



Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

Ethics and Professional Practice Guidance Document



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TABLE OF CONTENTS

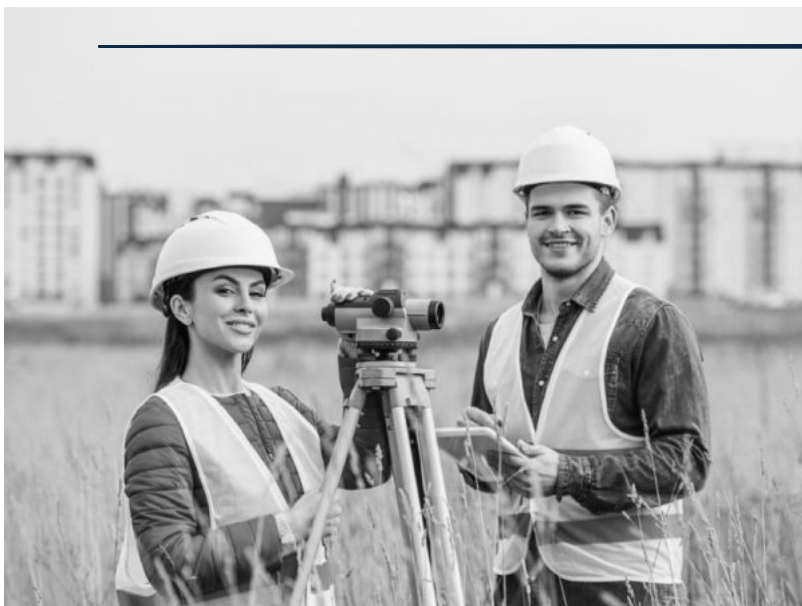
CONTINUING PROFESSIONAL DEVELOPMENT	4
BOARD TO AUDIT CONTINUING PROFESSIONAL DEVELOPMENT	4
BOARD TO WAIVE CPD AUDIT FOR THOSE WHO CHOOSE TO RETIRE	4
CPD CARRY-FORWARD FOR NEW LICENSEES.....	4
BOARD GRANTS PROFESSIONAL DEVELOPMENT HOURS (PDH’S) FOR CFedS PROGRAM.....	4
BOARD GUIDANCE on CFedS COMPLETION	5
MATERIAL DISCREPANCY	5
IN LAND SURVEYING, WHAT IS A “MATERIAL DISCREPANCY”?	5
BOARD AMENDS 2004 OPINION ON WHAT IS A “MATERIAL DISCREPANCY” IN LAND SURVEYING	6
BOARD ISSUES OPINION ON BUSINESS ENTITY AND INDIVIDUAL RESPONSIBILITY FOR PAST WORK.....	6
MATERIAL DISCREPANCY RELATED TO AN EXPIRED OR RETIRED LICENSEE	6
QUALIFICATIONS BASED SELECTIONS	7
RESPONSIBLE CHARGE	7
BOARD POSITION PAPER ON REVIEW OF WORK BY OTHERS	7
BOARD OPINION ON SUPERVISION, DIRECTION AND CONTROL	10
BOARD REVISES WHITE PAPER ON RESPONSIBLE CHARGE	11
WHAT IS THIS “RESPONSIBLE CHARGE” THING?	14
SEALS AND STAMPING	15
DIGITAL SIGNATURES	15
YOU ARE SOLELY RESPONSIBLE FOR WHAT YOU STAMP.....	16
PEs AND PLS MUST SEAL LEGAL DESCRIPTIONS	16
“PLAN STAMPING” A VIOLATION.....	16
PRELIMINARY DOCUMENTS MUST BE SEALED	17
REVISED PLANS MUST BE SIGNED AND SEALED AND DATED	17
STAMPING PRACTICES SOME QUESTIONS, SOME CONCERNS AND A FEW ANSWERS.	19

ABOUT

The purpose of this document is to promote consistency, transparency, and fairness in the administration of the Board's regulatory responsibilities. It is intended to help licensees, applicants, and members of the public understand how the Board generally interprets and applies the statutes and administrative rules within its jurisdiction.

This document does not have the force or effect of law, and it does not establish new rights, obligations, or defenses beyond those contained in applicable statutes and rules. In the event of any conflict between this guidance and Idaho law, the statutes and rules control. Because each licensing matter may present unique facts or circumstances, the Board retains the discretion to evaluate situations on a case-by-case basis.

This document is provided solely for informational purposes under the Idaho Public Records Law, which requires the Board's deliberative materials to be publicly accessible. It is not legal advice, nor should it be relied upon as a substitute for consulting the governing law or seeking assistance from qualified legal counsel. Licensees and applicants are strongly encouraged to obtain independent legal advice regarding how Idaho law applies to their specific facts, circumstances, or concerns.



CONTINUING PROFESSIONAL DEVELOPMENT

BOARD TO AUDIT CONTINUING PROFESSIONAL DEVELOPMENT

Beginning in 1999, Professional Land Surveyors in Idaho were required to comply with continuing professional development rules as a condition of license renewal. In 2009, Professional Engineers were also required to comply. The Board is continuously auditing compliance by randomly selecting five percent of those licensed each year. The Board has discovered what it considers to be serious deficiencies in the record keeping and compliance with requirements of the Administrative Rules by a significant number of professional license holders. The Board will act against those found to be out of compliance with the requirements and all professional license holders should be aware that this will continue to be monitored by the Board.

Approved: 11/2007, NB40 Updated 06/10/2020, 07/10/2025

BOARD TO WAIVE CPD AUDIT FOR THOSE WHO CHOOSE TO RETIRE

The Board voted to waive an audit of continuing professional development if a licensee chooses to retire during the period for which they may or are being audited unless there is a disciplinary matter pending or in progress.

