



ADMINISTRATIVE RULES OF MONTANA

24.101.301 ABATEMENT OF RENEWAL FEES

- (1) Pursuant to 17-2-302 , MCA, state programs that charge a fee for services are generally not permitted to let their cash balance exceed twice the program's annual appropriation. However, despite the best projections of a program, there may be times when cash balances exceed the amount authorized by statute. This rule is intended to provide a process for a program that needs to reduce its cash balance with a standard methodology to do so, in fair and equitable manner. This rule provides for an abatement of certain fees when the cash balance is excessive.
- (2) Except as provided by (3) , a program that has an excessive cash balance may abate the renewal fees for the program's licensees or registrants for one or more renewal cycles until the program's cash balance does not exceed the allowable maximum.
 - (a) The abatement of renewal fees may be the total amount of the renewal fee, or only a specified portion of the renewal fee.
 - (b) If a program has more than one category of renewals, the abatement must be made on a roughly proportional basis to fairly, equitably, reasonably and economically distribute the abatement among the program's licensees or registrants. The program may, for good cause, completely abate the renewal fee for certain classes of licensees or registrants and not for other classes, if the administrative cost of processing a reduced renewal fee for all classes is disproportionately high. In such a case, the program must attempt in any future abatements to equitably treat those classes of renewals which have borne a relatively higher proportion of renewal fees.
 - (c) The fact that the renewal fee is abated for any given renewal cycle does not excuse the licensee or registrant from otherwise fulfilling the renewal requirements, including submission of a renewal application and/or continuing education documentation. A program, to the extent it so provides by rule, may impose a late fee on untimely submissions of renewal applications or other required documentation.
- (3) This rule does not apply to programs for which an exception to 17-2-302 , MCA, exists and is applicable. As an example, a program with a three-year renewal cycle will have an apparent excess cash balance during the first year of the renewal cycle, based on a collection of three year's worth of fees for operations expenses.
- (4) This rule does not relieve a program from the duty to establish fees at a level commensurate with costs.
- (5) A licensing board attached to the department for administrative purposes may adopt the procedures specified in this rule by incorporating this rule by reference. Such an adoption of this rule authorizes the department to make such abatements as are appropriate, without further vote

or action by the board. Incorporation by reference of this rule does not relieve the board of its obligations to set fees in a manner commensurate with costs. This rule does not relieve a board from its duty to undertake appropriate rulemaking to modify its fee structure when there are recurrent instances of cash balances in excess of the amount allowed by statute.

Authorizing statute(s): 37-1-101, MCA

Implementing statute(s): 17-2-302, 17-2-303, 37-1-101, 37-1-134, MCA

History: NEW, 2004 MAR p. 2286, Eff. 9/24/04.