

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 183

BOARD OF PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS

NOTE: The Chapter 183 title has been changed from BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS to BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS. The title headings will be corrected as pages are replaced for other reasons.

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Subchapter 1

Organizational Rules

24.183.101 BOARD ORGANIZATION (1) The board of professional engineers and land surveyors hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-67-202, 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.)

Subchapter 2

Procedural Rules

24.183.201 PROCEDURAL RULES (1) The board of professional engineers and land surveyors hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-67-202, 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.)

24.183.202 PUBLIC PARTICIPATION RULES (1) The board of professional engineers and land surveyors hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-67-202, 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.)

Subchapter 3

Definitions

24.183.301 DEFINITION OF RESPONSIBLE CHARGE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS (1) The term

"responsible charge" directly relates to the degree of control a licensee is required to maintain while exercising independent control and direction of engineering or land surveying work and to the decisions which can be made only under the direct supervision of a professional engineer or a professional land surveyor.

(a) The degree of control necessary to be in responsible charge shall be such that the licensee:

(i) personally makes engineering or land surveying decisions, or reviews and approves proposed decisions prior to their implementation, including consideration of alternatives, whenever technical decisions are made. In making engineering or land surveying decisions, the licensee must be physically present or through the use of communication devices, can be available in a reasonable period of time; and

(ii) judges the qualifications of technical specialists and the validity and applicability of their recommendations before such recommendations are incorporated in the work.

(b) To be considered in responsible charge of a project, the professional licensee who signs engineering or land surveying documents must be capable of answering questions asked by equally qualified professionals. These questions would be relevant to the decisions made during the individual's participation in the project and require responses in sufficient detail to leave little question as to the licensee's technical knowledge of the work performed. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the individual in responsible charge made the decisions and possessed sufficient knowledge of the project to make the decisions.

(i) examples of questions to be answered by the engineer could relate to criteria for design, methods of analysis, methods of manufacture and construction, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individual should be able to clearly define the degree of control and how it is exercised within the organization and geographically and to demonstrate that the engineer is answerable within that degree of control.

(ii) examples of questions to be answered by the land surveyor could relate to criteria for design, methods of analysis and conclusions made including, but not limited to, the retracement of government surveys, interpretation and construction of deeds, application of proportion methods and analysis of evidence related to unwritten property rights. The individual should be able to clearly define the degree of control and how it is exercised within the organization and geographically and to demonstrate that the land surveyor is answerable within that degree of control. (History: 37-67-202, MCA; IMP, 37-67-101, MCA; NEW, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756.)

24.183.302 DIRECT SUPERVISION (1) The term "direct supervision" means the licensee, by regular participation, has exercised directing, guiding and restraining power on matters embodied in the plans, designs, and advice involved in the engineering or land surveying work and accepts responsibility for the contents. After-the-fact review or checking of technical submissions does not satisfy the "exemption" provision of 37-67-103(3), MCA. (History: 37-67-202, MCA; IMP, 37-67-103, MCA; NEW, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756.)

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 ten days notice, 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.)

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 transmitted to the Board of Professional Engineers and Professional Land Surveyors. Fees for examinations administered by third-party vendors must be paid directly to the vendor approved by the board. The board assumes no responsibility for loss in transit of such remittances. Applicants not submitting the proper fees will be notified by the department.

(2) In every case, should the board deny the issuance of a certificate and/or license to any applicant, the initial fee deposited shall be retained by the board as an application fee.

(3) Fees are as follows:

| | |
|---|-------|
| (a) Engineer interns (EI) initial application | \$ 25 |
| (b) Land surveyor interns (LSI) initial application | 25 |
| (c) Professional engineers (PE) | |
| (i) Initial application | 50 |
| (ii) Application by comity | 150 |
| (d) Professional land surveyors (PLS) | |
| (i) Initial application | 50 |
| (ii) Reexamination only for Montana law specific exam | 50 |
| (iii) Reschedule fee for Montana law specific exam | 25 |
| (iv) Application by comity which includes Montana law specific exam | 200 |
| (e) Certificate of authorization | |
| (i) Initial application | 60 |
| (ii) Annual renewal fee of certificate of authorization | 25 |
| (iii) Certificate of authorization late renewal | 25 |
| (f) Biennial renewal fees | |
| (i) Professional engineer | 90 |
| (ii) Professional land surveyor | 90 |
| (iii) Dual license as a professional engineer and land surveyor | 110 |

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- (g) Miscellaneous fees
- (i) Emeritus application \$ 25
- (ii) Reactivation from emeritus status 250
- (iii) Reactivation from inactive status 60
- (iv) Reexamination fee for PE, PLS, LSI, EI 25
- (v) Exam reschedule fee for PE, PLS, LSI, EI 25
- (4) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-67-202, 37-67-311, MCA; IMP, 37-1-134, 37-1-141, 37-1-319, 37-67-303, 37-67-311, 37-67-312, 37-67-313, ~~37-67-320~~, 37-67-321, 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.)