Approved: 11/2011, NB48, 07/10/2025

CPD CARRY-FORWARD FOR NEW LICENSEES

In response to an inquiry, the Board has voted to allow licensees to carry-forward up to 30 Professional Development Hours earned during the renewal biennium in which they are initially licensed, even though they are exempt from the requirement to comply with the Continuing Professional Development rules until their first renewal.

Approved: 11/2010, NB46, 07/10/2025

BOARD GRANTS PROFESSIONAL DEVELOPMENT HOURS (PDH'S) FOR CFedS PROGRAM

The Board determined the Certified Federal Surveyors (CFedS) Program, which is jointly administered by the Department of the Interior's Bureau of Land Management and the National Society of Professional Surveyors (NSPS), is PDH-approved. The program has seven courses and a final examination. The Board grants fifteen (15) PDH's for each of the seven courses, and an additional 75 PDH's for passing the examination.

Approved: 12/2009, NB44. Updated 06/10/2020, 07/10/2025

BOARD GUIDANCE on CFedS COMPLETION

The Certified Federal Surveyor course is an in-depth program relating to the Public Lands Survey System. Candidates must pass exams in seven individual modules to be eligible for the final examination. The modules are:

1. **CFedS I** Records Investigation, History of the PLSS, Administrative Procedures, Indian Land Law and Cultural Awareness
2. **CFedS II** Federal Boundary Law and Title Examination
3. **CFedS III** Survey Evidence Analysis
4. **CFedS IV** Restoration of Lost Corners
5. **CFedS V** Introduction to Water Boundaries
6. **CFedS VI** Subdivision of Sections
7. **CFedS VII** Federal Boundary Standards and Business Practices

The Board determined that successful completion of the CFedS program meets the rule requirement for a Public Lands Survey System course. This will fulfill four (4) semester hours of the 30 required surveying-specific credits for applicants holding related four-year degrees.

Approved 6/6/2004, NB 35. Updated 06/10/2020, 07/10/2025

MATERIAL DISCREPANCY

IN LAND SURVEYING, WHAT IS A “MATERIAL DISCREPANCY”?

The statutes of Recording of Surveys requires a survey be recorded if it “Discloses a material discrepancy with previous surveys of record” or if it “Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners.” A P.L.S. asked the Board “What amount of discrepancy or variation would trigger the licensee to file a Record of Survey?” In answering, the Board relied upon Idaho Code section 55-1911, which states:

“Error of closure. Any survey of land involving property boundaries including, but not limited to, public land survey lines, shall be conducted in such a manner to produce an unadjusted mathematical error of closure of each area bounded by the property lines with the survey of not more than one (1) part in five thousand (5,000).”

The Board concluded that if a survey reveals a discrepancy with a previous survey of record which is not in excess of one part in five thousand, then the surveyor should not consider that he has found a material discrepancy and thus would not be required to file a Record of Survey.

Approved 05/2004, NB 35. Updated 06/10/2020, 07/10/2025

BOARD AMENDS 2004 OPINION ON WHAT IS A “MATERIAL DISCREPANCY” IN LAND SURVEYING

The statutes of recording of surveys requires that a survey be recorded if it “discloses a material discrepancy with previous surveys of record” or if it “produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners.” The 2004 opinion is insufficient as it references only error of closure. The Board is of the opinion that a material discrepancy should demonstrate a discrepancy that makes a difference in either the pedigree of the corner such as with a different cap, or a different position of a corner that may adversely affect landowner’s boundaries for property, lease areas, or easements.

Approved 06/10/2019, NB 63, 07/10/2025

BOARD ISSUES OPINION ON BUSINESS ENTITY AND INDIVIDUAL RESPONSIBILITY FOR PAST WORK

In response to an inquiry, the Board expressed its opinion that when a material error, discrepancy or omission is found in past work performed by an individual who worked for a business entity, both the business entity and the individual are responsible for addressing the problem. The Board noted that Idaho Code § 54-1235 states, in part “No business entity shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in this chapter, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such business entity.” The Board also noted that in most situations, the business entity has the records and history of the project, and the individual has the personal recollection of involvement.

Approved 05/2000, NB30, Amended 09/2019, NB64, 07/10/2025

MATERIAL DISCREPANCY RELATED TO AN EXPIRED OR RETIRED LICENSEE

In response to an inquiry, the Board expressed its opinion that when a “simple, obvious error” in the work of an expired or retired licensee is found, and it represents a material discrepancy, error, or omission in past work performed by an individual, the individual is responsible to address the problem, but cannot unless the license is renewed or reinstated to active practice. The Board noted that given the fact that the individual is precluded by law from practicing on an expired or retired license, the licensee who discovers the error should notify the expired or retired licensee, if possible, and note the error on any future work done.

Approved: 09/2019, NB 64, 07/10/2025

QUALIFICATIONS BASED SELECTIONS

For questions about Qualifications Based Selection (QBS), please refer to the Qualifications Base Selection Facilitator Council. Additional information can be found online at <https://www.qbsofidaho.com/>.

RESPONSIBLE CHARGE

BOARD POSITION PAPER ON REVIEW OF WORK BY OTHERS

The following has been adopted by the Board as a Position Paper on the issue of review of work done by others.

On numerous occasions the Board has been asked to express their opinion regarding specific situations in which a professional engineer or a professional land surveyor has been asked to review the work of another license holder. The Board believes that a general discussion of the issue might serve the public and the license holders to better understand the ethical and legal circumstances which come to bear in such situations.

