in real property is limited to professional land surveyors.
- (6) Anyone may use land surveying methods for their own personal needs on their own property. Examples include assessing probable property lines, topography, and locations of physical features.
- (7) Anyone can use land surveying methods to determine dynamic perimeters such as fire fronts, weather fronts, moving vehicles, etc., for reporting to the public, posting on the Internet, or any other use not prohibited by these guidelines.
- (8) These guidelines do not preclude surveys performed by professional engineers or other legally recognized professions or trades as allowed by state law or administrative rule.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-301, MCA; NEW, 2011 MAR p. 385, Eff. 3/25/11.

24.183.1109 GEOMATICS DEFINITIONS

- (1) "Accuracy" may refer to expressed accuracy or implied accuracy.
 - (a) "Expressed accuracy" means designating a numerical value for spatial accuracy or spatial relationships between objects or data.

(b) "Implied accuracy" means designating things such as equipment, equipment operating procedures, field procedures, analysis, methodologies, etc. to support a spatial accuracy expectation.

(2) "Authoritative" means certifiably accurate, based on the expertise of one who is sanctioned by an established governmental authority.

(a) The following are examples of authoritative activities:

(i) the collection and evaluation of evidence with the intent to determine land boundary locations;

(ii) the collection, analysis, and evaluation of measurements, with the intent to certify the positional relationship of data sets to property boundaries, an elevation datum, or a geodetic control network;

(iii) the collection, analysis, and subsequent publication of positional information related to geodetic control; and

(iv) meeting or offering to meet a contractual spatial accuracy requirement, expressed or implied.

(b) Each of the authoritative activities identified as an example in (2)(a) must be performed by a professional land surveyor, with the following exceptions:

(i) activities that may be performed by a person other than a land surveyor, under the laws of this state or of the United States;

(ii) a geodesist recognized as an expert in the field of measurement science may perform activities described in (2)(a)(iii); and

(iii) a professional engineer may perform activities described in (2)(a)(iv).

(3) "Certification" means a written assurance, warranty, guarantee, or official representation that some act has or has not been done, or some event has occurred, or some legal formality has been complied with. Persons or entities providing certifications do so utilizing specific authority, licensure, or jurisdiction granted by law. Certification requires special knowledge, expertise and/or authority, generally held by a responsible official. The following are examples of certification:

(a) the certification that a professional land surveyor applies to a certificate of survey; and

(b) the certification of the locational accuracy of a Geographic Information System (GIS) product.

(4) "Control" may refer to geodetic control, mapping control, or survey control.

(a) "Geodetic control" means a set of permanently monumented control points, also commonly referred to as "stations," whose coordinates are established by geodetic surveying methodology.

(i) Geodetic control work may only be performed by a professional land surveyor or a federal agency designated to perform such surveys.

(ii) Geodetic control provides a common, consistent, and accurate reference system for establishing coordinates from which supplemental surveying, engineering, and mapping work is performed and to which any geographic data may be tied.

(iii) All National Spatial Data Infrastructure (NSDI) framework data and users' applications data require geodetic control to register spatial data.

(iv) The official national common reference system is designated the National Spatial Reference System (NSRS). Mapping and surveying works may be connected to the NSRS by tying new projects to previously established control points that are part of the NSRS. The fundamental geodetic control for the United States is provided through the National Oceanic and Atmospheric Administration's National Geodetic Survey (NGS) managed by NSRS. Geodetic control includes horizontal and vertical control monuments that are part of the NSRS (the NGS database).

(b) "Mapping control" means any horizontal or vertical coordinate position used to control maps that are not included in the definitions of geodetic or survey control.

(i) Mapping control provides the framework for the spatial placement of nonauthoritative products such as aerial photography, parcel mapping, and Geographic Information Systems (GIS).

(ii) Mapping control may or may not require a professional land surveyor, depending upon the intended use of the products.

(iii) Mapping control is typically, though not necessarily, based on an official reference system or geodetic datum.

(iv) Mapping control may be accomplished with various levels of accuracy and by various methods depending upon the intended use of the products.