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) A branch office of an engineering or land surveying firm is defined as an office established to solicit and/or provide engineering or land surveying services.

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

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

(2) A resident professional engineer is defined as a person holding a valid professional engineering license in Montana and who supervises and is in responsible charge of all engineering work performed in the branch office. The resident professional engineer is not required to be physically located at the branch office.

(3) A resident professional land surveyor is defined as a person holding a valid professional land surveyor license in Montana and who supervises and is in responsible charge of all land surveying work performed in the branch office. The resident professional land surveyor is not required to be physically located at the branch office. (History: 37-1-131, MCA; IMP, 37-67-202, MCA; NEW, 2006 MAR p. 1630, Eff. 6/23/06.)

24.183.407 TEACHING OF ADVANCED ENGINEERING SUBJECTS

(1) The term "teaching of advanced engineering subjects" means engineering class instruction of courses at the junior class level and above within a board approved curriculum.

(2) 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, 37-67-201, MCA; IMP, 37-67-101, MCA; NEW, 2007 MAR p. 1327, Eff. 9/7/07.)

24.183.408 CERTIFICATE OF AUTHORIZATION

(1) Applications received by the department must be on a board approved form and accompanied by the appropriate fees. An application not accompanied by the appropriate fees or not completed in its entirety with all required information shall be returned to the applicant with instructions.

(a) The application must:

(i) designate the Montana licensed professional engineer or the Montana licensed professional land surveyor in responsible charge; and

(ii) include proof that the sole proprietorship, firm, partnership, or corporation is registered with the Montana Secretary of State's office.

(2) Certificates of authorization shall be renewed annually on or before the date set by ARM 24.101.413. The annual renewal form must indicate the name and license number of the professional engineer and/or professional land surveyor in responsible charge and affirm that they are in good standing with the Montana Secretary of State's office and be accompanied by the renewal fee as specified by ARM 24.183.404.

(3) A professional engineer or professional land surveyor in responsible charge who leaves the employment of a sole proprietorship, firm, partnership, or corporation (who has obtained the required certificate of authorization from the board), for whatever reason, must provide written notification to the board office of that fact, within ten working days. The sole proprietorship, firm, partnership, or corporation must provide the board office within ten working days, on a prescribed form, the change of the professional engineer and/or professional land surveyor in responsible charge. Failure to name another professional engineer and/or professional land surveyor in responsible charge within ten working days shall be cause for suspension of the certificate of authorization and cause for revocation. (History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-67-320, MCA; NEW, 2007 MAR p. 1327, Eff. 9/7/07; AMD, 2010 MAR p. 530, Eff. 2/26/10.)

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.)

Subchapter 5

Licensing

24.183.501 APPROVAL OF SCHOOLS (1) Baccalaureate engineering or engineering technology programs accredited by the Accreditation Board for Engineering and Technology (ABET) or equivalent curricula as approved by the board shall meet the educational requirement.

(2) The board will make a list available that shows the Montana schools offering surveying curricula acceptable to the board. All course credits acceptable as transferable to the surveying curricula of any school approved by the board will be acceptable by the board when transfer is accomplished by the applicant. (History: 37-67-202, MCA; IMP, 37-67-306, 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.)

24.183.502 APPLICATIONS (1) Applications received must be on a form provided by the department and accompanied by appropriate fees. An application not accompanied by the appropriate fees or not completed in its entirety with all required information shall be deemed incomplete. Fees will be deposited as received.

(2) Professional engineer and professional land surveyor applicants must complete and submit the board's law and rule questionnaire as part of the application process. Incomplete questionnaires will be returned.

(3) Applications for foreign-educated professional engineer applicants must include a foreign degree evaluation. The applicant must arrange for the evaluation and shall be solely responsible for its cost.

(a) The evaluation must:

(i) be performed by a board-approved foreign degree evaluator;

(ii) be sent directly to the board by the evaluator; and

(iii) indicate whether the foreign degree is equivalent to an engineering or engineering technology program accredited by the Accreditation Board for Engineering and Technology (ABET).

