

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

In the matter of the amendment of)
ARM 24.180.401 fee schedule,)
24.180.508 temporary exceptions,)
24.180.707 renewal of endorsement,)
and 24.180.2102 continuing education)
requirements)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On February 23, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/94005327782>, Meeting ID: 940 0532 7782, Passcode: 996062; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 940 0532 7782, Passcode: 996062.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

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 Board of Plumbers no later than 5:00 p.m., on February 16, 2021, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Plumbers, 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) 841-2305; or dlibsplu@mt.gov (board's e-mail).

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

<u>24.180.401 FEE SCHEDULE</u> (1) remains the same.	
(2) Application fee	\$ 100
(a) Board-administered examination fee	400
(b) Board-administered reexamination fee	400
(3) Initial license fee	
(a) Journeyman	170

(b) Master	280
(4) Renewal fee	
(a) Journeyman	160
(b) Master	265
(5) Medical gas endorsement application fee	100
(6) Medical gas endorsement renewal fee	30
(7) Out-of-state licensure fee	300
<u>(2) The following fees apply to licensees and applicants:</u>	
<u>(a) Application fees:</u>	
(i) Journeyman	\$270
(ii) Master	380
(iii) Medical gas endorsement	100
(iv) Out-of-state	400
<u>(b) Renewal fees:</u>	
(i) Journeyman	160
(ii) Master	265
(iii) Medical gas endorsement	30
(c) Board-administered examination/reexamination fee	400
(8) (d) Temporary practice permit Provisional license fee	100
(9) remains the same but is renumbered (e).	
(10) (f) Continuing education provider application fee	50
(11) and (12) remain the same but are renumbered (g) and (h).	
(13) and (14) remain the same but are renumbered (3) and (4).	

AUTH: 37-1-134, 37-69-202, 37-69-401, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-69-303, 37-69-306, 37-69-308, 37-69-311, 37-69-401, MCA

REASON: The board is amending the fee schedule to standardize payments by combining the license and application fees into one fee. Changes were determined necessary during a comprehensive annual review of the board's rules. The process to pay two separate fees has caused delays in licensure and confusion as to why the board has two separate fees for a license and an application. No fees will be increased or decreased with these changes. The licensee will now be able to pay a single fee to the department instead of two separate transactions. The board is amending (8) to provide the updated term "provisional license" that was previously termed "temporary practice permit."

24.180.508 TEMPORARY EXCEPTIONS (1) remains the same.

(2) ~~The type of plumbing work is restricted to repair and maintenance of an existing plumbing system only.~~

(3) (2) The county, city, or town or the board of directors or managers of a water or sewer district, or water utility ~~shall be required to~~ must reapply for board approval every three years from the date of board approval, or at the time a new unlicensed person has been delegated, whichever occurs first.

(3) The county, city, or town or the board of directors or managers of a water or sewer district or water utility must notify the board if a licensed plumber locates within a 100-mile radius.

AUTH: ~~37-1-131~~, 37-69-202, MCA
IMP: 37-69-102, 37-69-103, MCA

REASON: Following a comprehensive review of the board's rules, the board concluded it is reasonably necessary to delete the scope of work restriction in (2) because no such restriction exists in 37-69-102(3), MCA, which is implemented through this rule.

The board is adding notice requirement in (3) to enhance the board's ability to appropriately take action against unlicensed practice violations of 37-69-301(1), MCA. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.180.707 RENEWAL OF ENDORSEMENT (1) All medical gas endorsements must be renewed on or before the date set by ARM 24.101.413. Each endorsement holder must submit a renewal form, ~~proof of a~~ an attestation of current certification, and the required renewal fee.

AUTH: 37-1-141, 37-69-202, 37-69-401, MCA
IMP: 37-1-141, 37-69-401, MCA

REASON: Following a comprehensive annual rule review, the board determined it is reasonably necessary to amend several rules to expedite the renewal process and promote online renewals. The board is amending this rule to allow attesting to certification in the installation of medical gas systems, based on NFPA 99C and Section IX of the ASME Welding and Brazing Codes, in lieu of requiring "proof" of certification. The board will audit these endorsees to verify compliance with certification requirements as authorized by 37-1-306, MCA.