(v) Control for georeferencing GIS data, some aerial photography, resource mapping, and inventory mapping may not require supervision by a professional land surveyor.

(vi) Control for aerial photography for use in functions included in the practice of land surveying or engineering surveying (i.e. boundary determination or engineering design) must be performed under the direct supervision of a professional land surveyor.

(c) "Survey control" means any horizontal or vertical coordinate position used to control fixed works of engineering or legal land boundaries. Survey control may only be performed by a professional land surveyor (or a federal agency designated to perform such surveys). Survey control may or may not be based upon any official reference system or geodetic datum. Survey control may be based on assumed coordinates, or geodetic control, or property corners, or Public Land Survey System (PLSS) corners, or randomly selected points. Survey control may be accomplished in various levels of accuracy and by various methods depending upon the use of the finished product. The following are examples of survey control:

- (i) control for construction projects;
- (ii) control for subdivision platting;
- (iii) control for boundary surveys;
- (iv) control created or tied for cadastral surveys for the Bureau of Land Management;
- (v) control created or tied for geodetic ties for plats or surveys;
- (vi) control created or tied for boundary surveys;
- (vii) control created or tied for subdivision design or staking;
- (viii) control created or tied for construction staking; and
- (ix) control created or tied for American Land Title Association surveys.

(5) "Geomatics" means the science and technology dealing with the character and structure of geospatial information, its methods of capture, organization, classification, qualification, analysis, management, display, and dissemination, as well as the infrastructure necessary for the optimal use of this information.

(6) "Photogrammetry and remote sensing" means the art, science, and technology of obtaining reliable information from noncontact imaging and other sensor systems about the earth and its environment, and other physical objects and processes through recording, measuring, analyzing, and representation.

(7) "Spatial data" means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the surface of the earth. This information may be derived from, among other things, remote sensing, mapping, and surveying technologies. Spatial data may also be known as geospatial data.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-301, MCA; NEW, 2011 MAR p. 385, Eff. 3/25/11.

24.183.1110 ACTIVITIES INCLUDED WITHIN SURVEYING PRACTICE

(1) Activities that must be accomplished under the responsible charge of a professional land surveyor, unless specifically exempted in ARM 24.183.1111, include, but are not limited to the following:

(a) The creation of maps and georeferenced databases representing authoritative locations for boundaries, fixed works of engineering, or topography. Examples include:

(i) legal boundary surveys;

(ii) establishing or locating the extent, alignment, and acreage included in rights of way, easements, or other legal interests in real property;

(iii) engineering surveys for designs; and

(iv) as-built surveys.

(b) Preparing or offering to prepare a certificate of survey or plat.

(c) Preparing or offering to prepare legal descriptions or exhibits, and computation of associated acreage of real property boundaries, easements, or other legal interests in real property. Lands acquired for state highways are specifically exempted under 76-3-209, MCA.

(d) Original data acquisition or the resolution of conflicts between multiple data sources, when used for the authoritative location of features within data themes. Examples include:

(i) elevation and hydrography;

(ii) fixed works of engineering;

(iii) private and public boundaries; and

(iv) cadastral information.

(e) Original data acquisition by contract or second parties for authoritative purposes.

(f) Authoritative certification of positional accuracy of maps or measured survey data.

(g) Authoritative adjustments or authoritative interpretation of survey data.

(h) Geographic Information System (GIS)-based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are or may be affected. Examples include:

(i) If the boundary of an administrative district is proposed to run "diagonally across section eight from the Northeast to the Southwest corners of said section" and a GIS-based map showing that line is adopted as the official representation of the boundary, that map must be prepared by, or under the direction of, a professional land surveyor.

(ii) If the boundary of an administrative district is proposed to run "one-half mile northeasterly of and parallel to County Road #4", and a GIS-based map showing that line is adopted as the official representation of the boundary, that map must be prepared by, or under the direction of, a professional land surveyor.

(iii) If a GIS-based map is used only to provide a graphical representation of that boundary, but authoritative determination of the boundary location is dependent upon survey of the described off-set line, preparation of the map need not be accomplished under the responsible charge of a professional land surveyor.