It is the Board opinion that the review of the design documents by another professional is a reasonable and prudent option open to the client. While not always warranted, the review of the documents as to concept, content, completeness and reasonableness by another professional provides the engineer and the client with a degree of assurance that design documents comply with industry standards. This type of review can be performed under various titles such as “Value Engineering” or “Peer Review”. While the Board considers such reviews as legitimate undertakings of a design professional, the manner in which such a review is performed raises several legal and ethical considerations of which both the reviewing and reviewed professional must be aware.

Comments, particularly critical comments, regarding the initial design generally fall into two categories. Those categories are areas in which there is a difference of opinion between the original design and the review engineer regarding best engineering practice, and those areas where, in the opinion of the reviewing engineer there is a material discrepancy or inaccuracy which must be corrected by the design professional. Addressing first the condition where the design documents are not in violation of currently accepted codes or standard practices, but in which the reviewing engineer believes an alternative approach is superior, the reviewing engineer must make clear that he is presenting opinions regarding what is the best engineering solution for the client and that he is not claiming that the original design documents are in error or unsatisfactory according to current practice. In a review conducted under this circumstance, the reviewing engineer should clearly state recommended modifications to the documents, his or her reason for recommending that such changes are warranted, as well as mitigating circumstances which he feels may have been considered by the original design engineer in establishing the system presented in the original documents.

Following this initial comment, the reviewing engineer should make available to the design engineer all comments and correspondence regarding his recommendations to the client along with

supporting charts, documents and computations that he utilized to establish his recommendations. Following this presentation of information to the client and to the design engineer, the reviewing engineer should give the design engineer the opportunity to respond to all comments presented in his report. Upon receipt of the design engineer's response, the reviewing engineer should provide a summary outlining, to the best of his or her knowledge, arguments presented by both parties, with comments regarding the perceived relative merits of each argument. The original design engineer should be invited to do so likewise.

The purpose of this process is to provide the client with clear and concise information regarding differences of opinion between the design professionals.

In those instances where the reviewing engineer discovers a material discrepancy or inaccuracies, the Rules of Professional Responsibility apply. IDAPA 24.32.01.200 contains several sections related to the issue. The first of these is Rule 200.02.d, Obligation to Communicate Discovery of Discrepancy, which states:

“Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a licensee or certificate holder, during the course of the licensee's work, discovers a material discrepancy, error, or omission in the work of another licensee or certificate holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the licensee or certificate holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The licensee or certificate holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about the licensee's work raised by another licensee or certificate holder. In the event a response is not received within twenty (20) calendar days, the discoverer must notify the licensee or certificate holder in writing, who has another twenty (20) calendar days to respond. Failure to respond (with supportable evidence) on the part of the licensee or certificate holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the licensee or certificate holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) calendar days. A licensee or certificate holder is exempt from this requirement if their client is an attorney, and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply.”

While the determination of what constitutes a “material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public” is left to the judgement of the discoverer, this section is relatively unambiguous, and quite clearly identifies the responsibilities of the discoverer and the alleged maker of a discrepancy. Communication between the professionals involved may lead one or the other or both to the conclusion that no material discrepancy, error or omission exists, but rather a professional difference of opinion.

Such situations arise and should not require Board involvement to resolve. The Board has issued disciplinary Orders regarding this rule following Administrative Hearings and clearly believes that this is a serious obligation of its license holders.

Following Administrative Hearings, the Board has issued disciplinary Orders in the past which found the failure on the part of a license holder to discuss alleged errors on the part of another license holder constituted indiscriminate criticism. This rule is not intended to infringe on the right to free speech of license holders. It does not prohibit criticism; it just makes indiscriminate public criticism a violation of the Rules of Professional Responsibility. It provides license holders with the opportunity to make the Board aware of possible wrongdoing by a license holder of the Board.

The third section of the Rules of Professional Responsibility which deal with review of work by others involves Rule 200.05.c, Assignment on Which Others Are Employed. It states:

“A licensee or certificate holder may not knowingly seek or accept employment for professional services for an assignment that another licensee or certificate holder is employed or contracted to perform without the currently employed or contracted entity being informed in writing.”

Licensees often believe that when they are hired to review the work of another license holder they may be in violation of this rule. The Board is of the opinion that it is not a violation of this rule to review the work of another to provide a “second opinion.” However, the obligation to notify the alleged maker of a discrepancy becomes paramount, as does the obligation to refrain from indiscriminate public criticism.

Nothing in the Rules of Professional Responsibility or the statutes are intended to prohibit or inhibit the legitimate review of the work of a professional by employees of regulatory agencies or persons employed to conduct a “peer review” or perform “Value Engineering.”

An issue was brought to the attention of the Board in which “Engineer B” was hired to review the work of “Engineer A”. Engineer A expressed a concern that Engineer B could only provide an unbiased review of the work if Engineer B made it clear from the beginning that Engineer B would not be eligible to perform any work on the project, should Engineer B’s review result in the owner of the project seeking professional services from another engineer on work previously done by Engineer A. The Board concurs with Engineer A in this scenario, since Engineer B would be suspected of being critical of Engineer A to secure work on the project unless Engineer B removes himself or herself from the potential of being hired for subsequent work on that project. Without such removal, the perception, if not the reality of a conflict of interest would arise.

The final situation dealing with this situation is one in which the professional reviews the work of an unlicensed person. Idaho Code §54-1215(3)(d) states:

“The seal and signature shall be used by licensees only when the work being stamped was under the licensee’s responsible charge.”