(b) The board maintains a list of approved foreign degree evaluators.

(4) The board, after due consideration of an application and of information pertaining thereto:

(a) will find the applicant eligible to sit for the appropriate exam; or

(b) request the applicant to furnish such additional information as may be necessary; or

(c) advise the applicant of the application's rejection in accordance with provisions of the law.

(5) A rejected applicant may request reconsideration under the section originally applied for, within one year of the date of notification, without additional fees. Additional evidence pertaining to the application must be furnished. However, reconsideration does not take into account experience or education subsequent to the date of application.

(6) An applicant who applies under a different section than that previously submitted shall submit a new complete application accompanied by the appropriate fee.

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

(8) If an application is withdrawn, no refund of the application fee will be made. (History: 37-1-131, 37-67-202, MCA; IMP, 37-1-104, 37-67-303, 37-67-306, 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.)

24.183.503 APPLICATION REFERENCES (1) The applicant shall arrange for the submission of completed reference forms as described in 37-67-305 and/or 37-67-308, MCA. The application must include a reference form, which the applicant shall provide to the references listed on the application. The reference form must be received directly from the applicants' references. For each working engagement listed showing experience, at least one individual shall serve as a reference for that engagement.

(2) No reference will be accepted by the board unless the reference form is fully completed and bears the signature of the reference. Until such time as the required reference forms are received, the board will not take action on the application. If the required reference forms are not received within a period of three months after the date of receipt of the application in the office of the board, the application shall be rejected and the application fees forfeited. (History: 37-67-202, MCA; IMP, 37-67-303, 37-67-305, 37-67-308, 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.)

24.183.504 EXPIRATION OF APPLICATIONS (1) An application will expire one year from the date of receipt. 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 and appropriate fees, with supporting documents. The year begins for the exam applicants on the date the applicant has been approved by the board or designated board staff to take the exam. (History: 37-1-131, 37-67-202, MCA; IMP, 37-67-303, 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.)

Rules 24.183.505 through 24.183.508 reserved

24.183.509 EXAMINATION PROCEDURES (1) The examinations required are defined in 37-67-311, MCA.

(2) Applicants will be notified of the time and place of examination at least 30 days in advance. The applicant will not be allowed to reschedule the examination without approval by board staff or a board designee. An applicant will be required to pay an exam reschedule fee if they wish to reschedule their examination 30 days after receipt of their original exam notification letter.

(3) An applicant who is approved by the board must take the examination at a location in Montana.

(4) A passing grade set by the National Council of Examiners for Engineering and Surveying (NCEES) will be required.

(5) A candidate failing to pass any examination may take that examination again upon payment of the reexamination fee specified by ARM 24.183.404.

(6) The examinee who has failed the Montana law state specific examination may review the examination in the board office within 60 days after being notified of the status. Note taking will be allowed during the time of review, but the notes must be left in the board office.

(7) The Montana law state specific examination will be retained in the examinee's file for a period of one year, and then destroyed. (History: 37-1-131, 37-67-202, MCA; IMP, 37-1-131, 37-1-134, 37-67-311, 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.)

24.183.510 GRANT AND ISSUE LICENSES (1) At the time an applicant has met the requirements for licensure by the board, the applicant will be assigned a license number and issued a license as a professional engineer and/or professional land surveyor as appropriate. These numbers will be issued consecutively in the order in which the applications are approved by the board. The applicant will be advised of the license number in the notice sent to the applicant.

(2) A license authorizing the practice of professional engineering or professional land surveying by a sole proprietorship, firm, partnership, or corporation will be granted by the board and issued by the department after approval of an application for certificate of authorization and payment of the license fee. A wall certificate shall be signed by the presiding officer and the secretary and shall bear the license number of the licensee, sole proprietorship, firm, partnership, or corporation. (History: 37-1-131, 37-67-202, MCA; IMP, 37-67-305, 37-67-306, 37-67-308, 37-67-309, 37-67-320, 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.)