(i) Authoritative interpretation of maps, deeds, or other land title records to document or present evidence to assist in resolving conflicting boundaries.

(j) Acquisition and or verification of field data required to authoritatively position fixed works of engineering or cadastral data relative to control. Examples include:

(i) determination and identification of corner points; and

(ii) authoritative collection or calculation and compilation of geodetic coordinates of Public Land Survey System (PLSS) or any monument controlling a property line.

(k) Analysis, adjustment, or transformation of cadastral data with respect to geodetic control within a GIS, resulting in the certification of positional accuracy.

(l) Providing or offering to provide geodetic control/survey control and some types of mapping control.

(m) Establishing ground control and quality control proofing for remote sensing and photogrammetric products when used for authoritative purpose.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-301, MCA; NEW, 2011 MAR p. 385, Eff. 3/25/11.

24.183.1111 ACTIVITIES EXCLUDED FROM SURVEYING PRACTICE

(1) A distinction must be made between making and documenting original measurements in the creation of survey products, versus the copying, interpretation, or representation of those measurements. Further, a distinction must be made according to the intent, use, or purpose of measurement products to determine an authoritative location, versus the use of those products as a locational reference for planning,

infrastructure management, and general information. The following items are not to be included as activities within the definition of land surveying:

- (a) Items and activities exempted in 60-2-209, MCA and 76-3-209, MCA.
- (b) The creation of any map not used for the authoritative location of property boundaries, the definition of the shape or contour of the earth, or the location of fixed works of engineering. Examples include but are not limited to maps:
 - (i) prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians;
 - (ii) prepared for publication in a gazetteer or atlas as an educational tool or reference publication;
 - (iii) prepared for or by educational institutions for use in the curriculum of any course of study;
 - (iv) produced by any electronic or print media firm as an illustrative guide to the geographic location of any event; and
 - (v) prepared by laypersons for conversational or illustrative purposes, including advertising material and users guides.
- (c) The transcription of previously georeferenced data into a Geographic Information System (GIS) or Land Information System (LIS) by manual or electronic means, and the maintenance thereof, provided the data are clearly not intended to indicate:
 - (i) the authoritative location of property or administrative boundaries, easements, rights of way, or other legal interest in real property;
 - (ii) the definition of the shape or contour of the earth; and
 - (iii) the location of fixed works of engineering.
- (d) The transcription of public record data into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property or administrative boundaries or easements, rights of way, or other legal interests in real property. Examples include:
 - (i) tax maps;
 - (ii) zoning maps; and
 - (iii) school district maps.
- (e) The preparation of any document by any federal government agency that does not define real property boundaries. Examples include:

- (i) civilian and military versions of quadrangle topographic maps;
 - (ii) military maps;
 - (iii) satellite imagery;
 - (iv) aerial photography; and
 - (v) orthoimagery.
- (f) The incorporation or use of documents or databases prepared by any federal agency into a GIS/LIS. Examples include:
- (i) census and demographic data;
 - (ii) quadrangle topographic maps; and
 - (iii) military maps.
- (g) Inventory maps and databases created by any individual or organization, in either hardcopy or electronic form of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management or regulatory responsibility. The distribution of these maps and/or databases outside the organization must contain appropriate metadata clearly indicating that the data is not for design.
- (h) Maps and databases depicting the distribution of natural resources or phenomena. Examples include, but are not limited to, maps prepared by:
- (i) foresters;
 - (ii) geologists;
 - (iii) soil scientists;
 - (iv) geophysicists;
 - (v) biologists;
 - (vi) archeologists; and
 - (vii) historians.
- (i) Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by law. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.
- (j) Engineering surveys performed by a professional engineer as specifically allowed under 37-67-101(4), MCA.

(k) Work ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric power lines, or pipelines.

