

BEFORE THE STATE ELECTRICAL BOARD
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.141.301 definitions,)	PROPOSED AMENDMENT AND
24.141.405 fees, 24.141.501)	REPEAL
applications, 24.141.502)	
temporary practice permits,)	
24.141.503 examinations,)	
24.141.2102 continuing education,)	
and repeal of ARM 24.141.506)	
master electrician qualifications)	

TO: All Concerned Persons

1. On February 20, 2009, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the State Electrical Board (board) no later than 5:00 p.m., on February 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdele@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board is amending authority and implementation cites throughout these rules to accurately reflect all statutes implemented through the rules and to provide the complete sources of the board's statutory rulemaking authority.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.141.301 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Appliance" means all products covered by 42 USC Section 6292, the National Appliance Energy Conservation Act of 1987, as amended.

(2) "Electrical construction" means work performed by an individual, firm, or business entity in which an electrical connection is made to a supply of electricity or in which electricity is supplied to any electrical equipment installation for which a permit is required by the authority having jurisdiction. Electrical construction work constitutes the electrical construction field.

(3) "Electrical trade school" is a state-approved inside wireman apprenticeship program or an associate's degree program of an accredited university or trade school.

~~(4)~~(4) "Full-time employment" means employment, as an independent contractor or an employee, wherein the responsible electrician is available to procure, perform, administer, and supervise all electrical work being performed by the electrical contractor.

(5) "Journeyman level experience" means being recognized as a journeyman electrician by a state or other legally authorized jurisdiction or having a minimum of 8000 hours of practical experience. No more than 2000 hours of work experience may be accrued in any 12-month period. Hours of experience while serving an apprenticeship are not considered journeyman level experience.

(6) "Legally obtained experience" means experience obtained in accordance with the laws and rules of the jurisdiction in which the applicant obtained the experience and with the statutes and rules of the Montana State Electrical Board.

~~(2)~~(7) "Limited electrical contractor" means a licensed electrical contractor limited to residential construction consisting of less than five living units in a single structure.

(8) "Low voltage" is considered to be 90 volts or less. Low voltage installers are unlicensed and include individuals who are involved in telecommunications. Low voltage installers may run raceways to be used strictly as physical protectors of the wires therein.

~~(3)~~(9) "Maintenance" means ordinary and customary in-plant or on-site installations, modifications, additions, or repairs. Maintenance which shall be limited to relamping fixtures, replacing ballasts, trouble shooting motor controls, replacing motors, breakers, magnetic starters, in kind-for-kind manner. Also included are connection of specific items of specialized equipment that can be directly connected to an existing branch circuit panel by means of factory installed leads. If a new circuit is required to operate the equipment or if the size of the supply conductors needs to be increased, or if new fixtures, breakers, or other new electrical installations are required it shall be considered new work that must be performed by a licensed electrical contractor if permitted and inspected by the appropriate building code authority.

(a) The term does not include installation of a new circuit to operate the equipment described in (1) or installations that require the size of the supply conductors to be increased. These actions require installation by a licensed electrical contractor.

(10) "Maintenance personnel" means unlicensed individuals whose duties include the performance of maintenance as defined in (9).

(11) "Montana state electrical code" means those sections of the National Electrical Code adopted by the Department of Labor and Industry's Building Standards Program.

(12) "National Electric Code" means the code adopted by the board to regulate licensees.

(13) "Practical experience" means experience gained in the electrical construction field consisting of laying out, assembling, repairing, connecting, and testing electrical fixtures, apparatus and control equipment, and wiring in residential

and nonresidential settings pursuant to the provisions of the state electrical code or pursuant to the requirements of another authority having jurisdiction.

(14) "Public utility" has the meaning provided in 69-3-101, MCA.

~~(4)~~(15) "Responsible electrician" means the person engaged in a full-time capacity that who is responsible for all licensed electrical work performed by the electrical contractor.

(16) "Subcontracting" means that one licensed electrical contractor enters into a contract with another electrical contractor to do all or part of an installation. Subcontracting does not allow a limited electrical contractor to perform work beyond the scope of a limited electrical contractor's license.

~~(5)~~(17) "Unlimited electrical contractor" means a licensed electrical contractor that is licensed to perform electrical work on commercial, residential, industrial, and institutional electrical installations as covered by the national electrical code.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-102, 37-68-103, 37-68-201, 37-68-304, 37-68-312,
MCA

REASON: The board determined it is reasonable and necessary to amend this rule to adopt or modify definitions and clarify key words or phrases used throughout these rules.

