

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I, the amendment of ARM	)	PROPOSED ADOPTION,
38.3.104, 38.3.116, 38.3.124,	)	AMENDMENT, AND REPEAL
38.3.201, 38.3.401, 38.3.402,	)	
38.3.405, 38.3.601, 38.3.602,	)	
38.3.701, 38.3.702, 38.3.705,	)	
38.3.706, 38.3.707, 38.3.708,	)	
38.3.805, 38.3.1503, 38.3.1504,	)	
38.3.1505, 38.3.2001, 38.3.2014,	)	
38.3.2015, 38.3.2016, 38.3.2101,	)	
38.3.2404, and 38.3.2501, and the	)	
repeal of 38.3.501, 38.3.2406,	)	
38.3.3304, and 38.3.3404 pertaining	)	
to motor carriers	)	

TO: All Concerned Persons

1. On June 24, 2015, at 9:00 a.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room at 1701 Prospect Avenue, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on June 17, 2015, to advise us of the nature of the accommodation that you need. Please contact Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail asolem@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I. COMPLETION OF PROTEST TO APPLICATION FOR CERTIFICATE OF COMPLIANCE (1) Persons protesting an application for a certificate of compliance must include in their protests a statement providing the basis of the protestant's belief that the applicant is not able to meet the requirements of 69-12-415, MCA.

(2) A protestant challenging the rebuttable presumption that an applicant who has demonstrated compliance with the commission's insurance, bonding, and security requirements meets the requirements of 69-12-415, MCA, will not be successful unless the protestant provides compelling evidence to the commission either:

(a) that, contrary to the evidence in the application, the applicant has not complied with the commission's insurance, bonding, and security requirements; or  
(b) that the applicant, for other reasons, is not fit, willing, and able to perform the service. Other reasons may include, but are not limited to, the criminal history or driving record of the applicant if such history or record is relevant to the issue of public safety.

(3) The protest must be sworn to as true and correct and signed by the protestant before a notary public.

(4) In addition to filing before the commission, a copy of the protest must be served on the applicant.

AUTH: Chapter 456, Laws of 2015, MCA

IMP: Chapter 456, Laws of 2015, MCA

REASON: Based upon the enactment of Senate Bill 396 passenger motor carriers no longer have to apply for a certificate of convenience and necessity. Passenger motor carriers wishing to provide service only have to apply for a certificate of compliance with the Commission. Pursuant to Senate Bill 396, a protestant may contest that the applicant is not able to meet the requirements of 69-12-415, MCA.

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

38.3.104 "CONTRACT" VS. "COMMON" CARRIER (1) through (3) remain the same.

(4) A transportation network carrier is neither a contract carrier nor a common carrier.

AUTH: 69-12-201, MCA

IMP: 69-12-302, MCA

REASON: Based upon the enactment of Senate Bill 396, a transportation network carrier is neither a contract nor a common carrier.

38.3.116 TRANSPORTING FOR HIRE ON A COMMERCIAL BASIS

(1) Every motor carrier as defined within the Montana Motor Carrier Act (69-12-101, MCA) is deemed to be in the business of transporting people or property for hire on a commercial basis upon the public highways of the state of Montana. Any business venture or business transaction inconsistent with the status of the carrier as providing common carriage, or contract carriage, or transportation network carrier service, is deemed not within the interest of providing and maintaining a public transportation system and is hereby prohibited. Such business ventures or transactions include transportation movements of private carriage, so-called "buy and sell" agreements, or operating under so-called "brokerage agreements," and are therefore prohibited.

AUTH: 69-12-201, MCA

IMP: 69-12-106, MCA

REASON: The addition of transportation network carrier is necessary to make the existing rule consistent with SB 396.

38.3.124 RECEIPT CONTENT (1) remains the same.

(2) When a commission-regulated motor carrier provides a receipt to a shipper or a passenger or maintains a receipt for its own records, whether required by law to do so or does so as a matter of policy, the receipt shall include sufficient information that the commission can readily determine that charges are in accordance with the motor carrier's tariffs, if applicable, and that the movement is within the scope of the motor carrier's authority.