(l) The preparation of documents that create, assign, reference, or transfer interests in real property by reference to a legal description prepared by a professional land surveyor. Examples include, but are not limited to:

(i) contracts;

(ii) deeds;

(iii) easements;

(iv) certificates of location for mining claims;

(v) rights of way; and

(vi) similar documents, which may incorporate or make reference to:

(A) plats;

(B) certificates of survey;

(C) narrative legal descriptions; or

(D) exhibits prepared by a professional land surveyor.

(m) Operating and publishing data from a continuously operating reference station (CORS).

(n) Original data acquisition by contract or second parties for nonauthoritative purposes when the metadata is clearly labeled "Not for Design."

(o) The acquisition, preparation, processing, manipulation, or certification of final products or original data developed or collected by remote sensing or photogrammetric methods. Control may be derived from existing sources for remote sensing or photogrammetric products, where spatial accuracy is not critical and specific map accuracy standards are not required.

History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-101, 37-67-103, 37-67-301, MCA; NEW, 2011 MAR p. 385, Eff. 3/25/11.

Subchapter 15

Shop Drawings

24.183.1501 Fire Protection Shop Drawings

(1) When fire protection shop drawings are used to finalize engineering concepts:

(a) The licensee (a licensed professional engineer) shall provide the design concept adequate for shop drawing preparation by others. The design concept for sprinkler systems must include as a minimum:

- (i) the density and water flow pressure requirements for the sprinkler system design;
- (ii) the classification of commodities to be protected; and
- (iii) confirmation of adequate water supply.

(b) A properly qualified technician or licensee shall execute the design concept and prepare shop drawings. Shop drawings for sprinkler systems must include as a minimum:

- (i) layout of risers;
- (ii) cross-mains;
- (iii) branch lines;
- (iv) sprinkler heads;
- (v) sizing of pipe;
- (vi) hanger locations; and
- (vii) hydraulic calculations, in accordance with the design concepts.

(2) The licensee should not seal the shop drawings. A letter of review must be prepared indicating the licensee's acceptance of the shop drawings as being in accordance with the design concept. Such review letter may be made available to appropriate jurisdictional authorities and interested parties.

(3) For the purposes of (1) (b) , a "qualified technician" is a person who has at least one of the following qualifications:

- (a) a national institute for certification in engineering technologies (NICET) level III technician certification;
- (b) a NICET level IV technician certification; or
- (c) 20 years experience in the field of automatic sprinkler layout in Montana, with the end of the 20-year experience term terminating February 1, 2002.

(4) A licensee shall not be required to provide design concepts or letter of review for:

- (a) projects exempt from building code requirements for fire protection;
- (b) remodeling involving less than 100 sprinklers to an existing fire protection system, provided there is no change in occupancy classification, storage configuration, or other change in occupancy use that would require design concept modifications; or

(c) routine maintenance, when accomplished in accordance with national fire protection association (NFPA) standard #25, "Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems."

(5) Information regarding the organizations referred to in this rule can be obtained from:

(a) NICET, 1420 King Street, Alexandria, VA 23314, or via the internet at <http://nicet.org>; and

(b) NFPA, PO Box 9101, Quincy, Massachusetts, 02269- 9101, or via the internet at <http://www.nfpa.org/Home/index.asp>.

History: 37-67-202, MCA; IMP, 37-67-101, MCA; NEW, 2002 MAR p. 3152, Eff. 11/15/02.

Subchapter 21

Renewals and Continuing Education

24.183.2102 INACTIVE STATUS AND CONVERSION FROM INACTIVE TO ACTIVE STATUS

(1) A licensee may place the license on inactive status by either indicating on the renewal form that inactive status is desired, or by informing the board office, in writing, that an inactive status is desired. It is the sole responsibility of the inactive licensee to keep the board informed as to any change of address during the period of time the license remains on inactive status. Inactive licensees must pay the renewal fee biennially to maintain license status.

(2) A licensee may not practice any professional engineering or professional land surveying work in the state of Montana while the license is on inactive status.

(3) Upon application and payment of the appropriate fee, the board may convert an inactive status license to active status if the applicant completes each of the following:

(a) signifies to the board, in writing, that upon issuance of the active license, the applicant intends to be an active practitioner in Montana; and

(b) presents satisfactory evidence that the applicant has attended 30 hours of continuing education which comply with the continuing education rules of the board in the two years immediately preceding the request for reactivation.

