

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.135.301, 24.135.402,) PROPOSED AMENDMENT
24.135.411, 24.135.501, 24.135.516,)
and 24.135.530 pertaining to fees,)
incorporation by reference of American)
National Standards Institute B30.5, and)
license requirements for crane and)
hoisting operating engineers)

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 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, Crane and Hoisting Operator 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 e-mail cbaker@mt.gov.

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

24.135.301 DEFINITIONS For purposes of this subchapter, the following definitions apply:

- (1) "Bureau" means the ~~business and occupational~~ professional licensing bureau of the Department of Labor and Industry.
- (2) through (7) remain the same.

AUTH: 50-76-112, MCA
IMP: 50-76-101, 50-76-102, 50-76-103, MCA

REASON: The department is amending (1) to reflect the correct name of the professional licensing bureau.

24.135.402 FEE SCHEDULE (1) remains the same.
(2) Annual renewal of license (First and Second Class) 80 150
(3) through (6) remain the same.

AUTH: ~~37-1-134~~, 50-76-104, 50-76-112, MCA
IMP: 50-76-104, MCA

REASON: The department determined it is reasonably necessary to increase renewal fees for all first and second-class license types to comply with the provisions of 37-1-134, MCA, and keep the program's fees at a level that provides the amount of money usually needed for the operation of the program for services. In providing administrative services to the program, the department has determined that unless the fees are increased as proposed, the program's already existing shortfall of operating funds will continue to increase through the end of the current fiscal year and into future fiscal years. Under the current fee structure, the program will not have sufficient revenue in FY21 to even cover regular FY21 operating expenses. The department estimates that approximately 1417 persons will be affected by the proposed fee changes, resulting in a \$99,190 increase in annual revenue. The program last revised fees in 2006.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.135.411 INCORPORATION BY REFERENCE OF AMERICAN NATIONAL STANDARDS INSTITUTE B30.5 (1) The Department of Labor and Industry adopts and incorporates by reference the following sections of the American National Standards Institute (ANSI) B30.5, ~~2004~~ 2018 Edition which sets forth standards for mobile and locomotive cranes:

- (a) and (b) remain the same.
 - (c) Section 5-3.1.3 Conduct of Operators Responsibilities;
 - (d) and (e) remain the same.
 - (f) Section 5-3.4.5 Operating Near Crane Operation in the Vicinity of Electric Power Lines.
- (2) and (3) remain the same.
(4) A copy of the ANSI B30.5 can be purchased directly from ANSI, ~~1819 L Street NW, Suite 600, Washington, D.C. 20036~~ at www.ansi.org.

AUTH: 50-76-110, 50-76-112, MCA
IMP: ~~50-76-109~~, 50-76-110, MCA

REASON: The department is amending this rule to adopt and incorporate the most current 2018 edition of the American National Standards Institute (ANSI) B30.5, which sets forth standards for mobile and locomotive cranes. It is reasonably necessary to update to the contemporary standard to align with the training and certifications that applicants are receiving prior to licensure and operation. The department is also amending this rule to correctly name some sections that have been relabeled in the 2018 standard. The department is also providing the correct web address where the standards may be obtained.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.135.501 HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (7)(a) remain the same.

(b) A report of physical examination filled out and signed by the physician, physician assistant, or advanced practice registered nurse having given the examination. The form is provided by the bureau. An alternate form may be used if approved by the bureau. The physical may not be dated more than 180 days from the date the application is received by the bureau.

(c) through (8) remain the same.

AUTH: 50-76-112, MCA

IMP: 50-76-102, 50-76-103, 50-76-104, MCA

REASON: The department recognizes that pursuant to Montana law and from submitted physicals that physicians are not the only qualified medical practitioners currently performing physical examinations. Therefore, it is reasonably necessary to amend this rule to also accept physical exams performed by physician assistants and advanced practice registered nurses and increase applicants' access to the required examinations.

24.135.516 CRANE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (5) remain the same.

(6) A third-class crane ~~boiler's~~ oiler's license requires no experience or physical examination. A third-class crane license authorizes the holder to move truck cranes only.

(7) through (8)(a) remain the same.

(b) A report of physical examination filled out and signed by the physician, physician assistant, or advanced practice registered nurse having given the physical examination. The form is provided by the bureau upon request. An alternate form may be used if approved by the bureau. This physical examination form must also be filled out and submitted for license renewals.

(c) through (9) remain the same.

AUTH: 50-76-112, MCA

IMP: 50-76-103, 50-76-104, MCA

REASON: See REASON for ARM 24.135.501. The department is also amending (6) to reflect the correct license type.

24.135.530 MINE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (10)(a) remain the same.

(b) A report of physical examination filled out and signed by the physician, physician assistant, or advanced practice registered nurse having given the examination. The form is provided by the bureau upon request. An alternate form may be used if approved by the bureau. The physical may not be dated more than 180 days from the date the application is received by the bureau.

(c) and (d) remain the same.

AUTH: 50-73-103, 50-76-112, MCA

IMP: 50-73-302, 50-76-102, 50-76-104, MCA

REASON: See REASON for ARM 24.135.501. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

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 the Crane and Hoisting Operator 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.

5. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/cra> (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.

6. 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 Crane and Hoisting Operator 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.

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

8. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.135.301, 24.135.402, 24.135.411, 24.135.501, 24.135.516, and 24.135.530 will not significantly and directly impact small businesses.

Documentation of the department's above-stated determination is available upon request to the Crane and Hoisting Operator 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.

9. 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.