AUTH: 69-12-201, MCA

IMP: 69-11-421, 69-12-203, MCA

REASON: Class E transportation network carriers do not have commission-approved tariffs; therefore, the amendment of the rule is necessary to make the existing rule consistent with SB 396.

38.3.201 INTRASTATE CARRIERS VEHICLE REGISTRATION FEE (1) All provisions of the Montana Motor Carrier Act are deemed applicable to intrastate carriers, including but not necessarily limited to, the following specific provisions:

- ~~(a) supervision and regulation (69-12-201, MCA);~~
- ~~(b) the establishment, fixing and filing of rates with the commission (69-12-201, 69-12-501, MCA);~~
- ~~(c) discrimination forbidden (69-12-503, MCA);~~
- ~~(d) procedure for revision (69-12-504, MCA);~~
- ~~(e) authorization to transfer operating certificate (69-12-325, MCA);~~
- ~~(f) compliance with commission rules and regulations required (69-12-401, MCA);~~
- (g) Class A, B, C, and D motor carriers must pay payment of an annual per vehicle registration fee of five dollars (\$5) for which a registration receipt will be issued, a copy of which shall be carried in each vehicle at all times;
- ~~(h) inspection of books and accounts (69-12-407, MCA);~~
- ~~(i) acts deeming person to be motor carrier (69-12-106, MCA);~~
- ~~(j) leasing of power equipment (69-12-611, MCA);~~
- ~~(k) interchange of equipment (69-12-612, MCA);~~
- ~~(l) leasing of operating certificate (69-12-326, MCA);~~
- ~~(m) penalties for violations of act (69-12-108, MCA);~~
- ~~(n) additional fees (69-12-423, MCA).~~

AUTH: 69-12-201, MCA

IMP: 69-12-106, 69-12-108, 69-12-201, 69-12-501, 69-12-503, 69-12-504, 69-12-325, 69-12-326, 69-12-401, 69-12-407, 69-12-421, 69-12-423, 69-12-611, 69-12-612, MCA

REASON: The listing of Montana statutes in a commission rule is unnecessary. Additionally, because SB 396 provides that a class E transportation network carrier does not own, control, operate, or manage the vehicles used by its drivers, the proposed rule excludes class E motor carriers from paying the vehicle registration fee.

38.3.401 COMPLETION OF APPLICATIONS (1) remains the same.

(2) Application forms for operating authority must be submitted on a printed form supplied by this commission.

(3) remains the same.

AUTH: 69-12-201, MCA

IMP: 69-12-311, 69-12-312, 69-12-313, 69-12-314, MCA

REASON: The commission intends to offer application forms on its web site so the amendment is to allow online submission of application forms.

38.3.402 APPLICATION AND PROTEST FEES (1) Every application for operating authority and every protest to application for operating authority must be accompanied by the appropriate filing fee:

(a) The application fee for a certificate of public convenience and necessity ~~or for a certificate of compliance to operate as a motor carrier~~ is \$500, \$300 to be refunded by the commission if the application does not proceed to hearing.

(b) The application fee for a certificate of public convenience and necessity ~~or for a certificate of compliance to operate as a motor carrier~~ under a federal or state contract, as provided under 69-12-324, MCA, is \$100.

(c) The ~~protest fee for a motor carrier protest or motor carrier applicant~~ protest of an application for a certificate of public convenience and necessity ~~or for a certificate of compliance is \$500.~~

(d) If a written request for the withdrawal of a protest is received by the commission at least two business days before the scheduled hearing, the protest fee will be refunded by the commission.

AUTH: 69-12-201, MCA

IMP: 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-324, MCA

REASON: The addition of an application for a certificate of compliance is necessary to comply with the application process set out in SB 396. Passenger motor carriers wishing to provide service only have to apply for a certificate of compliance with the commission. Therefore the rule needs to reference both types of applications.