(4) In the event an inactive licensee does not maintain a current license in any jurisdiction for the three previous years prior to requesting conversion to active status,

the board may require the applicant to take and pass the principles and practice of engineering (PE) examination or the principles and practice of land surveying (PLS) examination.

History: 37-1-319, MCA; IMP, 37-1-319, MCA; NEW, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

24.183.2105 CONTINUING PROFESSIONAL COMPETENCY - CONTINUING EDUCATION

(1) Every licensee shall meet the continuing professional competency (continuing education) requirements of these regulations for professional development and affirm an understanding of their recurring duty to comply with continuing education requirements as a part of renewal.

(2) Terms used in this rule are defined as follows:

(a) "Professional development hour (PDH)" means a contact hour (nominal) of instruction or presentation;

(b) "Continuing education unit (CEU)" means a unit of credit customarily used for continuing education courses. One continuing education unit equals ten hours of class in an approved continuing education course;

(c) "College/unit semester/quarter hour" means credit for courses in ABET approved programs or other related college courses approved in accordance with (5), below;

(d) "Course/activity" means any qualifying course or activity with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to the licensee's field of practice;

(e) "Engineer-surveyor" means a person who is licensed as both an engineer and a land surveyor.

(3) Every licensee is required to obtain 30 PDH units during the two-year renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. PDH units may be earned as follows:

(a) successful completion of college courses;

(b) successful completion of continuing education courses;

(c) successful completion of correspondence, televised, videotaped and other short courses/tutorials;

- (d) presenting or attending qualifying seminars, in-house courses, workshops or professional or technical presentations made at meetings, conventions or conferences;
- (e) teaching or instruction in (a) through (d), above;
- (f) authoring published papers, articles or books;
- (g) active participation in professional or technical societies;
- (h) patents.

(4) The conversion of other units of credit to PDH units is as follows:

- (a) one college or unit semester hour 45 PDH
- (b) one college or unit quarter hour 30 PDH
- (c) one continuing education unit 10 PDH
- (d) one hour of professional development in course work, seminars or professional or technical presentations made at meetings, conventions or conferences
..... 1 PDH
- (e) each published paper, article or book10 PDH
- (f) active participation in professional and technical society (each organization) .2 PDH
- (g) each patent10 PDH
- (h) for teaching apply multiple of two. (Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty.)
- (i) self-study10 PDH

(A maximum of 10 PDH will be allowed per renewal cycle for self-study. Self-study is considered a formatted review of new subject matter or technical information such as video tapes series, Internet courses that do not include a final examination, etc.)

(5) The board has final authority with respect to approval of courses, credit, PDH value for courses and other methods of earning credit.

(a) Credit for college or community college approved courses will be based upon course credit established by the college.

(b) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(c) Credit determination for each published paper, article or book and each patent is the responsibility of the licensee (subject to review as required by the board) .

(d) Credit for active participation in professional and technical societies (limited to two PDH per organization) requires that a licensee serve as an officer and/or actively participate in a committee of the organization. PDH credits are not earned until the end of each year of service is completed.

(6) Licensees shall maintain records and documentation of completed continuing education and make the records available upon board request. Records required include, but are not limited to:

(a) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name and PDH credits earned;

(b) attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

(c) records as maintained by the professional development registry for engineers and surveyors (PDRES) or other similar repositories. These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes.

(7) A licensee may be exempt from the professional development educational requirements for one of the following reasons:

(a) New licensees by way of examination or comity shall be exempt from accruing PDHs for 12 months following licensure, after which 7.5 PDHs are required for each six-month period of licensure until the first renewal period that occurs on or after June 30, 2008;

(b) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the professional development hours required during that year;

(c) Licensees experiencing physical disability, illness or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board;

(d) Licensees currently on inactive status shall be exempt.

(8) The number of PDH units required of engineer-surveyors shall be 30, at least one-third of which shall be obtained in each profession.