24.141.405 FEE SCHEDULE (1) through (5) remain the same.

(6) Temporary permit

20 50

(7) and (8) remain the same.

AUTH: 37-1-134, ~~37-1-141~~, 37-68-201, MCA

IMP: 37-1-134, 37-1-141, ~~37-1-304, 37-1-305~~, 37-68-304, ~~37-68-307~~, 37-68-310, 37-68-311, 37-68-312, 37-68-313, MCA

REASON: The board is amending ARM 24.141.502 to reduce the effective period for temporary permits from 90 days to 30 days. The board is amending this rule to increase the fee to cover the projected staff time required to process, investigate, and issue the increased number of temporary permits. The \$30 increase will affect approximately 240 applicants with a \$7200 estimated increase in annual revenue.

24.141.501 ELECTRICIAN APPLICATIONS – JOURNEYMAN AND MASTER ELECTRICIAN (1) The practical experience requirement set forth in 37-68-304 and 37-68-305, MCA, shall be of such nature as is satisfactory to the board. The board will ~~only~~ accept electrical experience only in the construction field. Maintenance work, as defined in ARM 24.141.301, ~~which~~ is exempt under 37-68-103, MCA, and will not be accepted towards fulfillment of the practical experience requirement.

(2) For the journeyman license, no less than five percent but not more than a maximum of 50 percent of the electrical experience in the construction field may be residential in nature. The balance must be either commercial, industrial, institutional, or a combination thereof.

(3) ~~For the master electrician license, the experience must be either commercial, residential, industrial, institutional or a combination thereof. An applicant for a master electrician's license shall furnish evidence satisfactory to the board that the applicant meets one of the following requirements:~~

(a) the applicant is a graduate electrical engineer from an accredited college or university and has at least one year of journeyman level experience;

(b) the applicant is a graduate of a two-year electrical trade school and has at least four years of practical journeyman level experience; or

(c) the applicant has five years of journeyman level experience in planning, laying out, or supervising the installation and repair of wiring apparatus for electrical light, heat, and power.

(4) The journeyman level experience required by (3)(a), (b), or (c) must be obtained by a combination of residential, commercial, institutional, and industrial work. No less than 20 percent, but no more than 50 percent of the required experience may be obtained in residential work.

~~(4)(5)~~ An applicant shall have one year from the date of board approval to take the examination for which application was approved. If the examination is not taken within that one-year period, the applicant will be required to submit a new application with written verifications ~~provide~~ and pay the applicable fees.

~~(5)(6)~~ All applications must be filed 15 days prior to the next scheduled board meeting in order to be considered at that board meeting. All applications shall be approved, tabled, or ~~disapproved~~ denied on a case-by-case basis as the board may deem proper.

AUTH: 37-1-131, 37-68-201, MCA

IMP: ~~37-1-131, 37-68-103, 37-68-201,~~ 37-68-301, 37-68-302, 37-68-304, 37-68-305, 37-68-310, 37-68-311, MCA

REASON: The board determined it is reasonably necessary to amend this rule to require a better balance of experience for licensure applicants. The board is amending (2) to establish a minimum requirement of five percent residential experience for journeyman licensure. The board notes that journeyman licensure is typically used for residential work and the amendment will ensure that these applicants have at least some experience in the residential area.

The board is also adding (3) and (4) to this rule to set forth licensure requirements for journeyman and master electrician licenses in one rule. The master level requirements were formerly set forth in ARM 24.141.506 which is proposed for repeal in this notice.

24.141.502 TEMPORARY PRACTICE PERMIT (1) A temporary practice permit may be issued to an applicant ~~for a residential or journeyman electrician license~~ upon completion of an application, submission of verification of experience ~~as required under 37-68-305, MCA,~~ payment of the appropriate fees, and approval by the board or designated board representative. An applicant for a master electrician license may be issued a journeyman temporary practice permit.

~~(2) An applicant for a residential or journeyman electrician license may act as an electrician in the category for which an application is approved, as long as the~~

~~applicant is employed by a licensed electrical contractor and a temporary practice permit has been issued~~ active temporary practice permit allows an applicant to perform work while employed by a licensed electrical contractor.

(3) A temporary practice permit issued to an applicant for an electrician license shall expire ~~90~~ 30 days from the date of issuance or upon receipt of licensure examination results.