38.3.405 COMPLETION OF MOTOR CARRIER PROTEST TO APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(1) ~~Motor carriers and motor carrier applicants~~ Persons protesting an application for a certificate of public convenience and necessity must include in the protest:

(a) a statement that the application is being protested in whole or in part and, if being protested only in part, a statement of the limitations of the protest;

(b) an identification of the specific application-proposed service areas in which a protesting motor carrier perceives a service conflict;

(c) a statement of the protesting motor carrier's annual revenues received for services provided in the specific application-proposed service areas in which the protesting motor carrier perceives a service conflict.

(2) and (3) remain the same.

AUTH: 69-12-201, MCA

IMP: 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, MCA

REASON: The amendment of the rule is necessary to clarify that any person may protest an application for a certificate of public convenience and necessity.

38.3.601 OPERATION UPON GRANTING OF CERTIFICATE (1) Every person or corporation who is granted a certificate of public convenience and necessity or a certificate of compliance to operate as a motor carrier by the commission must:

(a) within 30 days after the date of the issuance of the order to grant the certificate comply with all rules and regulations of the commission and the laws of the state of Montana necessary to begin actual operations as a motor carrier.

(2) If a motor carrier fails to meet the necessary operating compliance within the required time period, the failure may result in the revocation of the certificate of public convenience and necessity or the certificate of compliance granted by the commission to the person or corporation.

AUTH: 69-12-201, 69-12-204, MCA

IMP: 69-12-101, et seq., 69-12-327, 69-12-401, 69-12-402, MCA

REASON: The addition of an application for a certificate of compliance is necessary to comply with the application process set out in SB 396. Passenger motor carriers wishing to provide service only have to apply for a certificate of compliance with the commission. Therefore the rule needs to reference both types of applications.

38.3.602 OPERATION AFTER SALE OR TRANSFER OF CERTIFICATE

(1) Every person or corporation who, with the approval of the commission, procures any right, privilege, or certificate of public convenience and necessity, or certificate of compliance as a motor carrier either by sale, assignment, lease, transfer, or inheritance must:

(a) within 30 days after the mailing of the notice of such approval by the commission, comply with all rules and regulations of the commission and the laws of the state of Montana necessary to begin actual operations as a motor carrier.

(2) remains the same.

AUTH: 69-12-201, 69-12-204, MCA

IMP: 69-12-101, et seq., 69-12-327, 69-12-401, 69-12-402, MCA

REASON: The addition of an application for a certificate of compliance is necessary to comply with the application process set out in SB 396. Passenger motor carriers wishing to provide service only have to apply for a certificate of compliance with the commission. Therefore the rule needs to reference both types of applications.

38.3.701 EVIDENCE OF INSURANCE REQUIRED (1) remains the same.

(2) Failure to file the appropriate insurance will prohibit any intrastate carrier from conducting a transportation movement on the highways of this state.

(3) An applicant for a certificate of compliance must submit evidence of the appropriate insurance as part of the application for a certificate.

AUTH: 69-12-201, MCA

IMP: 69-12-402, MCA

REASON: Under SB 396, applicants for a certificate of compliance establish a rebuttable presumption of their fitness, the sole criterion for obtaining a certificate, by demonstrating they have complied with the commission's insurance requirements. Therefore, the rule requires that the application include evidence of insurance compliance.

38.3.702 BODILY INJURY AND PROPERTY DAMAGE LIABILITY

INSURANCE (1) Every class A, class B, class C, and class D intrastate carrier must file with this commission evidence of complying with the minimum insurance requirements of this commission as applicable to bodily injury and property damage liability insurance.

(2) For the purposes of this subchapter "bodily injury" shall include death.

(3) Every class E carrier must file with the commission evidence of compliance with the insurance requirements of [SB 396 NEW SECTION 4].

AUTH: 69-12-201, MCA

IMP: 69-12-402, MCA

REASON: The addition of class E carrier provisions is necessary to comply with the class E insurance requirements set out in SB 396.