Idaho Code §54-1202(15) defines “responsible charge” as:

“ . . . the control and direction of the engineering work, or the control and direction of land surveying work, requiring initiative, professional skill, independent judgment and professional knowledge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and

correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge.”

The Board has made clear in past articles in News Bulletins, and in Orders resulting from Administrative Hearings, that simple review of the work done previously by an unlicensed person is a violation of Idaho Code and Administrative Rule, because simple review does not constitute responsible charge as defined in Idaho Code.

There are, however, circumstances in which a professional might review the work of an unlicensed person legitimately. One instance is when a professional engineer prepares performance specifications for an end product to avoid proprietary specifications. In this circumstance, typically, the successful bidder, who may or may not be licensed, prepares “shop drawings” for review by the professional engineer who prepared the performance specifications. The review by the professional engineer is performed to determine whether the intent of the performance specifications has been met.

The Board has been asked whether a professional engineer can review the work of an unlicensed person on a project in which the professional engineer has not been in responsible charge of the work, and then sign, seal and date a letter attesting to the accuracy or acceptability of the work. This letter is then intended to accompany the work of the unlicensed person. Idaho Code § 54-1215(3) states, in pertinent part:

“It shall be unlawful for any person to affix or to permit his seal and signature to be affixed to any documents . . . for the purpose of aiding or abetting any other person to evade or attempt to evade any portion of this chapter.”

Further, Rule 200.03.b, Aiding and Abetting an Unlicensed Person of the Rules of Professional Responsibility states:

“A licensee or certificate holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying.”

Unless there were unusual circumstances surrounding this situation, the Board would likely consider this a violation of both Idaho Code and Administrative Rule.

Approved 12/2001, NB 32 Updated 06/10/2020, 07/10/2025

BOARD OPINION ON SUPERVISION, DIRECTION AND CONTROL

The Board received an inquiry regarding the need for physical presence of a license holder to provide direction and control of an exempt employee or subordinate. The Board concluded that supervision and direction and control do not relate to physical proximity, but to involvement of the professional in responsible charge in the supervision of their unlicensed employees or subordinates. Regardless of the physical location, the law requires that the professional be in responsible charge of the work as defined in Idaho Code.

Approved 05/2004, NB 35, 07/10/2025

BOARD REVISES WHITE PAPER ON RESPONSIBLE CHARGE

At its June 2005 meeting, the Board adopted some revisions to its previously adopted White Paper on Responsible Charge. Below is the entire document as adopted.

"RESPONSIBLE CHARGE" AS APPLIED TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS INTRODUCTION:

In response to the many inquiries and questions that arise regarding the term "responsible charge", the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors has elected to issue this "white paper" as it applies to our license holders. In accomplishing this, the subject has been restricted to the Idaho Laws and Rules pertaining to the Practice of the Professions of Engineering and Land Surveying as of July 1, 2005.

DEFINITIONS AND SUPPORTING STATUTES:

The definition of "responsible charge" for professional engineers and professional land surveyors is found in Title 54, Chapter 12, Section 54-1202 (15) and is as follows:

Responsible Charge. "Responsible charge" means the control and direction of engineering work, or the control and direction of land surveying work, requiring initiative, professional skill, independent judgment and professional knowledge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge.

Other references in Title 54, Chapter 12 of the Idaho Code referring to the term "responsible charge" may be found in Idaho Code Sections 54-1202(11) & (12), 54-1204, 54-1215(3c) & (3d), 54-1223, 54-1229 and 54-1235(4) & (5). Idaho Code Section 54-1204 refers to qualifications of members of the board and will not be restated here. Idaho Code Section 54-1235(4) & (5) deals with practice by business entities and defines who shall be and may not be the designated individual in "responsible charge" of professional engineering or professional land surveying for the business entity and will not be restated here. Idaho Code Sections 54-1202(11) & (12) and 54-1215(3c) & (3d) are as follows:

54-1202. Definitions.

(11) Professional Engineering and Practice of Professional Engineering. The terms "professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, design coordination, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way, represents himself to be a professional engineer or through the use of some other title implies that he is a professional

engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

54-1202

(12) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying services using sciences such as mathematics, geodesy and photogrammetry and involving:

- (i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and
- (ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:
 - 1. Determining by measurement the configuration or contour of the earth's surface or the position of any fixed objects;
 - 2. Performing geodetic surveys to determine the size and shape of the earth or the position of any point on the earth;
 - 3. Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;
 - 4. Making any survey for a division or subdivision or a consolidation of any tracts of land;
 - 5. Locating or laying out of alignments, positions or elevations in the field for the construction of fixed works;
 - 6. Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;
 - 7. Certifying elevation information;
 - 8. Preparing narrative land descriptions; or
 - 9. Creating, preparing or modifying electronic or other data necessary for the performance of activities in subparagraphs 1. through 8. of this paragraph.

(b) "Professional land surveying" and "practice of professional land surveying" shall not mean:

- (i) Mapping or geographic information system work that is for nonauthoritative boundaries and nonauthoritative elevations;
- (ii) Construction survey work that is unrelated to establishing vertical and horizontal project control; or
- (iii) Construction staking of fixed works or the development and use of electronic models for machine-controlled construction that by design are unrelated to determining boundaries described in paragraph (a)(ii)3. of this subsection.

Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land

surveying service or work or any other service designated by the practitioner which is professional land surveying.

54-1215. Certificates-Seals.