(4) A temporary practice permit does not allow a ~~journeyman applicant an individual~~ to act as a responsible electrician for a ~~limited licensed~~ electrical contractor, nor does it permit the applicant to obtain an electrical contractor license. A temporary practice permit allows an applicant only to work under a properly licensed electrical contractor.

(5) ~~An applicant for licensure by endorsement or reciprocity may be issued a temporary practice permit under the conditions above. The temporary practice permit shall expire at such time as the board approves the application and a license is issued or the board denies the application.~~ Applicants who fail an exam with a score of 69 percent or less are not eligible for a temporary practice permit.

(6) ~~A second~~ Subsequent temporary practice permits may be issued at the discretion of the board, ~~on a case-by-case basis, only to an applicant who has failed the examination with a score of 70 to 74%, is registered to take the next scheduled examination and upon receipt of:~~

(a) ~~a letter from the applicant requesting a second temporary practice permit and submitting proof of registration to take the next scheduled examination; and~~

(b) ~~a letter from the employer stating that the applicant is employed and under the supervision of a licensed journeyman or master electrician.~~

(7) ~~If the applicant does not register for the examination within 90 days, the second temporary practice permit shall expire.~~

AUTH: 37-1-319, 37-68-201, MCA

IMP: 37-1-305, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the process for temporary practice permits and for consistency in terminology within the rules. The board notes that it is not clear in the current rule whether master electricians can obtain temporary permits and is amending this rule to clarify that temporary permits are available to all applicants. The board concluded that many applicants who qualify for temporary licenses do not follow through with taking the licensure examinations within 90 days. In addition, most projects are complete within the 90-day period and temporary permit holders simply leave the state without taking the qualifying exam. The board determined that this is not a good process to ensure that minimally qualified electricians are providing such services to the public. In addition, with the availability of the new electronic exam online, applicants can take the licensure exams at the latest one week after being approved. The board is therefore amending (3) to reduce the period for temporary practice permits from 90 days to 30 days.

24.141.503 EXAMINATIONS (1) ~~A person~~ An applicant who has failed to pass fails any examination for which application was made, may, upon the payment

of the appropriate fee, take the next scheduled examination. However, if the applicant fails the ~~test~~ examination a second time ~~they~~ the applicant may not take the test again within a six-month period, and in addition, must:

~~(a) demonstrate to the board by a sworn statement that the applicant has conscientiously studied at least 20 hours in the areas of the examination that were failed;~~

~~(b) provide a signed and dated list of the books or materials studied, specifying the name, author, edition (or latest copyright year); and~~

~~(e)(a) provide proof of having attended at least one eight-hour electrical code seminar approved by the board, since the initial failure to pass.~~

(2) and (2)(a) remain the same.

(b) reapply to the board; and

~~(c) demonstrate to the board by the applicant's sworn statement that the applicant has conscientiously studied at least 40 hours in all the areas covered by the last exam, 30 hours of which shall have been devoted to those test areas wherein the applicant failed to achieve a passing score;~~

~~(d) provide a signed and dated list of the books or materials studied, specifying the name, author, edition (or latest copyright year); and~~

~~(e)(c) provide proof of having attended at least two eight-hour electrical code seminars approved by the board.~~

(3) An applicant who ~~has failed~~ fails the master or journeyman examination two or more times may apply for and take a lower level licensing examination without obtaining the supplementary education and study hours as set forth in (1) and (2) ~~of this rule.~~

(4) An applicant who fails to take an examination within 18 months from the date of the last examination ~~that was failed~~ failed will be required to submit a new application, provide written verification, and pay the applicable fees. Upon receipt of a new application, the board will require the applicant to submit the documentation required in (1) or (2) depending on the number of times the applicant has failed the examination.

(5) All examinations are open book. Applicants may use only:

~~(a) Candidates may only use:~~

~~(i)(a) an NEC code book applicable to the examination being given (tabs or indexes may be used in the book);~~

~~(ii)(b) a silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations; and~~

~~(iii)(c) copies of the Montana statutes and rules relating to electricians.~~

(6) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures must submit a written request to the board office for the specific accommodation needed at least 15 days prior to the scheduled exam.

(7) Any ~~candidate~~ applicant who takes an examination and does not pass the examination may request a review of the examination.

(a) The ~~department~~ board will not modify examination results unless the ~~candidate~~ applicant presents clear and convincing evidence of error in the grading of the examination.