24.183.511 LICENSE SEAL (1) Upon approval of the application by the board, the licensee will be advised that the licensee may secure an official seal. The following seals are authorized:

- (a) pocket seal, the size commercially designated as a 1 5/8 inch seal;
 - (b) a desk seal or rubber stamp seal the size commercially designated as a two inch seal;
 - (c) the seal will bear the licensee's name, license number and the legend "Licensed Professional Engineer", "Licensed Professional Land Surveyor" or "Licensed Professional Engineer and Professional Land Surveyor"; and
 - (d) a seal is allowed to be reduced to one half of its original size.
- (2) For stamping plans, specifications and reports, licensees are authorized to use a facsimile made of their official seal. The title page of all sets of plans and all documents filed with public authorities must bear the seal and original signature.
- (3) Individuals licensed as a "Professional Engineer", "Professional Land Surveyor" or "Professional Engineer and Professional Land Surveyor" may secure an official seal, which must contain the licensee's name, license number, and the applicable legend "Licensed Professional Engineer", "Licensed Professional Land Surveyor", or "Licensed Professional Engineer and Land Surveyor". For the purpose of sealing printed drawings, specifications, and other appropriate documents, each licensee shall obtain an embossing or rubber stamp and an electronic reproduction facsimile of the seal to be used on documents prepared by or under the supervision of a licensee. When required, the seal or electronic reproducible facsimile must be applied on all final original drawings, with the licensee's signature, to produce legible reproduction on all copies or prints made from the drawings.

(4) A signature is:

- (a) an original manual signature of the licensee who applied it; or
- (b) a digital signature, which has an electronic authentication process attached or is logically associated with an electronic document, and must be:
 - (i) unique to the person using it;
 - (ii) capable of verification;
 - (iii) under the sole control of the person using it; and
 - (iv) linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed. (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.)

24.183.512 APPLICATION FOR EMERITUS STATUS (1) A registrant who has terminated his practice of engineering or land surveying may apply for a certificate of emeritus status by submitting to the board a completed application therefore accompanied by the fee established by ARM 24.183.404. (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.)

Subchapter 6 reserved

Subchapter 7

Licensure of Professional Engineers

24.183.701 COMITY FOR PROFESSIONAL ENGINEERS (1) The board may, upon application and payment of proper fee, issue a license as a professional engineer, to any person who submits a national council record issued to the person by proper authority of the National Council of Examiners for Engineering and Surveying (NCEES), or verification of licensure from any state or territory or possession of the United States, or any country, provided that the applicant's qualifications meet the requirements of the law and of the rules established by the board. Such applicants shall, as part of their application, complete and send to the department the standard application form. Applicants who have a current council record must complete only the following sections of the application for registration as a professional engineer:

- (a) general information;
- (b) licensure in other states;
- (c) affidavit; and
- (d) a completed engineer laws and rules questionnaire.

(2) Professional engineers applying by comity without an NCEES record are required to complete all sections of the application. The following are also required:

- (a) transcripts;
- (b) five completed reference forms as required by ARM 24.183.503;
- (c) verification of taking and passing both the fundamentals of engineering (FE) examination and principles and practice of engineering (PPE) examination from the state of original licensure; and

(d) a completed engineer laws and rules questionnaire. (History: 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.)

24.183.702 CLASSIFICATION OF ENGINEERING EXPERIENCE

(1) Engineering experience shall include the following:

(a) Subprofessional experience gained before graduation. This experience shall be credited to the required preprofessional experience at a maximum of one-half the period of experience. Subprofessional experience shall be limited to no more than one year of preprofessional experience. Credible subprofessional experience may include one or more of the following:

(i) engineering experience, supervised; or

(ii) construction experience, supervised.

(b) Preprofessional experience is four years of total progressive experience, all of which is required to be completed at the time of application. Credible experience may include:

(i) approved subprofessional experience;

(ii) progressive experience on engineering projects which indicate the experience is of increasing quality and required greater responsibility;

(iii) experience not obtained in violation of the licensure act;

(iv) experience gained under the supervision of a licensed professional engineer/land surveyor or, if not, an explanation of why the experience should be considered acceptable;

(v) credible teaching experience at an advanced level, post graduate or senior graduate, in a college or university offering an engineering curriculum of four years or more that is approved by the board;

(vi) experience gained in engineering research and design projects by members of an engineering faculty, in an engineering curriculum approved by the board;

(vii) successful completion of graduate study leading to the master's degree in engineering, which has followed a baccalaureate degree in engineering, as credit for one year's experience. If the Ph.D. in engineering is completed under the same conditions, two year's total experience may be credited, including the one year credited for the master's degree, in the two year's total. If the Ph.D. is obtained without the master's degree, two year's experience may be credited. All degrees shall have been obtained from colleges or universities with board approved programs.

(2) Experience must be completed at the time of application. Experience time cannot be counted during periods counted for education.

