

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.101.413 renewal dates and) ADOPTION, AND REPEAL
requirements, 24.183.301 standards)
of responsible charge, 24.183.404 fee)
schedule, 24.183.406 branch office,)
24.183.407 teaching of advanced)
engineering subjects, 24.183.408)
certificate of authorization,)
24.183.501 board-approved curricula,)
24.183.502, 24.183.503, and)
24.183.504 applications, 24.183.505)
exhibits of land surveying, 24.183.509)
examination procedures, 24.183.510)
grant and issue licenses, 24.183.511)
license seal, 24.183.701 and)
24.183.801 comity, 24.183.702 and)
24.183.802 classification of)
experience, 24.183.1104 and)
24.183.1107 uniform standards,)
24.183.2102 inactive status,)
24.183.2402 complaints, the adoption)
of NEW RULES I teaching of land)
surveying subjects and II definitions,)
and the repeal of ARM 24.183.302)
direct supervision, 24.183.512)
application for emeritus status,)
24.183.2101 renewals, and)
24.183.2103 late renewals)

TO: All Concerned Persons

1. On July 8, 2016, the Department of Labor and Industry (department) and the Board of Professional Engineers and Professional Land Surveyors (board) published MAR Notice No. 24-183-42 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 1117 of the 2016 Montana Administrative Register, Issue No. 13.

2. On July 29, 2016, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the August 5, 2016 deadline.

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

COMMENT 1: One commenter suggested that the board amend ARM 24.183.408 to clarify that it is only the business entity that must be registered and in good standing with the Montana Secretary of State, and that the requirement does not extend to an individual professional engineer or professional land surveyor. The commenter believed that the language in ARM 24.183.408 is not clear on this point.

RESPONSE 1: The board agrees with the comment and is amending (2) accordingly.

COMMENT 2: One commenter noted that in the proposed amendment to ARM 24.183.1104, the term "grid distances" in (1)(d)(xi) is plural, while the term "ground distance" is singular. The commenter suggests that both terms be plural.

RESPONSE 2: The board agrees and is amending the rule accordingly.

COMMENT 3: A commenter pointed out that in the proposed amendment to ARM 24.183.1107, the term "grid distances" in (2)(e)(x) is plural, while the term "ground distance" is singular. The commenter suggests that both be plural.

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

COMMENT 4: Five commenters stated that (3)(b)(i) of NEW RULE II (board-approved curricula for land surveying applicants) does not specify three credits of survey drafting as part of the six credits of drafting. The commenters noted that the three credits of survey drafting is a required part of the land surveying curriculum approved by the board in 2014.

RESPONSE 4: The board acknowledges the concerns, but notes that the notice provided to the public is not sufficient to allow the board to add the suggested language in the final notice of adoption. Because the language being relocated from ARM 24.183.501(2) did not include three credits of survey drafting as part of the drafting requirement, the public was not given adequate notice and opportunity to comment on the change. However, the board will consider initiating new rulemaking to address the comments and omission.

COMMENT 5: One commenter asked the board to amend the last paragraph of the reasonable necessity statement for NEW RULE II to remove "and could be taught by an engineer," and offered amended language. The commenter stated that (5) was not intended to specify who may teach these non-progressive land survey courses, but only to clarify that they may be taught by someone other than a licensed land surveyor.

RESPONSE 5: The board acknowledges the concerns, but is unable to amend the reasonable necessity statement in the final notice. To make a substantive change to the statement would require reissuing the proposal notice.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.183.301, 24.183.404, 24.183.406, 24.183.407, 24.183.501, 24.183.502, 24.183.503, 24.183.504, 24.183.505, 24.183.509, 24.183.510, 24.183.511, 24.183.701, 24.183.702, 24.183.801, 24.183.802, 24.183.2102, and 24.183.2402 exactly as proposed.

6. The board has adopted NEW RULES I (24.183.411) and II (24.183.303) exactly as proposed.

7. The board has repealed ARM 24.183.302, 24.183.512, 24.183.2101, and 24.183.2103 exactly as proposed.

8. The board has amended ARM 24.183.408, 24.183.1104, and 24.183.1107 with the following changes, stricken matter interlined, new matter underlined:

24.183.408 CERTIFICATE OF AUTHORIZATION (1) remains as proposed.

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

(3) remains as proposed.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) through (1)(d)(x) remain as proposed.

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

(xii) through (1)(h) remain as proposed.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) through (2)(e)(ix) remain as proposed.

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

(xi) through (5) remain as proposed.

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
BYRON STAHLY, PROFESSIONAL
ENGINEER, PRESIDING OFFICER

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 12, 2016