(b) The ~~department~~ board will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(8) ~~The procedure for requesting an informal review of examination results is as follows:~~

~~(a) The A request for rescoring of an examination must be made in writing to the board office and received within 20 days of the date of the examination and must request a rescore of the examination.~~

~~(b) The following procedures apply to review of the results of the examination:~~

~~(i)(a) The candidate applicant will be allowed two hours to review the examination and must:~~

~~(ii) The candidate must identify the challenged examination questions of the examination and must state specific specifically reasons why the results should be modified with pursuant to the NEC code book and/or Montana statutes and rules supporting the candidates applicant's position.~~

~~(iii)(b) Within 15 days of the candidate's applicant's review, the department board will review the examination and candidate's the applicant's justification and notify the candidate applicant in writing of the department's board's decision.~~

(9) ~~Anyone~~ Any applicant determined by the board to be cheating on an examination or using inappropriate material/equipment during an examination will fail and be required to wait at least one year before reapplying and reapply for licensure and before being allowed to reexamine. All such reexaminations will be scheduled and administered by the department board in Helena, Montana, ~~require a written examination fee, and the candidate will be required to apply and schedule the examination with the board office.~~

(10) Examination appeals must be submitted ~~and reviewed~~ for review by the full board at its next regularly scheduled meeting.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-201, 37-68-304, 37-68-305, MCA

REASON: The board is amending this rule throughout to update grammar and language choices, eliminate repetitive language, and renumber sections for better organization and ease of use. The board is proposing to eliminate the requirements for retake applicants to provide sworn statements as to their examination study time and materials. The board determined that because courses are now available online, they are easily obtained and verified by the board. The board is removing the sworn statement requirements as outdated and unnecessary.

The board is amending (6) to require that applicants submit requests for exam accommodations to the board at least 15 days prior to the exam. Because the board bears the responsibility for providing accommodations and the board at times must request additional information to establish appropriate accommodations, it is reasonably necessary to require some advance notice of accommodation requests.

The board is amending (8) to clarify the process for applicants to request a rescoring of a failed examination. The board concluded that the previous informal review process may mislead applicants to think that it includes a review of all exam

questions and correct answers. The rescoring process actually focuses the request on the specific challenged questions and protects the integrity of the entire exam. The board is also amending this rule to clarify that it is the board, not department staff, that conducts the rescoring and decides to adjust the score or not.

24.141.2102 CONTINUING EDUCATION (1) Each master, journeyman, and residential electrician license shall not be renewed unless the continuing education requirements imposed by this rule have been met, prior to the renewal date set by ARM 24.101.413. Any licensee who fails to fulfill the continuing education requirements imposed by this rule shall cause the license to lapse. It is unlawful for a person whose license has lapsed to perform electrical work in this state. For reinstatement after the license has lapsed, the applicant shall have completed the continuing education requirements, certified that fact to the board, and met all other renewal requirements. Eight hours of continuing education must be obtained for each year in the renewal cycle. Requisite hours may be obtained during any portion of the renewal cycle. A minimum of four of the eight annual hours shall be verified as covering National Electrical Code updates.

(2) To receive credit for continuing education, the following requirements must be met: Licensees are responsible for maintaining a record of completion certificates for courses or seminars and the hours attended. A random audit of completion certificates may be performed by the board at any time.

(a) (3) Courses Curriculums for courses or seminars must be preapproved have prior approval of curriculum by the State Electrical Board or a designated board representative. Request for approval of courses or seminars must be made no later than 60 days prior to the date of the seminar. Each preapproved course shall be assigned a course approval number by the board to be listed on the certificate of completion. Board approval of said courses and seminars expires August 1 of each license renewal year.

(a) Curriculum of courses or seminars shall address National Electrical Code updates, or other subjects related to the electrical industry. Basic electric courses or apprentice type courses will not be approved. Course curriculum must provide a breakdown of the type of credit hours (code or industry) which must be included on the completion certificate.

(b) Credits for courses or seminars will be given in a minimum of four-hour increments.

(b) (c) The course sponsor is responsible to ensure that instructors are credentialed as one or more of the following:

(i) through (v) remain the same.

(vi) certified electrical inspectors; and or

(vii) remains the same.

(d) Certificates required by (3) must contain the following:

(i) date of course;

(ii) title of course;

(iii) name of person completing the course;

(iv) State Electrical Board approval number; and

(v) breakdown of code and/or industry related credit hours.

