

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

In the matter of the amendment of)
ARM 24.180.2102 continuing)
education requirements, and the)
repeal of ARM 24.180.203 board)
meetings, 24.180.413 general)
responsibilities, 24.180.601)
investigation, 24.180.2101 renewals,)
and 24.180.2401 complaint)
procedure)

NOTICE OF AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On October 14, 2016, the Board of Plumbers (board) published MAR Notice No. 24-180-49 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1790 of the 2016 Montana Administrative Register, Issue No. 19.

2. On November 15, 2016, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the November 15, 2016, deadline.

3. Several comments were received, all regarding the amendment of ARM 24.180.2102. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter stated that the proposed language of ARM 24.180.2102(2)(b)(iii)(B)(I) through (IV) is confusing, and specifically that it is unclear to non-lawyers that both (A) and (B) must be met to qualify under (iii). The commenter also believed it is unclear that each of (I) through (IV) represents a way a trainer could qualify to provide continuing education (CE). The commenter provided suggested language changes.

RESPONSE 1: The board concluded that the proposed rule language comports with the rule drafting requirements of the Montana Secretary of State. As such, using principals of statutory construction, it would be interpreted on judicial review as the board intends. The department will work to make the application as clear as possible to ensure applicants understand the rule. The board is amending the rule exactly as proposed.

COMMENT 2: A commenter asserted that under (2)(b)(iii)(B)(II), to qualify to be a CE course instructor by virtue of being an apprenticeship training instructor, an applicant must be an instructor for a union. The commenter asked the board to amend the rule to read "is an instructor for an organization that uses the UPC and

has been approved for plumber apprenticeship training by the U.S. Labor Office of Apprenticeship (USDOL-OA)."

RESPONSE 2: After considering the comment, the board is not amending the rule further. The board recognizes that the plumbers and pipefitters union has a very high standard for whom they allow to instruct apprentices. Non-union applicants who wish to teach CE have other less burdensome routes in the other provisions of this rule. The board is amending the rule exactly as proposed.

COMMENT 3: A commenter asserted that two community colleges have instructors who do not qualify to teach CE under the proposed rules (a master plumber and apprenticeship instructor, not associated with a union, and one not licensed as a journeyman or master plumber). The commenter suggested the board further amend (2)(b)(iii)(B)(IV), and submitted proposed language.

RESPONSE 3: The board wishes to ensure that those who can provide CE, by virtue of being an IAPMO inspector, or an apprenticeship training instructor (as opposed to instructor certification or training by IAPMO) are themselves licensed plumbers who have practical knowledge and experience. The board is amending the rule exactly as proposed.

COMMENT 4: One commenter opined that professional engineers are familiar with concepts of plumbing, waste water, and treatment systems, and could make effective CE instructors. The commenter asked the board to amend the rule to accept as CE instructors non-licensed plumbing instructors who are professional engineers registered in a state that has adopted the UPC and who hold the IAPMO plumber inspector certification.

RESPONSE 4: The board wishes to allow licensed journeymen or master plumbers who have inspector certification with IAPMO, to provide CE. The board does not believe licensure as an engineer guarantees the same practical knowledge and experience in the plumbing industry that is required to provide continuing education, and is amending the rule exactly as proposed.

4. The board has amended ARM 24.180.2102 exactly as proposed.

5. The board has repealed ARM 24.180.203, 24.180.413, 24.180.601, 24.180.2101, and 24.180.2401 exactly as proposed.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

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

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

Certified to the Secretary of State January 23, 2017