38.3.705 FORMS FOR CERTIFICATE OF INSURANCE (1) The following forms shall be utilized by the department and may be obtained from the commission, 1701 Prospect Avenue, Helena, Montana 59620-2601.:

(a) Form K. Uniform notice of cancellation of motor carrier insurance policies, stock form K.

(b) Form H. Uniform motor carrier cargo certificate of insurance.

(c) Form E. Uniform motor carrier bodily injury and property damage liability certificate of insurance for use by class A, B, C, and D motor carriers.

(d) Form T. Uniform bodily injury and property damage liability certificate of insurance for use by class E transportation network carriers.

AUTH: 69-12-201, MCA  
IMP: 69-12-402, MCA

REASON: The addition of class E carrier provisions is necessary to comply with the class E insurance requirements set out in SB 396.

38.3.706 ENDORSEMENTS (1) All insurance policies issued by the insurance company to the carrier must include, at time of issuance, the terms, conditions, and requirements set forth in this rule and repeated on endorsement forms approved by the commission and identified as "Endorsement MV4," and "Endorsement MV2," and "Endorsement MV-TNC" available from the office of the commission.

(2) The following terms, conditions, and requirements are deemed a substantive part of all policies issued, and are incorporated therein:

(a) Cargo insurance for household goods carriers (Endorsement MV2) shall be issued in an amount no less than \$10,000.

(b) Casualty (liability) insurance for class A, B, C, and D carriers (Endorsement MV4) shall be issued in an amount no less than:

- (i) \$100,000 for 7 passengers or less;
- (ii) \$500,000 for 8 to 15 passengers;
- (iii) \$750,000 for 16 to ~~30~~ 26 passengers;
- (iv) ~~\$5,000,000 for 31 passengers or more;~~

~~(v)~~ (v) except any class A or B motor carrier, other than as provided in (b)(i) above, operating under a certificate of public convenience and necessity or certificate of compliance authorizing passenger operations only within a particular city or 10-mile radius thereof is required to carry a minimum of \$500,000 insurance regardless of size of vehicle used;

~~(vi)~~ (v) \$100,000 for transportation of nonhazardous freight in a vehicle designed, equipped, and primarily intended for transportation of seven passengers or less or a vehicle of manufacturer's GVW rating of 10,000 pounds or less designed, equipped, and primarily intended for transportation of cargo;

~~(vii)~~ (vi) \$500,000 for transportation of nonhazardous freight for all other vehicles.

(c) Liability insurance for class E carriers (Endorsement MV-TNC) shall be issued as specified in [SB 396 NEW SECTION 4].

(3) These endorsements must be executed, countersigned, and attached to the original policy when issued.

AUTH: 69-12-201, MCA  
IMP: 69-12-402, MCA

REASON: The addition of class E carrier provisions is necessary to comply with the class E insurance requirements set out in SB 396. In addition, the amendments to (2)(b) implement the provision in SB 396 that exempts from commission jurisdiction motor carriers whose vehicles are designed to carry groups of passengers that number more than 26 passengers.

38.3.707 MINIMUM LIMITS OF INSURANCE COVERAGE - BONDS

UNACCEPTABLE (1) Minimum limits of insurance coverage for class A, B, C, and D carriers as required by this commission are outlined in Endorsement MV-4 and Endorsement MV-2.

(2) Minimum limits of insurance coverage for class E carriers are specified in [SB 396 NEW SECTION 4] and outlined in Endorsement MV-TNC.

(2) (3) Bonds in lieu of insurance coverage are not acceptable for carriers.

AUTH: 69-12-201, MCA

IMP: 69-12-402, MCA

REASON: The addition of class E carrier provisions is necessary to comply with the class E insurance requirements set out in SB 396.

38.3.708 SELF-INSURANCE (1) and (2) remain the same.

(3) The privilege of self-insurance may be withdrawn at any time by the commission. The failure of a motor carrier to promptly notify the commission of any material change in ~~said~~ the motor carrier's financial status or failure to correctly exhibit to the commission the motor carrier's financial status, either in an original application for self-insurance or in any subsequent report, shall be sufficient cause for revocation of the motor carrier's certificate of public convenience and necessity or certificate of compliance.