(9) The department may randomly audit up to 50 percent of renewed licensees.

(10) Licensees found to be in noncompliance with continuing education requirements may be subject to administrative suspension..

History: 37-1-319, MCA; IMP, 37-1-306, 37-1-319, MCA; NEW, 1997 MAR p. 196, Eff. 1/28/97; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2006 MAR p. 1630, Eff. 6/23/06; AMD, 2006 MAR p. 1633, Eff. 6/23/06; AMD, 2019 MAR p. 635, Eff.

5/25/19; AMD, 2021 MAR p. 1215, Eff. 9/25/21.

Subchapter 22

Unprofessional Conduct

24.183.2202 SAFETY, HEALTH AND WELFARE OF THE PUBLIC PARAMOUNT IN THE PERFORMANCE OF PROFESSIONAL DUTIES

(1) In the performance of professional duties that are within the scope of the licensee's assigned responsibilities, licensees shall recognize their primary obligation is to protect the safety, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the safety, health, property or welfare of the public are endangered, they shall notify their employer of client and such other authority as may be appropriate.

(2) Licensees shall approve and seal those design documents and surveys which are in conformity with accepted engineering and land surveying standards and are safe for public health, property and welfare.

(3) Licensees having direct knowledge of any alleged violation of the laws and rules of professional conduct must report all such allegations to the board.

History: 37-1-319, 37-67-202, MCA; IMP, 37-1-316, 37-67-301, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 903, Eff. 6/24/78; AMD, 1979 MAR p. 1687, Eff. 12/28/79; TRANS, from Dept. of Prof. & Occup. Lic. , Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2006 MAR p. 1630, Eff. 6/23/06.

24.183.2207 UNPROFESSIONAL CONDUCT

(1) In addition to those forms of unprofessional conduct defined in [37-1-316](#), MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 67, MCA:

(a) conviction, including conviction following a plea of nolo contendere of an offense related to the ethical practice of engineering or land surveying, whether a misdemeanor or felony, and whether or not an appeal is pending;

(b) fraud, misrepresentation, deception, or concealment of a material fact in applying for or securing a license or license renewal, or in taking an examination required for licensure. As used herein, "material" means any false or misleading statement or information;

- (c) conduct in the performance of professional duties likely to deceive, defraud, or harm the public;
- (d) making a false or misleading statement regarding the licensee's skill, experience, and scope of responsibility in connection with work for which they are claiming experience and performance of professional duties;
- (e) failing to be objective and truthful in professional reports, statements, and testimony;
- (f) publicly expressing a professional opinion on technical subjects when the opinion is not founded upon adequate knowledge of the facts and competence in the subject matter;
- (g) issuing a statement, criticism, or argument on technical matters which are inspired by or paid for by interested parties, unless the licensee prefaces the comments by explicitly identifying the interested parties on whose behalf they are speaking and by revealing the existence of any interest the licensee may have in the matter;
- (h) allowing the licensee's independent and professional judgment to be influenced in such a way that public safety, health, property, or welfare is endangered;
- (i) approving and/or sealing design documents and surveys which do not conform with accepted engineering and land surveying standards, and which are thus unsafe for public health, property, and welfare;
- (j) affixing a signature or seal to any plans or documents outside the competence of the licensee or not prepared under their responsible charge;
- (k) failing to report professional misconduct and violation of the laws and rules of the board which are directly known to the licensee failing to report;
- (l) failing to disclose known or potential conflicts of interest to a licensee's employers and clients by promptly informing them of any business association, interest, or other circumstances which could influence the licensee's judgment or quality of their services;
- (m) accepting compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed upon by all interested parties;
- (n) soliciting or accepting financial or other valuable consideration, directly or indirectly, from material or equipment suppliers or contractors in exchange for recommending the products of said suppliers or contractors, except with full disclosure;
- (o) soliciting or accepting financial or other valuable consideration such as gratuities, gifts, travel, lodging, loans, entertainment, or other favors, directly or indirectly from

contractors, their agents, or other parties in connection with work by the licensee or for the licensee's employers or clients for which the licensee is responsible;