(3) Experience should be gained under the supervision of a registered professional engineer or, if not, an explanation should be made showing why the experience should be considered acceptable.

(4) Upon request by the board, an applicant must demonstrate knowledge of fundamental principles of engineering design and the practical solution of engineering problems. (History: 37-67-202, MCA; IMP, 37-67-306, 37-67-309, 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.)

Subchapter 8

Licensure of Professional Land Surveyors

24.183.801 COMITY CONSIDERATION FOR PROFESSIONAL LAND SURVEYORS (1) Licensed land surveyors from any state or territory or possession of the United States, or of any country, can apply for comity consideration. Comity applicants shall meet the minimum requirements of the law and rules established by the board. Applicants shall complete and send to the department the standard application and appropriate fees based on one of the following:

(a) Applicants who have a current National Council of Examiners for Engineering and Surveying (NCEES) record must request a copy of their record be sent to the board office. In addition, they must complete only the following sections of the application for licensure as a professional land surveyor:

- (i) general information;
- (ii) licensure in other state;
- (iii) affidavit; and
- (iv) the land surveyor laws and rules questionnaire.

(b) If the comity applicant does not have a NCEES record, the entire application must be completed and submitted. The applicant shall submit the following within three months of the boards' receipt of a completed application:

- (i) college or university transcripts when applicable;
- (ii) five completed reference forms as required by ARM 24.183.503;
- (iii) verification of licensure from state of original licensure which includes verification of passing the fundamentals of land surveying and principles and practices of land surveying examinations; and
- (iv) the land surveyors laws and rules questionnaire.

(2) Once approved by the board, all comity applicants shall pass a closed book, state-specific, land surveying examination. (History: 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.)

24.183.802 CLASSIFICATION OF EXPERIENCE FOR LAND SURVEYING APPLICANTS (1) Land surveying experience shall include the following:

(a) preprofessional experience of four years of total progressive experience, gained under the supervision of a licensed professional land surveyor, all of which is required to be completed at the time of application. Land surveying experience must include a substantial portion spent in charge of work related to property conveyance and/or boundary line determination. Credible experience may include one or more of the following:

- (i) approved preprofessional experience;
- (ii) progressive experience on land surveying projects which indicate the experience is of increasing quality and required greater responsibility;
- (iii) experience not obtained in violation of the licensure act;
- (iv) experience such as aliquot part subdivision of sections, retracing existing boundaries, establishing new boundaries, corner search and reestablishment, researching 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
- (v) credible teaching experience at an advanced level, post graduate or senior graduate, in a college or university offering a land surveying curriculum approved by the board, gained under the supervision of a licensed land surveyor.

(2) Experience time cannot be counted during periods counted for education.

(3) Upon request by the board, land surveyor applicants must demonstrate adequate experience in the field aspects of the profession.

(4) Subprofessional experience shall be credited to the required preprofessional experience at a maximum of one-half the period of experience. Subprofessional experience shall be limited to no more than two years of preprofessional experience. Credible subprofessional experience may include one or more of the following:

- (a) approved subprofessional experience;
- (b) survey experience done under the supervision of a licensed professional land surveyor, including such work as:
 - (i) construction layout of buildings and miscellaneous structures;
 - (ii) surveys necessary to obtain data and location of highways, roads, pipelines, canals, etc.;
 - (iii) construction staking for land modification; and
 - (iv) construction staking for highways, roads, utilities, etc.;
- (c) other construction surveying experience supervised by a licensed professional land surveyor; or

(d) other surveying experience supervised by a licensed professional land surveyor. (History: 37-67-202, MCA; IMP, 37-67-306, 37-67-309, MCA; NEW, 2006 MAR p. 1630, Eff. 6/23/06.)

Subchapter 9 reserved

Subchapter 10

Corner Recordation Requirements

24.183.1001 FORM OF CORNER RECORDS - INFORMATION TO BE INCLUDED (1) The form for recordation of corners pursuant to the Corner Recordation Act of Montana (Title 70, chapter 22, part 1, MCA) has been approved by the board of professional engineers and land surveyors. The approved version of the form for public land survey system was adopted by the board on July 1, 1981, and the approved version of the form for filing under the survey of record index was adopted on February 20, 2004. Blank corner record forms can be obtained from the Montana Association of Registered Land Surveyors, P.O. Box 359, Columbia Falls, Montana 59912, by contacting the association directly at (406) 892-4579, or on the internet at www.marls.com.

