

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.122.405, 24.122.505,)	PROPOSED AMENDMENT
24.301.710, and 24.301.714)	
pertaining to creation of a limited low-)	
pressure boiler operating engineer's)	
license, incorporation by reference of)	
Boiler and Pressure Vessel Code, and)	
fees)	

TO: All Concerned Persons

1. On October 4, 2021, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. 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/84743047767>, Meeting ID: 847 4304 7767; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 847 4304 7767.

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

2. The 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 Monday, September 27, 2021, to advise us of the nature of the accommodation that you need. Please contact Carrie Baker, Business Standards Division, P.O. Box 200513, Helena, Montana 59620-0513; or telephone (406) 841-2004; facsimile (406) 841-2305; Montana TTD (406) 444-5549; or e-mail cbaker@mt.gov.

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

24.122.405 APPROVAL OF TRAINING COURSES (1) through (2)(a) remain the same.

(b) For limited low-pressure boiler operating engineer training courses, a minimum of 6 hours, including classroom instruction and field or shop time, is required.

(3) through (5) remain the same.

AUTH: 50-74-101, MCA
IMP: 50-74-304, MCA

REASON: There is a reasonable necessity to amend this rule to comply with the amendments to 50-74-304, MCA, by Chapter 440, Laws of 2021 (Senate Bill 396), creating limited low-pressure engineers, a new classification of boiler operating engineers.

24.122.505 APPLICATION FOR LICENSURE (1) and (2) remain the same.

(3) Applicants for ~~other than a first- or second-class~~ a limited low-pressure, low-pressure, or third-class boiler operating engineer's license may provide documentation in lieu of the requisite experience and qualification requirements. ~~An applicant for other than a first- or second-class boiler operating engineer's license may furnish documentation~~ which provides:

(a) remains the same.

(b) verification acceptable to the department from a boiler operating engineer with a license at least equal to the class of license sought by the applicant, that the applicant has worked with the type of boiler for which the license is sought under the engineer's supervision for a minimum of:

(i) ~~40 hours, and that the applicant is competent to operate the boiler of the class for which the license is being sought~~ for a low-pressure or third-class boiler operating engineer's license; or

(ii) 8 hours for a limited low-pressure boiler operating engineer's license.

(4) remains the same.

AUTH: 50-74-101, MCA

IMP: 50-74-302, 50-74-303, 50-74-304, 50-74-305, 50-74-307, 50-74-308, 50-74-318, MCA

REASON: There is a reasonable necessity to amend this rule to comply with Senate Bill 396 creating limited low-pressure engineers, a new classification of boiler operating engineers. Reasonable necessity exists to add a citation to the implementation statutes to reflect the new license type created.

24.301.710 INCORPORATION BY REFERENCE OF BOILER AND PRESSURE VESSEL CODE (1) The Department of Labor and Industry, referred to as department in this and all subsequent rules, adopts and incorporates by reference the following sections of the American Society of Mechanical Engineers (ASME), Boiler and Pressure Vessel Code, ~~2004~~ 2021 edition, referred to as Boiler and Pressure Vessel Code, unless another edition is specifically stated:

(a) Section I, Rules for Construction of Power Boilers;

(b) remains the same.

(c) Section IV, Rules for Construction of Heating Boilers, Except Part HLW, Lined Water Heaters;

(d) and (e) remain the same.

(f) Section VII, Recommended Guidelines for the Care of Power Boilers; ~~and~~

(g) Section IX, Welding and Brazing Qualifications; and

(h) Section XIII, Rules for Overpressure Protection.

(2) The department adopts and incorporates by reference the American Society of Mechanical Engineers publication CSD-1, Controls and Safety Devices for Automatically Fired Boilers, ~~2002~~ 2018 edition, referred to as CSD-1, unless another edition is specifically stated.

(3) The Boiler and Pressure Vessel Code and CSD-1 are nationally recognized codes setting forth minimum standards and requirements for the construction, operation, and safety of boilers. A copy of the Boiler and Pressure Vessel Code and CSD-1 may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017 ASME Headquarters, Two Park Avenue, New York, NY 10016-5990; or <https://www.asme.org>.

AUTH: 50-60-203, 50-74-101, MCA

IMP: 50-60-203, 50-74-101, MCA

REASON: There is a reasonable necessity to amend this rule to adopt the most current versions of the codes provided by the American Society of Mechanical Engineers. The amendments reflect changes in the structure of the code and advances in boiler and pressure vessel technology.

24.301.714 FEES (1) remains the same.

(a) operating certificate	\$31 <u>36</u>
(b) internal inspection	75 <u>80</u>
(c) external inspection:	
(i) hot water heating and supply	35 <u>40</u>
(ii) steam heating	50 <u>55</u>
(iii) power boiler	70 <u>75</u>
(d) through (5) remain the same.	

AUTH: 50-60-203, 50-74-101, MCA

IMP: 50-60-203, ~~50-74-219~~, 50-74-318, MCA

REASON: There is a reasonable necessity to amend this rule to increase inspection fees to keep them commensurate with services. The fees under ARM 24.301.714 have not been increased since 2005, and a small increase in the fees is necessary to account for the increased cost of performing inspections. The department estimates the fee increases will affect 21,536 applicants for operating certificates and boiler inspections and will increase annual revenue by approximately \$107,680. The revenue raised by the fee increase will go towards administering the program. In addition to general inflation since 2005, program costs such as travel, lodging, and general program administration have increased since 2005, and this fee increase will address those necessary program costs.

There is reasonable necessity to amend the implementation statutes because Senate Bill 396 repealed 50-74-219, MCA, and adopted 50-74-318, MCA.

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 Carrie Baker, Business Standards Division, P.O. Box 200513, Helena, Montana 59620-0513; facsimile (406) 841-2305; or e-mail cbaker@mt.gov, and must be received no later than 5:00 p.m., October 12, 2021.

5. 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, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be sent to the department staff listed above.

6. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on August 26, 2021, by telephone, e-mail, and regular mail.

7. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

8. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 31, 2021.