(3)(c) The seal and signature of the licensee and date shall be placed on all original documents in such a manner that such seal, signature and date are reproduced when the original document is copied. The application of the licensee's seal and signature and date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed and dated by the licensee or licensees responsible for each sheet. Copies of electronically produced documents, listed in paragraph (b) of this subsection, distributed for informational uses such as for bidding purposes or working copies, may be issued with the licensee's seal and a notice that the original document is on file with the licensee's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications and like documents need bear the seal, signature and date of the license and the date.

(3)(d) The seal and signature shall be used by licensees only when the work being stamped was under the license's responsible charge.

PERTINENT AND INTERRELATED PORTIONS OF THE IDAHO CODE AND ADMINISTRATIVE RULES:

There are several pertinent and interrelated sections in Title 54, Chapter 12 and in the Rules of Professional Responsibility (IDAPA 10, Title 1, Chapter 1, Subsection B) which tie the signing and sealing of documents to the person(s) in responsible charge. Chief among those are Section 54-1215(3)(b) of Idaho Code and Rule 24.32.01.200.03:

54-1215. Certificates-Seals.

(3)(b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "draft," "not for construction" or with similar words to distinguish the document from a final document. In the event the final work product is preliminary in nature or contains the word "preliminary," such as a "preliminary engineering report," the final work product shall be sealed, signed and dated as a final document if the document is intended to be relied upon to make policy decisions important to the life, health, property, or fiscal interest of the public.

24.32.01.200.03 COMPETENCY FOR ASSIGNMENTS.

a. Assignments in field of competence. A licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees. For projects encompassing (1) one or more disciplines beyond the Licensee's competence, a Licensee may sign and seal all documents for the total project only when the Licensee has

first determined that all elements of the project have been performed, signed and sealed by other associates, consultants or employees who are competent, licensed and qualified to perform such services.

CONCLUSIONS AND BOARD INTERPRETATIONS:

The combined requirements contained in the Laws and Rules cited above define the expectations of the Idaho Board about “responsible charge”. Practices such as aiding and abetting unlicensed people and reviewing and stamping the work of others not under a license holder’s direct supervision are in violation of Idaho statutes and rules. Reviewing or reviewing and correcting documents after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed knowledge of the content of such documents throughout the preparation process. “Responsible charge” means maintaining control over and having detailed professional knowledge of the content of documents during all phases of the preparation process.

Approved 04/2006, NB 37, Updated 06/10/2020, 07/10/2025

WHAT IS THIS “RESPONSIBLE CHARGE” THING?

The term “responsible charge” as it pertains to the practice of engineering and surveying is a frequent subject of discussion to the practicing professional in Idaho as well as members of the Board and Board staff. A review of these pertinent sections of our law and rules would be of great value to help you understand your professional responsibilities and legal requirements. After such a review, we believe that there could be little confusion about “stamping” versus “rubber stamping”. If you did it, you stamp it! If you stamp it, you are, and were, in “responsible charge”. If you were in “responsible charge”, you had complete “control and direction” of the work. Mere review, no matter how detailed, cannot meet the requirement of the “control and direction” of the work as required by our current engineering and land surveying law.

Perhaps a look at our current state laws and rules and their provisions would be helpful in resolving some of the questions and issues concerning the meaning and intent of “responsible charge”. The preface to any discussion concerning the Idaho engineering law starts with our primary obligation, which is found in the Declaration of Policy, Title 54, Chapter 12, Section 1. Briefly stated, this declaration says that our primary obligation is “to safeguard life, health, and property” of the public...”. Title 54, Chapter 12, Section 54-1202(15) of the Engineers and Surveyors Act contains the definition of “responsible charge” which basically requires “...control and direction...” of the work. The meaning of “responsible charge” for professional engineers is found in Section 54-1202(11) and corporate responsibilities are stated in Section 54-1235(4). Land surveyor requirements are found in Section 54-1202(12) and 54-1229. The Sections called out above deal with the definitions and requirements involving “responsible charge”.

Other Sections of the law deal with the operative requirements of the law, the “how to comply” Sections.

These rules are 24.32.01.200.03(a), Assignments in field of competence, 24.32.01.200.01, Seals, 24.32.01.200.6, Form, and Section 54-1215, License-Seals-Intern Certificates. These “how to and who” Sections are emphatic in their requirement for professional engineers and professional land surveyors to stamp any work that they do whether it be at the single discipline level, the multi-

discipline level or the project management/principal in charge level. Further, it requires the multi-discipline and project management/principal in charge professionals to use only licensed people to be in responsible charge of services outside their own area of competence. Note also the provisions of Section 54-1215(3) which require a seal on all final specifications, land surveys, reports, plats, drawings, design information and calculations.

Approved 07/1997, NB26, Updated 06/10/2020, 07/10/2025

SEALS AND STAMPING

DIGITAL SIGNATURES

The Board continues to receive questions regarding the use of Computer Aided Drafting (CAD) generated seals. The Board determined that either a seal generated by a CAD system, or a rubber stamp or crimp meets the requirements of the law for a seal.

Per Idaho Code 54-1215(3)(b) the seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations whenever presented to a client or any public or governmental agency.

This article addresses the question of what constitutes a signature as related to Idaho Code, Title 54, Chapter 12. This section of Idaho Code no longer defines the term “signature”. The definition was removed as part of Senate Bill 1235 (effective 07/01/2022). The intent of removing the signature definition from 54-1202 was to allow signatures to be any form that is legal in the State of Idaho to be used. The specific digital signature requirements have been removed along with the prohibition of facsimile signatures.

Example forms of signatures allowable per 54-1215 include but are not limited to:

- The traditional “wet” handwritten signature adjacent to or over a rubber stamp, crimp or electronically generated image (stamp).
- A facsimile image of the licensee’s signature adjacent to or over an electronically generated stamp.
- A digital signature adjacent to or over an electronically generated stamp.