(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, parol 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.)

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 that, 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.

(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. (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.)

Rules 24.183.1102 and 24.183.1103 reserved

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) A certificate of survey may not be filed by a county clerk and recorder unless it complies with the following requirements:

(a) A certificate of survey must be legibly drawn with permanent 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, overall to include a 1 1/2 inch margin on the binding side.

(b) One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.

(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 or referred to on one sheet.

(d) A certificate of survey must show or contain on its face or on separate sheets referred to on its face the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

(i) A title or title block including the quarter-section, section, township, range, principal meridian and 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 bear the title "plat," "subdivision" or any title other than "Certificate of Survey."

(ii) The name(s) of the person(s) who commissioned the survey and the names of any adjoining platted subdivisions 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 must be sufficient to legibly represent the required information and data.)

(vi) The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101(1)(c).

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

(B) All monuments found during a retracement 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).

(vii) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.

(viii) Witness and reference monuments and basis of bearings. For purposes of this rule the term "basis of bearings" means the surveyor's statement as to the origin of the bearings shown in the certificate of survey. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the certificate of survey shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.

(ix) The bearings, distances and curve data of all boundary lines. If the parcel surveyed is bounded by an irregular shoreline or a body of water, 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 acreage 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.

(x) Data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For nontangent curves, which must be so labeled, the certificate of survey must include the bearings of radial lines or chord length and bearing.

(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.

(xii) A narrative legal description of the parcel surveyed as follows:

(A) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel.

(B) If the survey depicts the retracement or division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the parcel or lot number of the parcel surveyed.

(C) If the parcel surveyed does not fall within (1)(d)(xii)(A) or (B), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the parcel surveyed.

(D) If the certificate of survey establishes the boundary of a parcel containing one or more interior parcels, the information required by this subsection is the legal description of the encompassing parcel.

(E) 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.

(xiii) Except as provided by (1)(f)(iv), all parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels must be marked "Not included in this survey.") If a parcel created by the 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.

(xiv) The location of any easement that will be created by reference to the certificate of survey.

(xv) The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act.

(xvi) A memorandum of any oaths administered under 76-3-405, MCA.

(xvii) Space for the county clerk and recorder's filing information.

(e) Certificates of survey that do not represent a division of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must bear a statement as to their purpose and must meet applicable requirements of this rule for form and content.

(f) Procedures for divisions of land exempted from public review as subdivisions. Certificates of survey for divisions of land meeting the criteria set out in 76-3-207, MCA, must meet the following requirements:

(i) A certificate of survey of a division of land that would otherwise be a subdivision but that is exempted from subdivision review under 76-3-207, MCA, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and citing the applicable exemption.

(ii) 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 bears a signed and acknowledged recitation of the covenant.

(iii) If a certificate of survey invokes the exemption for gifts and sales to members of the landowner's immediate family, the certificate 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.

(iv) If a certificate of survey invokes the exemption for the relocation of common boundary lines:

(A) The certificate of survey must bear the signatures of all landowners whose parcels will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of or eliminate a boundary line dividing two or more parcels, and must clearly distinguish the prior boundary location (shown, for example, by a dashed or broken line or a notation) from the new boundary (shown, for example, by a solid line or notation);

(B) The certificate of survey must show the boundaries of the area that is being removed from one parcel and joined with another parcel. The certificate of survey may, but is not required to, establish the exterior boundaries of the resulting parcels. 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;

(C) If a boundary line will be completely eliminated, the certificate must establish the boundary of the resulting parcel.

(v) A survey document that modifies lots in a platted and filed subdivision and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d) or (e), MCA, must be entitled "amended plat of the (name of subdivision)," but for all other purposes is to be regarded as a certificate of survey. The document must contain a statement signed by the property owner that approval of the local government body is not required and citing the applicable exemption.

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

(vii) For purposes of (1)(f), 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 parcel under the contract-for-deed.

(g) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the 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 United States government agency are not required to be surveyed, nor must a certificate of survey or subdivision plat showing these divisions be filed with the clerk and recorder. A certificate of survey of one of these divisions may, however, 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 bears a certificate of the surveyor performing the survey citing the applicable exemption from the Act or, when applicable, that the land surveyed is owned by the federal government. (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, 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.)

Rules 24.183.1105 and 24.183.1106 reserved

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) A final subdivision plat may not be approved by the governing body or filed by the county clerk and recorder unless it complies with the following requirements:

(a) Final subdivision plats must be legibly drawn with permanent 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 overall to include a 1 1/2-inch margin on the binding side.

