

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.122.401 fee schedule for)	PROPOSED AMENDMENT AND
boiler operating engineers,)	REPEAL
24.122.405 approval of training)	
courses, 24.122.510 examinations,)	
and the repeal of 24.122.515)	
renewals, pertaining to boiler operator)	
licensing)	

TO: All Concerned Persons

1. On February 11, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal 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/92728672482>, Meeting ID: 927 2867 2482, Passcode: 051763; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 927 2867 2482, Passcode: 051763.

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 department no later than 5:00 p.m., on February 4, 2021, to advise us of the nature of the accommodation that you need. Please contact Carrie Baker, Boiler Operators License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or cbaker@mt.gov.

3. GENERAL REASONABLE NECESSITY STATEMENT: Following a January 2020 internal transfer of the Boiler Operators License Program (program) from the Building Codes Program to the Professional Licensing Bureau, department staff performed an in-depth review of the program's statutes and administrative rules. The department determined it is reasonably necessary to amend several program rules at this time to align with and gain efficiencies from standardized department procedures, remove conflicts between statutes and the implemented rules, and streamline the rules for better organization and ease of use for the reader.

Where a more specific reason for a proposed amendment exists, the department will identify those reasons immediately following that rule.

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

24.122.401 FEE SCHEDULE FOR BOILER OPERATING ENGINEERS

(1) Initial application, including examination for all classes of licensure:

(a) First class engineer license	\$100 <u>70</u>
(b) Second class engineer license	100
(c) Third class engineer license	80
(d) Agriculture class engineer license	50
(e) Low pressure engineer license	60
(f) Traction engineer license	50

(2) through (5) remain the same.

AUTH: 37-1-134, 50-74-101, MCA

IMP: 37-1-101, 37-1-134, 37-1-141, 50-74-320, MCA

REASON: Because the application procedure is standardized, there is no reason to assess different fees for the various boiler operating engineer license classes. Further, the department has determined through fee modeling that having a standard fee, and in some cases a reduced fee for higher classes of licensure is a positive aspect for stakeholders. The department is amending this rule to establish a single application fee for all classes of boiler operating engineers. These changes will affect approximately 254 applicants and result in a negligible change to annual revenue.

24.122.405 APPROVAL OF TRAINING COURSES (1) Any person or entity wishing to conduct a training course, approved by the department as acceptable for fulfilling educational requirements for boiler operator engineer licensure established in 50-74-304, MCA, shall apply for approval on forms provided by the department.

(2) remains the same.

(3) Training course providers shall receive department approval prior to offering courses. Applications for approval of a training course must include the following:

(a) through (e) remain the same.

(f) ~~a copy of the instructor's boiler operating engineer's license or other documentation acceptable to the department, which outlines the instructor qualifications to teach the course.~~

(i) through (5) remain the same.

AUTH: 50-74-101, MCA

IMP: 50-74-304, MCA

REASON: The department is amending (3)(f) to no longer require applicants submit a copy of the instructor's boiler operating engineer's license since staff can simply access the license information in the database.

~~24.122.510 EXAMINATIONS (1) Examinations to determine the fitness and competence of applicants will be conducted in Helena, Montana at not less than three month intervals. At the department's discretion, additional examinations may be conducted based on the number of approved applicants waiting for examination.~~

~~(2) (1) The department may conduct examinations in other accept third-party testing locations and accept examination results from third-party agencies if authorized by the department.~~

~~(3) through (5) remain the same but are renumbered (2) through (4).~~

~~(6) An applicant who fails to appear and take the first examination for which the applicant is scheduled may have the examination fee apply toward the next scheduled examination. However, if the applicant fails to appear and take the next scheduled examination, the fee is forfeited and any application for a subsequent examination requires an additional examination retake fee.~~

AUTH: 50-74-101, MCA

IMP: 50-74-302, 50-74-306, 50-74-311, 50-74-320, MCA

REASON: The department is amending this rule to provide greater flexibility in license testing locations beyond just Helena four times a year. The department already allows test proctoring at State Job Service locations but concluded it is reasonable to further expand testing locations to allow third-party locations such as colleges and universities.

The department does not require that applicants forfeit their exam fees if they fail to appear to sit for an exam. The department determined doing so is unnecessarily burdensome and is striking (6).

5. The rule proposed to be repealed is as follows:

24.122.515 RENEWALS

AUTH: 37-1-141, 50-74-101, MCA

IMP: 37-1-141, 50-74-313, MCA

REASON: The department is repealing this rule because the department administers a standardized renewal process for all professional and occupational licensure boards and programs, and it is not necessary to repeat the procedural provisions in this program rule.

6. 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 Boiler Operators License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-

mail to cbaker@mt.gov, and must be received no later than 5:00 p.m., February 12, 2021.

7. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/boi> (department and program'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.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this program. 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 program 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 Boiler Operators License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to cbaker@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

10. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.122.401, 24.122.405, and 24.122.510 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the department has determined that the repeal of ARM 24.122.515 will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to the Boiler Operators License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; facsimile (406) 841-2305; or to cbaker@mt.gov.

11. Carrie Baker, Program Manager, has been designated to preside over and conduct this hearing.

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

/s/ BRENDA NORDLUND
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 30, 2020.