

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

In the matter of the amendment of)
ARM 24.180.301 definitions,)
24.180.505 journeyman must work in)
the employ of master, 24.180.507)
master plumbers registration of)
business name, and the adoption of)
NEW RULE I nonroutine applications)
and NEW RULE II unprofessional)
conduct)

NOTICE OF AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On March 8, 2012, the Board of Plumbers (board) published MAR notice no. 24-180-47 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 476 of the 2012 Montana Administrative Register, issue no. 5.

2. On April 2, 2012, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the April 10, 2012, deadline.

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

COMMENT 1: One commenter was concerned about using misdemeanor crimes and prior professional misconduct to define nonroutine license applications, and asserted that New Rule I would affect current licensees with past instances of misdemeanors or misconduct. The commenter suggested that conviction of a crime under New Rule II (unprofessional conduct) should be consistent with nonroutine application criteria (New Rule I), so that it would take at least two misdemeanors (like skateboarding on the sidewalk) to amount to professional misconduct.

RESPONSE 1: Because the nonroutine applications rule will only affect future license applications, and because the types of misdemeanors the commenter referenced would not amount to unprofessional conduct under the proposed rules, the board concluded that this comment does not address the proposed rule changes. The board is adopting the new rules exactly as proposed.

COMMENT 2: A commenter asserted that if someone could lose a license for failing to respond to a board inquiry, then all inquiries should be sent via certified or registered mail. Noting that there could be many reasons why a licensee may not receive a mailed board inquiry, the commenter was concerned that the board could sanction a licensee solely due to a failure to respond.

RESPONSE 2: Because no discipline can be imposed on a licensee for failing to respond to a board inquiry until after a hearing, the board points out that any and all reasons why a response was not forthcoming would be known and considered before a finding of unprofessional conduct could be made or any sanction could be imposed.

4. The board has amended ARM 24.180.301, 24.180.505, and 24.180.507 exactly as proposed.

5. The board has adopted NEW RULES I (24.180.405) and II (24.180.2301) exactly as proposed.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

/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 July 30, 2012