(4) Class E carriers may not provide self-insurance.

AUTH: 69-12-201, MCA

IMP: 69-12-402, MCA

REASON: The addition of a class E carrier provision is necessary to comply with the class E insurance requirements set out in SB 396.

38.3.805 ANNUAL REPORTS AND UNIFORM SYSTEM OF ACCOUNTS

~~(1) Reports due this commission from As required in 69-12-407, MCA, class A, B, C, and D motor carriers operating within the state of Montana are as required in 69-12-407, MCA. Annual to submit annual reports shall be submitted to the commission. Annual report forms are available on the commission's web site upon request at the Commission Office, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601. Information relative to the uniform system of accounts or any uniform reports may be had by contacting the commission office.~~

(2) The annual report form represents the uniform system of accounts the commission is required to prescribe by 69-12-407, MCA The "Uniform System of Accounts for Class I and Class II, Common and Contract Motor Carriers of Passengers" and the "Uniform System of Accounts for Class I and Class II, Common and Contract Motor Carriers of Property" adopted by the interstate commerce commission as revised January 1, 1974, are hereby adopted and prescribed by this commission for these Class A and B motor carriers operating within the state of Montana, holding interstate authority and currently maintaining their accounts in conformance with the uniform systems named above.

~~(3) The "Uniform System of Accounts for Class A and B Common Motor Carriers of Property and Passengers" prepared and published by this commission is hereby adopted for those common carriers of property and passengers operating within the state of Montana not currently maintaining their accounts in conformance with the uniform system of accounts prescribed in the interstate commerce commission.~~

AUTH: 69-12-201, MCA  
IMP: 69-12-407, MCA

REASON: Based upon the enactment of SB 396, only class A, B, C, and D motor carriers are required to provide annual reports to the commission. Annual report forms will be available on the commission's web site. The annual report form will represent the uniform system of accounts prescribed by 69-12-407, MCA.

38.3.1503 SEATING CAPACITY (1) Pursuant to the terms of 69-11-203, MCA, concerning the number of vehicles to be provided and a seat to be provided every passenger, all class A and B common carriers authorized to transport passengers must provide a sufficient number of vehicles for that particular time schedule in order to provide every passenger tendering legal fare with a seat.

(2) remains the same.

AUTH: 69-12-201, MCA  
IMP: 69-11-203, MCA

REASON: Based upon the enactment of SB 396, class E motor carriers are not required to provide a certain number of vehicles or seats to every passenger. Only class A and B motor carriers will be required to meet those requirements.

38.3.1504 DISABLED PASSENGER VEHICLE - TRANSPORTATION OF PASSENGERS (1) In case a motor vehicle carrying passengers pursuant to a class A or B certificate becomes disabled while en route and is unable to proceed, any passenger or passengers on such disabled vehicle shall have the privilege of proceeding upon any other passenger-carrying vehicle operating under a class A or class B certificate from the commission on the same route or portion of route.

(2) and (3) remain the same.

AUTH: 69-12-201, MCA  
IMP: 69-12-101, et seq., MCA

REASON: Based upon the enactment of SB 396, class E motor carriers are not required to provide an alternative vehicle if the original vehicle becomes disabled. Only class A and B motor carriers will be required to meet those requirements.

38.3.1505 MOTOR CARRIER AUTHORITY RECOGNITION (1) Motor Class B motor carriers granted authority to carry persons or passengers without limitation

to the type of service are permitted to operate both as a rate regulated and charter passenger carrier.

AUTH: 69-12-201, MCA  
IMP: 69-12-201, MCA

REASON: It is necessary to amend this rule to clarify that it does not apply to class E motor carriers.

38.3.2001 LEASING OF POWER EQUIPMENT - GENERAL (1) The requirements for the leasing of power equipment by class A, B, C, and D carriers ~~any class of carrier~~ operating within the state are as contained in 69-12-611, MCA. (2) and (3) remain the same.