24.180.2102 CONTINUING EDUCATION REQUIREMENTS (1) ~~Beginning September 1, 2006, each~~ Each journeyman or master plumber shall obtain at least four hours of board-approved continuing education (CE) annually ~~in order to renew the person's license. The license renewal application must be signed by the licensee and certify that the licensee has completed the required amount of continuing education.~~

(a) Licensees shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

~~(a) (b)~~ (b) New licensees are exempt from the requirements during their first renewal cycle. ~~Those licensees~~ Licensees changing from journeyman licenses to master plumber licenses are not exempt from completing at least four hours of continuing education CE.

~~(2) In general, courses should~~ CE must be designed to advance the knowledge and skills of licensees. A licensee may receive credit only for ~~continuing education~~ CE courses that have received prior approval of the curriculum by the

board or the department and to which a course approval number has been assigned by the department. Course approval expires when changes in plumbing code, statutes, or rules necessitate.

(a) remains the same.

(b) Course instructors shall be, as of the date of the course approval application and at all times while providing ~~continuing education~~ CE instruction:

(i) a certified ~~continuing education~~ CE instructor employed by the International Association of Plumbing and Mechanical Officials;

(ii) a plumbing ~~continuing education~~ CE instructor approved in a state that has a plumbing license reciprocity agreement with the board, if the instructor has also successfully completed the International Association of Plumbing and Mechanical Officials' "train the trainer" course for the Uniform Plumbing Code; or

(iii) through (c) remain the same.

(d) Course sponsors shall provide each person completing a ~~continuing education~~ CE course with a completion certificate. The completion certificate must contain all of the following information:

(i) through (3) remain the same.

(4) The ~~department board~~ may ~~conduct a random~~ randomly audit of up to 50 percent of all renewed active licensees ~~following the licensee renewal process~~.

(a) ~~All licensees~~ Licensees shall retain course completion certificates for a minimum of three years, ~~for auditing purposes~~ and make the records available upon board request.

~~(b) Audited licensees are required to furnish to the department certificates of completion which demonstrate attainment of the four-hour continuing education requirement.~~

~~(c) (5) Failure by the licensee to provide certificates of completion when audited shall constitute grounds for implementation of disciplinary proceedings against the licensee. Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.~~

~~(5) (6) All requests for exemption from the continuing education requirements will be reviewed by the board and determinations will be done on a case-by-case basis. Licensees may request exemption from CE requirements due to hardship. Requests will be considered by the board.~~

~~(6) (7) If a licensee does not timely file a renewal application, and thereafter files a late renewal application, the late renewal application must contain licensee must provide documentary proof that the licensee has obtained of completing the required amount of continuing education CE.~~

AUTH: 37-1-319, MCA

IMP: 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board is amending this rule to align with and facilitate the department's standardized renewal, administrative suspension, and audit procedures; align with the administrative suspension provisions of 37-1-321, MCA; and to streamline and simplify for better organization and ease of use.

Following recommendations by legal staff, the board is amending (1) to align CE affirmation at renewal with 37-1-306, MCA, and standardized department procedures.

It is reasonably necessary to amend (4) to allow responsiveness to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is amending (5) to clarify that licensees not in compliance with CE requirements may be subject to administrative suspension per 37-1-321, MCA, and align with department audit processes.

4. 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 Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsplu@mt.gov, and must be received no later than 5:00 p.m., February 26, 2021.

5. An electronic copy of this notice of public hearing is available at www.plumber.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

6. The 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 that the person wishes to receive notices regarding all 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 Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsplu@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.180.401, 24.180.508, 24.180.707, and 24.180.2102 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; facsimile (406) 841-2305; or to dlibsplu@mt.gov.

9. Jason Steffins, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PLUMBERS
JEFF GRUIZENGA
PRESIDING OFFICER

/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 January 19, 2021.