(e) Certificates must be verifiable online within 30 days of completion of the course.

~~(c) (4)~~ Representatives of the department or members of the State Electrical Board shall be able to may attend and monitor the courses or seminars without charge.

~~(d)~~ Maintaining a record of completion certificates for courses or seminars and the hours attended shall be the responsibility of the licensee. An audit of completion certificates may be requested by the board or designated board representative at any time. A minimum of eight hours each licensed year must be obtained per renewal cycle. All of the requisite hours may be obtained during any portion of the renewal cycle. A minimum of four of the eight hours shall be verified as being on the National Electrical Code updates.

~~(e)~~ Curriculum of courses or seminars shall be on the National Electrical Code updates, or other subjects related to the electrical industry. Approval of course curriculum shall be at the discretion of the board. Board approval will contain a breakdown for the course or seminar regarding type of credit hours (code or industry). The breakdown must be included on the completion certificate.

~~(f)~~ Credit for courses or seminars will be given in a minimum of four-hour increments.

~~(g)~~ Request for approval of courses or seminars must be made no later than the board meeting next preceding the seminar.

~~(h)~~ The board must be notified 15 days prior as to the time and place of every course or seminar.

~~(i)~~ In general, courses should be designed for advancing knowledge or skills of trained individuals; basic courses or apprentice type courses will not be approved.

~~(j)~~ Certificates required by (d) above must contain the following:

~~(i)~~ date of course;

~~(ii)~~ location of course;

~~(iii)~~ title of course including date of prior approval by the board;

~~(iv)~~ name of instructor;

~~(v)~~ name of sponsoring agency;

~~(vi)~~ name of person completing the course;

~~(vii)~~ State Electrical Board approval number; and

~~(viii)~~ breakdown of code and/or industry related credit hours.

~~(3)(5)~~ Continuing education courses approved by another state which has a reciprocal licensing agreement with the board will be honored toward renewal. The reciprocal state's course approval number, and date of course, and credit breakdown must appear on the completion certificate.

~~(4)(6)~~ Completion certificates must be submitted within 30 days ~~upon~~ after request by the board office for the purpose of licensing renewal audits. Failure to supply continuing education completion certificates when requested by the board office shall be cause for disciplinary actions.

AUTH: 37-1-131, 37-1-319, 37-68-201, MCA

IMP: 37-1-131, 37-1-306, ~~37-1-319, 37-68-201~~, MCA

REASON: The board determined it is reasonable and necessary to amend this continuing education (CE) rule throughout for better organization, simplicity, and ease of use. The board is amending (3) to require that providers submit requests for course approval a minimum of 60 days prior to the scheduled course. The board notes that there are currently over 600 approved course providers and numerous new requests are received constantly, nearly all via e-mail. Due to the changes in technology surrounding CE provision and the resultant workload increase for board staff, the board determined it is reasonably necessary to require the 60-day period.

The board is amending this rule to no longer require that CE certificates include course location and names of instructors and sponsoring agencies because CE courses are often available online and the board obtains the information through the course approval process.

The board is adding to (3)(e) the requirement that CE certificates are verifiable online within 30 days of the seminar. The board determined it is reasonable to require providers to have online verification to move away from licensees providing paper proof of CE completion and to expedite verification of CE completion. Following amendment, the board will no longer require providers to notify the board of every CE seminar's location and time. Due to the online availability of many CE courses, the board determined this requirement to be outdated and unnecessary.

The board is amending (5) of this rule to address the requirement for honoring CE courses from states in reciprocal licensing agreements with Montana. Following amendment, out-of-state CE certificates must show the breakdown of code or industry credit hours for consistency with in-state certificates and to ensure minimum CE requirements are met.

5. The rule proposed to be repealed is as follows:

24.141.506 MASTER ELECTRICIAN QUALIFICATIONS found at ARM page 24-12542.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-201, 37-68-301, 37-68-304, MCA

REASON: It is reasonable and necessary to repeal this rule as the board is incorporating the information in this rule into ARM 24.141.501 so that licensure qualifications for journeyman and master licenses are available in a single rule.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdele@mt.gov, and must be received no later than 5:00 p.m., March 2, 2009.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.electrician.mt.gov. The department strives to make the electronic copy of this Notice conform to the official

version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The State Electrical Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all State Electrical Board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdele@mt.gov, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

10. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

STATE ELECTRICAL BOARD
JACK FISHER, PRESIDENT

/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 January 20, 2009