(b) One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.

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

(d) A survey that modifies a filed subdivision 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) or (e), MCA, may not be filed with the county clerk and recorder unless it meets the filing requirements for final subdivision plats specified in this rule.

(2) A final plat submitted for approval must show or contain, on its face or on separate sheets referred to on the plat, the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

(a) A title or title block indicating 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".

(b) The name of the person(s) who commissioned the survey and the name(s) of the owner of the land to be subdivided if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of any adjoining certificates of survey previously filed.

(c) A north arrow.

(d) A scale bar. (The scale must be sufficient to legibly represent the required information and data on the plat.)

(e) The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101(1)(c).

(i) 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 bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.

(ii) All monuments found during a retracement 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).

(f) The location of any section corners or corners of divisions of sections pertinent to the survey.

(g) Witness and reference monuments and basis of bearings. For purposes of this rule the term "basis of bearings" means the surveyor's statement as to the origin of the bearings shown on the plat. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the plat shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.

(h) The bearings, distances and curve data of all boundary lines. If the subdivision is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.

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

(ii) For purposes of these regulations a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the plat must include the bearings of radial lines or chord length and bearing.

(j) 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.

(k) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the subdivision.

(l) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels must be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the bearings and lengths of these excepted boundaries must be shown.)

(m) All streets, alleys, avenues, roads and highways; their widths (if ascertainable) from public records, bearings and area; the width and purpose of all road rights-of-way and all other easements that will be created by the filing of the plat; and the names of all streets, roads and highways.

(n) The location, dimensions and areas of all parks, common areas and other grounds dedicated for public use.

(o) The total acreage of the subdivision.

(p) A narrative legal description of the subdivision as follows:

- (i) If the parcel being subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel.
- (ii) If the plat depicts the division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the number of the parcel or lot affected by the survey.
- (iii) If the parcel surveyed does not fall within (2)(p)(i) or (ii), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.
- (iv) If the plat establishes the boundaries of a subdivision containing one or more interior parcels, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.
- (q) The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act.
- (r) A memorandum of any oaths administered under 76-3-405, MCA.
- (s) The dated, signed and acknowledged consent to the subdivision of the owner of the land being subdivided. For purposes of this rule when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "owner" and "owner of the land" refers to the seller under the contract-for-deed.
- (t) Certification by the governing body that the final subdivision plat is approved.
- (u) Space for the clerk and recorder's filing information.
- (3) The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder for filing:
 - (a) If applicable, the owner's certificate of dedication of streets, parks, playground easements or other public improvements.
 - (b) If applicable, a certificate of the governing body expressly accepting any dedicated land, easements or improvements. An acceptance of a dedication is ineffective without this certification.
 - (c) A 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.
 - (d) Copies of any covenants or deed restrictions relating to the subdivision.
 - (e) If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.

(f) A certificate from the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.

(g) Unless otherwise provided by 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 registered 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 county clerk and recorder, or both.

(h) If applicable, the certificate of the examining land surveyor.

(i) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.

(j) The certification of the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid. (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, 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.)

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, express 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.)

Subchapters 12 through 14 reserved

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.)

Subchapters 16 through 20 reserved

Subchapter 21

Renewals and Continuing Education

24.183.2101 RENEWALS (1) Licenses must be renewed on or before the date set by ARM 24.101.413.

(2) Renewal notices will be sent as specified in ARM 24.101.414. The renewal notice will specify the fees for renewal.

(3) The provisions of ARM 24.101.408 apply. (History: 37-67-202, MCA; IMP, 37-1-141, 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, 1983 MAR p. 1717, Eff. 1/1/84; 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. 1633, Eff. 6/23/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

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 the state of 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.

(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, 37-67-202, 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.)

24.183.2103 LATE RENEWALS (1) Any renewal postmarked after the renewal date specified in ARM 24.101.413 is considered late and subject to the late penalty fee as specified in ARM 24.101.403.

(2) The provisions of ARM 24.101.408 apply. (History: 37-1-134, 37-67-202, MCA; IMP, 37-1-141, 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, 1983 MAR p. 1717, Eff. 1/1/84; 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. 1583, Eff. 7/1/06.)

24.183.2104 EXPIRED CERTIFICATE - RENEWAL GRACE PERIOD
(REPEALED) (History: 37-67-202, MCA; IMP, 37-67-315, 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; TRANS, from Commerce, 2002 MAR p. 1756; REP, 2006 MAR p. 1583, Eff. 7/1/06.)