Another statute, client, or agency may have additional requirements and if the signature meets both requirements, the signature is valid.

Examples of specific or additional requirements include but are not limited to:

- 50-1304. ESSENTIALS OF PLATS. “(1) ...Signatures shall be in reproducible black ink...”
- 55-1905. RECORDS OF SURVEY -- FILING. “(1) ...Signatures shall be in reproducible black ink...”
- County Recorders.

It is the professional’s responsibility to check with agencies that they are submitting to for signature requirements.

Approved: 07/1992, NB 18; Updated: 06/10/2020, 07/10/2025

YOU ARE SOLELY RESPONSIBLE FOR WHAT YOU STAMP

The Board investigated a complaint in which a licensee performed a structural design and the necessary calculations on a building modification project. The project only had one plan sheet which included structural, electrical, mechanical and architectural details. The licensee placed his seal, signature and date on the drawing without stating that he was responsible only for the structural aspects of the drawing. The Board encourages its licensees to make clear what parts of a drawing for which they are responsible if the drawing includes work for which the licensee is not responsible.

A licensee made the Board aware of a situation in which he had been directed by his employer to certify that a document met the requirements of the Idaho Code, even though the licensee did not believe that the document complied with all the requirements. The dilemma that the licensee faced was whether to comply with the directive given by the employer and place his seal on the certification or to comply with his own true opinion and refuse to sign and seal the certification. The Board expressed the opinion that a licensee shall not certify or seal designs or other documents that the licensee believes do not meet the requirements of the laws of the State of Idaho or are contrary to the licensee's professional judgement.

Approved 07/1994, NB21, Updated 06/10/2020, 07/10/2025

PEs AND PLS MUST SEAL LEGAL DESCRIPTIONS

In a 2008 edition of the news bulletin the Board expressed its opinion that professional land surveyors who prepare legal descriptions without having performed a survey in the field must seal, sign and date those descriptions, primarily because under Idaho Code Section 54-1215(3)(b), the description would be considered a "report" and must be sealed, signed and dated. The question asked whether licensed professionals who prepare legal descriptions must seal, sign and date those descriptions. In its discussion of the matter, the Board pointed out that professional engineers are not licensed to perform professional boundary land surveys and cannot prepare a legal description based on a field survey they have carried out. Professional engineers may only prepare legal descriptions from record information. Since preparation of legal descriptions is not the exclusive privilege of any licensed profession, the Board concluded that it would not be improper for a professional engineer to prepare a legal description, however, as with professional land surveyors, professional engineers who prepare such descriptions must seal, sign and date those documents as "reports" under Idaho Code Section 54-1215(3)(b).

Approved: 11/2008, NB42 Updated 06/10/2020, 07/10/2025

"PLAN STAMPING" A VIOLATION

The Board has answered several inquiries recently regarding what is commonly called "plan stamping". The general question which has been posed is whether it is proper for a licensee to review and then stamp the work of a non-licensee who is not an employee of, or under the supervision of, the licensee. Idaho Code Section 54-1215(3)(c) states, in part, that "The application of the licensee's seal and signature and the date shall constitute certification that the work thereon was done by him or under his responsible charge." "Responsible Charge" is defined in Idaho Code Section 54-1202(15) as "the control and direction of the engineering work, or the control and

direction of land surveying work, requiring initiative, professional skill, independent judgement and professional knowledge of the content of relevant documents during their preparation.

Except as allowed under 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge." Idaho Code Section 54-1215(3)(d) states that "The seal and signature shall be used by licensees only when the work being stamped was under the licensee's responsible charge." The Board is of the opinion that "direction and control" of professional activities cannot be accomplished by reviewing the work previously done by a non-licensed person, and the placement of the licensee's seal in such a situation would be a violation of the Engineers and Surveyors Act.

Approved 12/1990, NB16, Updated 06/10/2020, 07/10/2025

PRELIMINARY DOCUMENTS MUST BE SEALED

A P.L.S. wrote the Board and asked some questions which were prefaced with the statement "I was reviewing a Subdivision Application at the Planning & Zoning office today. Included in the drawings were Preliminary Road Plans prepared by a surveying company. The Planning & Zoning Commission used those drawings to approve the Subdivision." The following are the questions the surveyor asked, and the answers provided by the Board.

Question: Preliminary Plats are sometimes submitted by engineers and sometimes by surveyors. I don't recall that either the Preliminary Road Plans or the Preliminary Plats are ever sealed. The Planning and Zoning Commission uses those drawings to make policy decision[s] (i.e. subdivision and road approval). Should these preliminary drawings be sealed?

Answer: Under Idaho Code Section 54-1215(3)(b), if prepared by a professional engineer or a professional land surveyor, Preliminary Plats and Preliminary Road Plans that are "intended to be relied upon to make policy decisions important to the life, health, property or fiscal interest of the public" must be sealed, signed and dated.

Approved: 06/2008, NB 41, Updated 06/10/2020, 07/10/2025

REVISED PLANS MUST BE SIGNED AND SEALED AND DATED

Question: Our office received submittals from a design engineer and there is a bit of an impasse on what is required for revisions. There are other issues as well, but the primary questions needing clarification are regarding engineering standards of care with stamps, dates, and signatures.

What is the engineering standard of care for revised construction plans and specifications? If a revised plan set is submitted for construction approval, is it appropriate for the plans to have the original design date, or would revisions be expected to have new dates? A few specific bullet point questions to try and cover the basic options:

1. Is it acceptable for revised drawings to bear the original stamp, date, and signature with no notation of revision?
2. Is it acceptable for revised drawings to bear the original stamp, date, and signature with a change log noting revisions to the plans?
3. Is it acceptable for just revised sheets to have new stamps, dates, and signatures?

