

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.144.301 definitions,	)	REPEAL
24.144.402 duty to report changes,	)	
24.144.403 proof of insurance,	)	
24.144.411 fees, 24.144.501 who must	)	
obtain an endorsement, 24.144.502	)	
endorsement examinations,	)	
24.144.701 fireworks wholesaler permit	)	
applications, and 24.144.2101	)	
continuing education, and the repeal of	)	
24.144.404 duplicate license or	)	
endorsement, 24.144.415	)	
apprenticeship programs, 24.144.503	)	
application procedure, 24.144.702	)	
fireworks wholesale permits, and	)	
24.144.2102 renewals, all pertaining to	)	
the Fire Protection License Program	)	

TO: All Concerned Persons

1. On January 15, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-144-2 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 39 of the 2021 Montana Administrative Register, Issue No. 1.

2. On February 11, 2021, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena via the remote conferencing platform. Several comments were received by the February 12, 2021 deadline.

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

COMMENT 1: One commenter requested including definitions for "inspection," "maintenance," and "testing" to be in line with the definitions stated in NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.

RESPONSE 1: The suggested additional definitions are beyond what can be accomplished in a final notice but may be considered in future rulemaking.

COMMENT 2: Several commenters opposed the removal of ARM 24.144.501(6)(c) because other states generally allow homeowners to install their own fire protection

equipment. Commenters stated the exemption is an important option for homeowners seeking greater fire protection for their families and property.

RESPONSE 2: The department is striking this provision because it exceeds the scope of the program's statutes which contain no licensing exceptions for owner/occupants of single-family residences.

COMMENT 3: A commenter proposed amending ARM 24.144.502 to include passage of a NICET test with a conditional certificate as a pathway to licensure.

RESPONSE 3: Pursuant to ARM 24.144.502(1)(b), an endorsement is issued to applicants having letters of certification, specific to the endorsement sought, of NICET Level II or higher, or those candidates for certification from NICET Level II or higher. Therefore, this section allows issuance of an endorsement to individuals who possess a conditional NICET Level II certification to be considered "candidates for certification."

COMMENT 4: Several commenters opposed removing the requirements set forth in ARM 24.144.502(1)(c) because apprenticeships offer an important path to licensure.

RESPONSE 4: The department agrees that the apprenticeship program option should not have been stricken and is retaining the provision.

COMMENT 5: A few commenters suggested the department implement a tiered system to better reflect the duties of those seeking endorsements.

RESPONSE 5: The department did not propose any such amendments to ARM 24.144.502; therefore this request is outside of the scope of the current project but may be considered in future rulemaking.

COMMENT 6: A commenter opposed the reduction of continuing education (CE) hours in ARM 24.144.2101 stating that the four hours is not adequate to maintain current knowledge of state-of-the-art fire protection standards.

RESPONSE 6: The department concluded that reducing the required CE hours from eight to four is reasonable in reducing the burden for endorseees to obtain CE hours while maintaining adequate competency and knowledge.

COMMENT 7: A commenter opposed changes to ARM 24.144.2101(2) stating that the quality of endorseees' training will diminish if they are allowed to choose training unrelated to enhancing knowledge of current standards for fire protection systems.

RESPONSE 7: Pursuant to ARM 24.144.2101(1) and (8), CE must be related to the practice of installing or servicing fire protection equipment. Unrelated CE will not be accepted as meeting the requirements.

COMMENT 8: A commenter requested clarification of what a "candidate for certification" means.

RESPONSE 8: The department defines a "candidate for certification" as an individual who passed the examination for NICET Level II but must meet additional NICET requirements to achieve a NICET II certification.

COMMENT 9: One commenter asked how the proposed amendments would affect currently licensed individuals.

RESPONSE 9: The rule changes will apply to all licensed individuals once effective, and the proposal notice outlined the specific reasons for changes to individual rules.

4. The department has amended ARM 24.144.301, 24.144.402, 24.144.403, 24.144.411, 24.144.501, 24.144.701, and 24.144.2101 exactly as proposed.

5. The department has repealed ARM 24.144.404, 24.144.415, 24.144.503, 24.144.702, and 24.144.2102 exactly as proposed.

6. The department has amended ARM 24.144.502 with the following changes, stricken matter interlined, new matter underlined:

24.144.502 EXAMINATION FOR ENDORSEMENT (1) through (1)(b) remain as proposed.

(c) is currently licensed as an engineer in any jurisdiction (state, territory, federal government, federally-recognized tribe, country or local government), that has licensure standards as stringent as or more stringent than those for licensure as an engineer in the state of Montana; or

(d) has successfully completed an apprenticeship program approved by the department.

(2) remains as proposed.

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

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2021.