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 as a condition for licensure 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) "Dual license" 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 book..... 10 PDH
- (f) active participation in professional and technical society (each organization)..... 2 PDH
- (g) each patent..... 10 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-study 10 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) The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee. 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 who list their occupation as "retired" on the board approved renewal form and who further certify that they are no longer receiving any remuneration from providing professional engineering or land surveying services shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned before returning to active practice for each year exempted not to exceed the annual requirement for two years.

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

Subchapter 22

Unprofessional Conduct

24.183.2201 INTRODUCTION (1) In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules are binding on all licensees.

(a) The board requires that all licensees uphold and advance the honor, integrity and dignity of their engineering and surveying professions within the ethical standards encompassed in this chapter.

(b) All licensees are required to have knowledge of the laws and rules of their profession and shall understand them. Such knowledge shall encompass the understanding that the practice of engineering and land surveying is a privilege, as opposed to a right.

(2) All licensees shall insure that their communications with others will be clear, complete, accurate, objective, truthful and timely. This includes the report of errors, omissions, mistakes and their remedy when appropriate. (History: 37-1-319, 37-67-202, MCA; IMP, 37-67-301, 37-67-331, MCA; NEW, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756.)

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.)

24.183.2203 PERFORMANCE OF SERVICES ONLY IN AREAS OF COMPETENCE (1) Licensees shall perform services only in the areas of their competence gained through education or verifiable experience.

(2) Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their responsible charge.

(3) If a question arises as to the competence of a licensee in a specific technical field which cannot otherwise be resolved to the board's satisfaction, the board, upon request of the licensee or on its own volition, may require that the licensee take an appropriate examination. (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.)

24.183.2204 CONFLICTS OF INTEREST (1) Licensees shall act in professional matters for each employer or client as faithful agents, and shall avoid conflicts of interest.

(2) Licensees shall disclose all known or potential conflicts of interest to their employers and clients by promptly informing them of any business association, interest or other circumstances which could influence their judgement or the quality of their services.

(3) Licensees 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 to, and agreed to, by all interested parties.

(4) Licensees shall not solicit or accept financial or other valuable consideration, directly or indirectly, from contractors, their agents or other parties in connection with work for their employers or clients for which the licensee is responsible.

(5) Licensees in public service as members, advisors or employees of a governmental body or department shall not participate in decisions with respect to professional services solicited or provided by them or their organizations.

(6) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority. (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.)

24.183.2205 AVOIDANCE OF IMPROPER SOLICITATION OF PROFESSIONAL EMPLOYMENT (1) Licensees shall not attempt to supplant other licensees or firms from work that is in progress. This prohibition shall not preclude an engineer/surveyor from responding to a client/owner initiated solicitation for a second opinion.

(2) Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other licensees, nor indiscriminately criticize other licensees' work.

(3) The licensee shall accurately represent to a prospective or existing client or employer the licensee's qualifications and scope of the licensee's responsibility in connection with work for which they are claiming experience. (History: 37-1-319, 37-67-202, MCA; IMP, 37-1-316, 37-67-301, 37-67-331, 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, 1990 MAR p. 1701, Eff. 8/31/90; 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.)

24.183.2206 ISSUANCE OF PUBLIC STATEMENTS (1) Public statements may only be issued in an objective and truthful manner.

(a) Licensees shall be objective and truthful in professional reports, statements and testimony.

(b) Licensees may express publicly a professional opinion on technical subjects only when the opinion is founded upon adequate knowledge of the facts and competence in the subject matter.

(c) Licensees shall issue no statements, criticism or arguments on technical matters which are inspired or paid for by interested parties, unless the licensees 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 licensees may have in the matters. (History: 37-67-202, MCA; IMP, 37-1-316, 37-67-301, MCA; NEW, 2001 MAR p. 553, Eff. 4/6/01; TRANS, from Commerce, 2002 MAR p. 1756.)

Subchapter 23 reserved

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 COMPLAINT PROCESS (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and must be filed on the proper complaint form prescribed by the board. The board form shall contain a release of records statement, to be signed by the complainant.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign the complaint a complaint number. The complaint will then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, or the expiration of time for submitting a response, both complaint and response (if any) shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a particular or specific statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel will not act upon anonymous complaints. (History: 37-67-202, MCA; IMP, 37-1-308, 37-1-309, 37-67-331, 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.)