

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION
RULES I through IV pertaining to)
professional land surveyor scope of)
practice activities)

TO: All Concerned Persons

1. On October 14, 2010, the Board of Professional Engineers and Professional Land Surveyors (board) published MAR notice no. 24-183-36 regarding the public hearing on the proposed adoption of the above-stated rules, at page 2288 of the 2010 Montana Administrative Register, issue no. 19.

2. On November 9, 2010, a public hearing was held on the proposed adoption of the above-stated rules in Helena. Several comments were received by the November 17, 2010, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter stated that the proposed rules do not accurately reflect the final intent of the advisory group and objected to the use of "consensus" in the general statement of reasonable necessity.

RESPONSE 1: The board notes that the advisory group included land surveyors, state and local government agencies involved in land surveying issues, geographic information systems developers, and global positioning system users, who provided input and produced the draft document that formed the basis of the new rules.

COMMENT 2: One commenter suggested that the use of the word "land" before "surveyor" in New Rule I (2) is erroneous, because national geodetic surveyors are geodetic surveyors, not land surveyors.

RESPONSE 2: The board concluded that geodetic surveyors are included in the subset of "land surveyors," and is adopting New Rule I exactly as proposed.

COMMENT 3: One commenter suggested the word "preformed" in New Rule II (4)(a)(ii) should be changed to "performed."

RESPONSE 3: The board agrees with the comment and is amending the rule accordingly.

COMMENT 4: One commenter suggested that the language describing when a map need not be prepared under the responsible charge of a professional land surveyor in (1)(h)(iii) of New Rule III should also be included in (1)(h)(i). The commenter suggested repeating the provision to align with Geomatics Advisory Committee guidelines.

RESPONSE 4: The board determined that including the same language after each example is redundant and unnecessary and notes that since the language is included within subsection (h), it refers to all examples presented in (h).

COMMENT 5: One commenter questioned why the board included (1)(k) of New Rule IV in the proposed rules.

RESPONSE 5: The board notes that the text now in (1)(k) was included in an earlier version of the rules. The subsection was renumbered to (11) in accordance with administrative rules formatting standards.

4. The board has adopted NEW RULE I (24.183.1108), NEW RULE III (24.183.1110), and NEW RULE IV (24.183.1111) exactly as proposed.

5. The board has adopted NEW RULE II (24.183.1109) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II GEOMATICS DEFINITIONS (1) through (4)(a)(i) remain as proposed.

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

(iii) through (7) remain as proposed.

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DAVID ELIAS, ES, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 14, 2011