AUTH: 69-12-201, 69-12-204, MCA  
IMP: 69-12-611, MCA

REASON: It is necessary to amend this rule to clarify that it does not apply to class E motor carriers.

38.3.2014 LEASE OF CERTIFICATES OF OPERATING AUTHORITY- GENERAL (1) Leasing of Montana ~~public service commission~~ Public Service Commission operating certificates of public convenience and necessity or certificates of compliance permits may be authorized as required by 69-12-326, MCA.

(2) All leases of certificates ~~of public convenience and necessity or permits~~ shall be in writing. The leases shall be submitted to the commission for approval and shall not have any force or effect until approved by the commission.

(3) In the event a ~~certificate or permit lease~~ is cancelled for any cause whatever or is terminated by expiration in accordance with the terms of ~~said~~ the certificate ~~or permit lease~~, notice of such cancellation or expiration thereof shall be given immediately to the commission in writing.

AUTH: 69-12-201, 69-12-204, MCA  
IMP: 69-12-326, MCA

REASON: The addition of an application for a certificate of compliance is necessary to comply with the application process set out in SB 396. Passenger motor carriers wishing to provide service only have to apply for a certificate of compliance with the commission. Therefore the rule needs to reference both types of applications and clarify that either type of certificate may be leased.

38.3.2015 COMPENSATION AND FEES (1) remains the same.

(2) The provisions of this rule shall not be construed and are not intended to any way relieve the owner of the certificate ~~of public convenience and necessity or permit~~ from the payment of all any compensation and fees due the commission and ~~upon the failure of a lessee to so pay said compensation and fees as herein~~

~~provided the owner and holder of said certificate of public convenience and necessity or permit shall be responsible therefore. Upon the failure of a lessee to pay any compensation and fees, the owner and holder of the certificate shall be responsible.~~

AUTH: 69-12-201, MCA

IMP: 69-12-323, 69-12-326, 69-12-421, 69-12-423, MCA

REASON: Removal of the language involving certificates of public convenience and necessity is necessary to have the rule apply to both types of certificates available under SB 396. Therefore the rule needs to reference both types of applications and clarify that either type of certificate may be leased.

38.3.2016 CONTINUED OBLIGATION OF OWNER (1) A lease in no way relieves the owner or holder of the leased certificate ~~of public convenience and necessity or permit~~ from the laws of the state of Montana and the rules and regulations of the commission governing motor vehicle carriers. ~~Said~~ The owner shall be held responsible for all acts of the lessee with the same force and effect as though ~~said the~~ operations were being carried on by the owner or holder of ~~said the~~ certificate ~~of public convenience and necessity or permit~~.

(2) Such certificate ~~of public convenience and necessity or permit~~ may be cancelled upon the failure of any lessee to abide by the laws of the state of Montana and rules and regulations of the commission governing motor carriers.

AUTH: 69-12-201, MCA

IMP: 69-12-326, MCA

REASON: Removal of the language involving certificates of public convenience and ~~necessity~~ is necessary to have the rule apply to both types of certificates available under SB 396. Therefore the rule needs to reference both types of applications and clarify that either type of certificate may be leased.

38.3.2101 SALE OR TRANSFER OF CERTIFICATE OF AUTHORITY

(1) As authorized by 69-12-325, MCA, public service commission certificates ~~or permits~~ may be sold or transferred. The application for sale or transfer shall be addressed to the commission, be sworn to, and contain the following information:

(a) through (k) remain the same.

(l) shall be signed by the owner and the purchaser ~~as follows~~ and notarized.

(m) Forms for applications for sale or transfer are available on the commission's web site or upon request.

State of Montana,

County of \_\_\_\_\_)ss.

\_\_\_\_\_ and \_\_\_\_\_ being first duly sworn, each for himself, deposes and says that he is one of the parties to the proceeding entitled above; that he has read the foregoing application and knows the contents thereof; that the same is true of his own knowledge, except as to

matters which are therein stated on information or belief, and as to those matters he believes it to be true.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary public for the State of Montana.  
Residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

(2) It is required that full compliance and completion of sales and transfers be consummated within 30 days after the mailing of the notice of the commission's approval or suffer the revocation of such right to said the certificate of public convenience and necessity by the commission.

