



Fostering Excellence in GIS

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RE: Comments on Proposed Rulemaking (CR-102)
WSR 14-06-104, WAC 196-29-105, Practice of Land Surveying

Thank you for the opportunity to comment on proposed rulemaking (CR-102) WAC 196-20-105. These comments are submitted by the Urban and Regional Information Systems Association (URISA). The Urban and Regional Information Systems Association (URISA) is an independent, not-for-profit 501c(3) organization established in 1966. From webinars and workshops to multi-day conferences, URISA presents an abundance of educational programs, offers volunteer GIS expertise through its GISCorps program, and assists government agencies with benchmarking GIS maturity through its GIS Management Institute.

We write to voice our objections to subsections (1), (3), and (9) of the proposed new Washington Administrative Code Section 196-29-105. We object to these subsections as proposed because they:

1. Expand the Washington Administrative Code's definition of "practice of surveying" by introducing, without legislative amendment of the statute, clauses that exceed the definition given in the statute.
2. Include within the definition activities beyond the professional expertise of surveyors.
3. Infringe on the expertise of GIS professionals.

The following paragraphs set forth the specifics of our objections, the reasoning behind them, and recommendations on how each subsection can be revised to remove the basis for our objection.

COMMENT 1 on Subsection (9):

Objection: Subsection (9) includes mention of "georeferenced data bases," which are broadly created and used by many professions. The language needs to reflect the fact that many professions design, implement, and administer georeferenced data bases and that the creation and use of such databases are not within the exclusive jurisdiction of the practice of surveying.

Reasoning :

1. Nothing in a surveyor's professional training or typical areas of practice confer any special knowledge of georeferenced data base design, implementation, or administration compared to the training and practice areas of other geospatial professions.

2. Surveyor's professional liability insurance does not cover errors or omissions in georeferenced data base design, implementation, or administration, as such activities are outside the scope of professional practice for which the insurance is written.
3. Restricting "creation of ... georeferenced data bases" to registered land surveyors would infringe on the professional expertise and practice of GIS professionals.
4. Georeferenced data bases are not original, authoritative records, but rather administrative copies of such records; therefore, georeferenced data bases are but one of several possible forms for data storage and distribution. While surveyors may use data base technology to record, store, and display the observational data they compile, the subsequent use of that data is part of many professions.
5. 'Georeferenced data base' is itself an ambiguous term, as georeferencing takes many forms, including the use of street addresses, census tracts, and ZIP Codes to provide location information. Surveyors compile some but not all georeferenced data.
6. The statutory definition of "practice of surveying" makes no mention of data bases of any kind. The creation and use of georeferenced data bases are incidental to the practice of surveying, as they are to other professions.
7. The Board, in amending the administrative code, has no power to expand the definition of "practice of surveying" beyond what is written in statute.
8. The Board exists to protect and promote the public health, safety, and welfare. The public health, safety, and welfare would not benefit, and might be harmed, by expanding the definition of "practice of surveying" to include the exclusive power to create georeferenced data bases.
9. Therefore the Board has no reason, as well as no power, to expand the definition of "practice of surveying" by adding mention of georeferenced data bases.

Recommendation: Remove the phrase "...and georeferenced data bases..." from subsection (9), as these are incidental products and do not add to the scope of surveying practice.

COMMENT 2 on Subsection (9):

Objection: "Creation of maps..." is overbroad, and could be read to restrict non-surveyors from making non-authoritative maps based in whole or in part on survey records.

Reasoning: Authoritative survey records and authoritative survey maps are used and incorporated into a variety of derivative products by non-surveyors for non-surveying purposes. Proposed subsection (9), if read strictly, could be construed to prohibit anyone other than a registered surveyor from using or adapting any survey product for any purpose whatsoever. No such restriction exists now, nor is it found in the statutory definition, nor is it needed to protect the public health, safety, or welfare.

In addition, it has been established in previous forums that many professions create maps. For example, the U.S. District Court for the Eastern District of Virginia ruled in 2007 that there are many professions that conduct spatial data collection and perform mapping: "It is also worth noting that the record unambiguously reflects that the provision of 'mapping' services in the modern marketplace includes a much broader scope of work than the traditional mapping work of land surveyors" (see *MAPPs et. al v. U.S.A*, Civil Action No. 1:06cv378). The particular evidence cited by the Court in reaching this conclusion says, "The GIS and computer mapping industry employs tens of thousands of researchers, software and data developers, hardware designers and manufacturers, educators, applications services providers (ASPs), consultants, trainers, data collection technicians, geospatial data providers, computer scientists, planners, geographers, subject matter specialists and sales and marketing personnel in the United

States. The vast majority of personnel in the geospatial community are not licensed surveyors” (see Affidavit of Douglas Richardson attached to the amicus brief filed by a consortium of geospatial associations in the above-cited case).

Recommendation: Revise the phrase to read: “Creation of authoritative survey products...”

COMMENT 3 on Subsection (3):

Objection: “Certification of positional accuracy of maps...” is overbroad, and could be read to prohibit non-surveyors from providing basic metadata about maps and other products commonly created by other geospatial professions.

Reasoning: A basic element of good GIS practice is to provide users with metadata so that they are made aware of the limits of responsible use of the data (both map and tabular data) provided. In fact, it is a requirement of the URISA Code of Ethics. Just as no responsible GIS professional would claim to have established an authoritative location, as defined in the proposed rule, a GIS professional creating a map should be free to give information on the positional accuracy of those maps. Proposed subsection (3), if read strictly, could be construed to prohibit anyone other than a registered surveyor from providing such information. No such restriction exists now, is found in the statutory definition, or is needed to protect the public health, safety, or welfare.

Recommendation: Revise the phrase to read: “Certification of positional accuracy of authoritative survey products...”

COMMENT 4 on Subsection (1):

Objection: The subsection is overbroad and could be read to restrict a wide variety of activities that have nothing to do with surveying.

Reasoning: “Evaluation,” “interpretation,” and “evidence” have broad meaning and application in law, science, philosophy, and other domains. While geospatial professionals may understand the phrase, “Evaluation and interpretation of evidence,” to have a specific meaning for registered surveyors, the use of the term ‘evidence’ needs to be clarified in the rule in order to avoid confusion.

Recommendation: Revise the phrase to read, “Evaluation and interpretation of evidence related to the authoritative location of boundaries, monuments, and other reference objects.”

Thank you for your consideration of these comments. URISA understands and appreciates the overall purpose of the proposed rulemaking: “to bring contemporary definitions to ... traditional terminology.” We stand willing to continue discussion with the Board on how the rules can be revised to achieve this end, while respecting the expertise and practice of allied professions, including GIS professionals.

Sincerely,



Allen Ibaugh, President