4. Is it acceptable for the revised sheets and the cover sheet to have new stamps, dates, and signatures?
5. Is it acceptable for just the cover sheet of revised plans to have a new stamp, date, and signature, but revised sheets bear original stamp date?

And as a minor secondary question, does the date of a stamp for specifications need a day, or is a month and year acceptable? IE, would stamping specifications with “November 2020” be adequate, or would that need a day as well?

The questions are arising for standards of care, but also for version control. Our office has typically referred to plans by the name and the date on the cover sheet. For revised plans that maintain the same date, that method is problematic. We’re hoping to provide clarity for utilities involved to ensure all parties are discussing the same set of plans.

Thanks, DEQ

Answer: In general, while the ‘standard of care’ isn’t defined other than in the court’s precedential case law or the Board’s precedential orders, it’s not appropriate for an engineer to re- submit changed/revised drawings/plans/specifications exclusively with the original signature/seal and date.

The documents should be re-sealed with a new signature/date and the revisions noted along with the date of the revision. The key element would be clearly showing the revisions, date of revisions and clear signature/date and seal with the revisions. Work not revised would not need to change. For example, if a site drawing (S-1) has a pump building added to meet project requirements or specific code requirements not in the original design, but that was the only change to the drawing package, then S-1 could be reprinted with a revised date, a new seal, signature and date placed on S-1 and the package re-submitted (nothing else changed other than S-1).

If that pump house increased the pressure in the distribution system and the pipe specifications needed to change on M-1, M-2 and M-3 – then S-1, M-1, M-2 and M-3 all would show the revisions, the date of the revisions and new seal, signature and date on all four sheets, leaving the un-revised sheets with the original work (seal, signature and dates). The answers to your bullet questions are below:

1. Is it acceptable for revised drawings to bear the original stamp, date, and signature with no notation of revision? - **No.**
2. Is it acceptable for revised drawings to bear the original stamp, date, and signature with a change log noting revisions to the plans? - **No.**
3. Is it acceptable for just revised sheets to have new stamps, dates, and signatures? – **Yes.**
4. Is it acceptable for the revised sheets and the cover sheet to have new stamps, dates, and signatures? – **Yes.**
5. Is it acceptable for just the cover sheet of revised plans to have a new stamp, date, and signature, but revised sheets bear original stamp date? - **No.**

Approved 04/01/2021, NB 67, 07/10/2025

STAMPING PRACTICES SOME QUESTIONS, SOME CONCERNS AND A FEW ANSWERS

Over the past several years the Idaho Board has encountered several incidents which caused us to believe that a lot of PE's and PLS's don't appreciate or understand stamping practices as required by Idaho Law. We also recognize that there may be some weaknesses and conflicts in our law which need correction or clarification. Consequently, this article was prepared in the hopes of explaining the Board's interpretation of proper stamping practices and to stimulate some comments and discussion which will enable all of us to better understand and improve this critical aspect of professional engineering and land surveying in Idaho.

The sections of Idaho Code and the Boards Rules, which have the force of law, that make any reference to stamps or stamping are summarized below.

Seals: 24.32.01.200.01

Form: 24.32.01.200.06

Idaho Code, Title 54 Chapter 12: 54-1215, 54-1222, 54-1223(5) & (6), and 54-1235 (1).

Interestingly, there is reference to stamping in Title 50 Chapter 13 on plats and vacations in 50-1309, but no reference in Title 55 Chapter 16 on corner perpetuation and filing, or Title 55 Chapter 17 on coordinate system of land description, or Title 55 Chapter 19 on recording of surveys. There are several references for certificates and certifying but nothing specifically incorporates stamps or stamping into such certificates. Perhaps these apparent omissions should be corrected or the intent clarified. Even though so much of our law specific to land surveying doesn't mention stamps or stamping, the Board believes the requirements in Title 54 Chapter 12 are sufficiently general to require land surveyors to use their stamp on all reports, drawings, record of surveys, and corner records.

Throughout our rules and laws there are references to stamp or seal and to stamping or sealing. The Board believes these terms are identical and we will use only the terms stamp or stamping here for simplicity. Also, we will use the abbreviation PE/PLS to refer to professional engineers and/or professional land surveyors licensed to practice in Idaho.

We are going to go to a hypothetical question and answer mode which has served the "Legal Corner" and "You be The Judge" features in NSPE's Engineering Times so well. However, the answers are not hypothetical, they are the Board's official position.

Question: Why does the Board make such a fuss over stamping? After all, my dentist doesn't stamp my fillings, does he?

Answer: The Idaho Code, 54-1215(3)(b) requires stamping of "all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or government agency."

The Board believes stamping such documents is the singular action by which a PE/PLS signifies to the client and to all others that the engineering or land surveying work was done by or under the direction and control of an individual who has met the minimum qualifications for licensing as a PE/PLS. The stamp identifies a single individual who has

legal responsibility for both the professional and technical aspects of the work. Everyone considering using engineering or surveying documents should recognize that without the PE/PLS stamp, no one has publicly accepted such responsibility.

Remember, as engineers and land surveyors we don't build bridges, plants and devices on which the public so depends. Instead, we prepare documents which describe precisely how to build, test and operate those bridges, plants and devices. Surveyor's boundary markers are an exception to the above generality, but our law requires that such monuments be marked with the license number of the surveyor.

Question: Are there other exceptions or special cases where stamping isn't appropriate or possible?