~~(3) Application for sales or transfers of interstate permits should be accompanied by the written approval (or certified copy) of the interstate commerce commission. Failure to file such ICG approval will be grounds for denial of the transfer of the Montana interstate permit.~~

AUTH: 69-12-201, MCA  
IMP: 69-12-325, MCA

REASON: Forms for sale and transfer will be available on the commission's web site so there is no reason to include a form in the rule. Additionally, the Interstate Commerce Commission no longer exists so that portion of the rule can be repealed.

~~38.3.2404 ASSISTANCE IN PREPARING TARIFFS AND TIME SCHEDULES~~ (1) Information regarding construction of freight, express, and passenger tariffs, including classifications required of class A and class B carriers, will be furnished by the commission on application. ~~These publications and supplements thereto, including time schedules and supplements thereto.~~

(2) and (3) remain the same.

AUTH: 69-12-201, MCA  
IMP: Title 69, chapter 12, part 5, MCA

REASON: The stricken sentence is an incomplete sentence that adds nothing to the rule.

~~38.3.2501 INDIVIDUAL OR BUREAU FILING~~ (1) Carriers, ~~subject to this commission~~ may elect either to file their own tariff, or become a participating carrier in an authorized section 5(b) bureau.

(2) Tariffs may be filed with the commission by groups or bureaus, ~~which meet the requirements of such groups or bureaus, as promulgated by the interstate commerce commission.~~

(3) To obtain authorization to operate in intrastate commerce as a rate bureau, an application, which contains the items in 69-12-601 through 69-12-605, MCA, shall be made to the commission. This application may be in the same form as an application to the I.C.C. under 49 U.S.C.A. section 5(b), and the rules adopted thereunder in 49 C.F.R., part 1331. In the alternative, an application which contains the items in 69-12-601 through 69-12-605, MCA, are acceptable.

AUTH: 69-12-201, MCA

IMP: Title 69, chapter 12, part 5, 69-12-601, 69-12-602, 69-12-603, 69-12-604, 69-12-605, MCA

REASON: The Interstate Commerce Commission no longer exists so the provisions of this rule that reference the I.C.C. can be stricken.

5. The department proposes to repeal the following rules:

38.3.501 STATUTORY AUTHORITY

AUTH: 69-12-201, MCA

IMP: 69-12-207, MCA

REASON: It is unnecessary to reiterate language from Montana statutes.

38.3.2406 APPLICATION OF I.C.C. TARIFF RULES

AUTH: 69-12-201, MCA

IMP: Title 69, chapter 12, part 5, MCA

REASON: The Interstate Commerce Commission no longer exists so this rule must be repealed.

38.3.3304 POWERS OF ATTORNEY, CONCURRENCE, REVOCATION

AUTH: 69-12-201, MCA

IMP: Title 69, chapter 12, part 5, MCA

REASON: The Interstate Commerce Commission no longer exists so this rule must be repealed.

38.3.3404 ADDITIONAL REQUIREMENT FOR CARRIERS THAT FILE WITH THE I.C.C.

AUTH: 69-12-201, MCA

IMP: Title 69, chapter 12, part 5, MCA

REASON: The Interstate Commerce Commission no longer exists so this rule must be repealed.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Ave., Helena, Montana, 59620; telephone (406) 444-6170; fax (406) 444-7618; or e-mail [asolem@mt.gov](mailto:asolem@mt.gov), and must be received no later than 5:00 p.m. on June 26, 2015.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the 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 Secretary of State works 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.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail and phone on May 13, 2015.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will significantly and directly impact small businesses.

/s/ JUSTIN KRASKE  
JUSTIN KRASKE  
Rule Reviewer

/s/ BRAD JOHNSON  
BRAD JOHNSON  
Chairman  
Department of Public Service Regulation

Certified to the Secretary of State May 18, 2015.