(p) accepting a fee, contract, or commission for professional services on a "contingency basis," which may compromise the licensee's professional judgment;

(q) participating in decisions, with respect to professional services solicited or provided to a governmental body or organization, on which the licensee serves as a member, advisor, or employee;

(r) soliciting or accepting a professional contract from a governmental body on which a principal or officer of the licensee's employer serves as member, except upon public disclosure of all pertinent facts and circumstances and consent of the appropriate public authority;

(s) knowingly seeking or accepting employment for professional services for work on which another licensee or certificate holder is employed, or contracted to perform without the currently employed or contracted licensee or certificate holder being informed in writing; and

(t) knowingly attempting to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensees or indiscriminately criticizing other licensees' work.

History: 37-1-319, 37-67-202, MCA; IMP, 37-1-316, 37-67-331, 37-67-332, MCA; NEW, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2019 MAR p. 635, Eff. 5/25/19.

Subchapter 24

Complaint Procedures

24.183.2401 SCREENING PANEL

(1) The board screening panel shall consist of three professional engineer board members; one land surveyor board member; and one public board member, as chosen by the presiding officer. The presiding officer may reappoint screening panel members, or replace screening panel members as necessary at the presiding officer's discretion.

History: 37-67-202, MCA; IMP, 37-1-307, MCA; NEW, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2010 MAR p. 530, Eff. 2/26/10.

24.183.2402 ANONYMOUS COMPLAINTS

(1) The board will not accept anonymous complaints.

History: 37-67-202, MCA; IMP, 37-67-202, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1986 MAR p. 1958, Eff. 11/29/86; AMD, 1994 MAR p. 2935, Eff. 11/11/94; AMD, 1997 MAR p. 196, Eff. 1/28/97; AMD, 2002 MAR p. 1326, Eff. 4/26/02; TRANS, from Commerce, 2002 MAR p. 1756; AMD, 2016 MAR p. 2424, Eff. 12/24/16.

CODE OF ETHICS

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.
 - 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.

- 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.
 - 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
 - 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
 - 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
 - 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
 - 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
 3. Engineers shall issue public statements only in an objective and truthful manner.
 - 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
 - 2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
 - 3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested

parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.
 - 1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
 - 2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
 - 3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
 - 4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
 - 5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.
5. Engineers shall avoid deceptive acts.
 - 1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.
 - 2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.
 - 1) Engineers shall acknowledge their errors and shall not distort or alter the facts.
 - 2) Engineers shall advise their clients or employers when they believe a project will not be successful.
 - 3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
 - 4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
 - 5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
2. Engineers shall at all times strive to serve the public interest.
 - 1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
 - 2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
 - 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
 - 4) Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.
3. Engineers shall avoid all conduct or practice that deceives the public.
 - 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
 - 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.
 - 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.

1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.

2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

5. Engineers shall not be influenced in their professional duties by conflicting interests.

1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.

2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

- 1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
 - 2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
 - 3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.
8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.
- 1) Engineers shall conform with state registration laws in the practice of engineering.
 - 2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.
9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.
- 1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
 - 2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
 - 3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
 - 4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
 - 5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses,

reading in the technical literature, and attending professional meetings and seminars.

REFERENCES

**Montana Board of Professional Engineers and Land Surveyors:
Laws/Regulations**

<http://boards.bsd.dli.mt.gov/pel#8?1>

**Montana Code Annotated 2019: Title 2 Chapter 15 Part 17, Board of
Professional Engineers and Professional Land Surveyors**

http://leg.mt.gov/bills/mca/title_0020/chapter_0150/part_0170/sections_index.html

**Montana Code Annotated 2019: Title 37 Chapter 67, Engineers and Land
Surveyors**

http://leg.mt.gov/bills/mca/title_0370/chapter_0670/parts_index.html

**Administrative Rules of Montana (ARM): 24.183 : Board of Professional
Engineers and Professional Land Surveyors**

<http://www.mtrules.org/gateway/ChapterHome.asp?Chapter=24%2E183>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>