Answer: Probably. One is when a PE/PLS appears before an official, regulatory or governing body to give testimony of a professional nature. There isn't anything to stamp in such situations. However, that PE/PLS should, at the start of his/her statement, identify himself or herself as a PE/PLS and give their license number so that that information is recorded in the minutes of the proceedings.

In general, the Board believes that PEs/PLSs should use their stamps more rather than less. But don't stamp stuff that clearly is not engineering or surveying either.

No doubt there are other special stamping situations of which the board is not aware. Please bring them to our attention so we can establish an official position on them. Asking permission is better than begging forgiveness no matter what the cynics say.

Question: What about putting an unsigned stamp on drafts or check prints to satisfy some regulator's interpretations of their requirements?

Answer: There is no provision in our law for "draft" stamping of any kind. A stamp, by definition, includes the PEs/PLSs signature and date signed. Presenting a document to a client with just a stamp image and no signature and date is a violation of our law.

If you are concerned that your draft documents or drawings may be taken as final, complete versions, then use a big, red DRAFT or DO NOT FABRICATE stamp in addition to your PE/PLS stamp.

Question: Why don't I just avoid this whole hassle by not stamping my work if my client doesn't require it? That way I won't have any legal or professional responsibility that my client doesn't want me to have and, by implication, doesn't want to pay for.

Answer: Neither you nor your client have such a choice. The Board interprets our law to require that all engineering and surveying work done for a client and that is applicable in Idaho be done by a PE/PLS. If you are a PE/PLS then you must stamp the work. If you are not a PE/PLS, then you are illegally practicing as an "unlicensed" person regardless of the number and source of your diplomas.

The above paragraph contains several conditional statements which need elaboration. The phrase "done for a client" covers all individuals, companies, state and federal agencies. You may do engineering work for yourself or for your employer without stamping it. But your employer may not present that work to their client without an appropriate PE/PLS stamp. Companies do not have such stamps, only people do. And by implication, the company's client is your client and therefore a PE/PLS stamp is required whenever that work is presented to a client.

The phrase "applicable in Idaho" means that you can do engineering work at your desk in Idaho for application in another state or country without applying an Idaho stamp. Conversely, engineering done at a desk in another state or country which is applicable in Idaho must have an Idaho stamp when it is presented to a client.

Our law defines engineering work rather broadly. It doesn't define a client, but the Board interprets that term rather broadly also.

Question: Can I use computer generated stamp images, or do I have to hand-stamp things?

Answer: Yes, you can use a computer-generated stamp image that conforms to our law but you cannot use computer generated signatures and dates. You must personally sign and date the stamp image applied to the original document. You can copy the original document, of course, but you cannot use your CAD plotter or laser printer to make valid multiple originals unless you sign and date the stamp image on each original. This interpretation on copying may seem bit strained but the Board wants everyone who uses a stamped document to be confident that the PE/PLS personally approved the document. If a computer generates the stamp image, signature and date then anyone with access the computer can stamp the original. A computer and scanner can be used to copy an original document and reproduce it but that is reproducing an original, not generating it.

Question: Then how about "sticky-backs" and other means of applying the stamp image?

Answer: The Board has no restrictions on how the stamp image is generated or applied as long as the signature and date are applied to the stamp image after it is placed on the document. We may not be able to "police" this situation very well, but pre-signed and dated "sticky-backs" are improper, just as are computer generated signatures and dates.

As an aside, we have had a case where a regulatory agency questioned the authenticity of a stamp because their copy of the drawing showed a darker area around the stamp than the clear area on the balance of the drawing. They thought the client had applied the stamp rather than the PE/PLS. So beware, the use of "sticky-backs" may cause you some problems.

Question: We all know that "plan stamping" is illegal in Idaho but isn't it unrealistic to expect every engineering work applied in Idaho to be designed by a PE/PLS?

Answer: You are correct on both points. A PE/PLS should stamp only engineering work done by himself/herself or under his/her responsible charge. The Board interprets the responsible charge phase to mean "while the engineering work is being done". A review of the

engineering or land surveying work is different. A PE/PLS does not have the right to sell their stamp, i.e. "plan stamping", even if they are willing to assume full responsibility for the engineering or land surveying work. A recent court case in Tennessee held, in part, that their law doesn't authorize assumed responsibility; it requires existing responsibility at the time of preparation. The Idaho Board agrees with that point.

The portions of the Idaho Code dealing with surveying practice are much more detailed and specific than those dealing with engineering practice. Surveying work can be done only with an Idaho PLS in responsible charge. Our law does not provide for any form of temporary surveying or engineering practices.

Question: What about revisions to documents? Does each revision have to be stamped or the whole document restamped? What if the original PE/PLS is no longer available?

Answer: If the revision is of an editorial nature, then restamping is not necessary; however, only a PE/PLS should make that decision. If the revision is significant from an engineering or land surveying standpoint, then the revision must be stamped by the PE/PLS in responsible charge of the revision. The revision must be somehow identified or separated from the original work on the document so that the new stamp clearly applies only to the revision. If the original PE/PLS does the revision, his/her stamp can be replaced with a new one bearing the current date.

All the stamping questions posed to the Board to date are covered above. But we don't want the process to stop. If you have further questions on stamping, please send them to the Board. We think stamping requirements are an important component of our continuing efforts to protect public safety and wellbeing. We need our licensees input to further develop and disseminate good stamping practices. Perhaps this topic would make a good program for a professional society meeting. Be sure to ask a Board member to attend or designate someone to record the questions and opinions and then send them to the Board office.

Approved 10/1992, NB 19, Updated 06/10/2020, 07/10/2025