

DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.2.208 ) ON PROPOSED AMENDMENT  
renewal dates and ARM 24.122.401 )  
fee schedule for boiler operating ) (BOILER AND BOILER OPERATOR  
engineers licenses ) PROGRAM)

TO: All Concerned Persons

1. On March 2, 2006, at 9:00 a.m., a public hearing will be held in room B-07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact Mr. Dan Bernhardt no later than 5:00 p.m., February 24, 2006, to advise us of the nature of the accommodation you need. Please contact Mr. Dan Bernhardt, Boiler Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2350; Montana Relay 1-800-253-4091; TDD (406) 444-2978; Facsimile (406) 841-2309; e-mail dlibsdboi@mt.gov.

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

8.2.208 RENEWAL DATES (1) through (2)(d) remain the same.

(e) April 1 is the renewal date for licenses and other authorities granted by the board of physical therapy examiners, ~~and is the renewal date for guides and professional guides (regulated by the board of outfitters),~~ and the boiler operator program;

(f) through (r) remain the same.

AUTH: 37-1-101, MCA

IMP: 37-1-101, MCA

REASON: It is reasonable and necessary to amend ARM 8.2.208(2)(e) to reflect changes in statute made by Chap. 467, Laws of 2005 (HB 182) during the 2005 Legislative session. The boiler operator licensing program is moving to a once-a-year licensing cycle. Because boiler operator licenses are currently renewed in the month of the anniversary of the license issuance, the Department proposes to prorate the renewal fees as a transition to the common renewal date. The following are the prorated renewal fees by renewal month through March 2007. Licensees renewing in January through March 2007 will have an expiration date of April 2008. All boiler operator licenses issued in 2006 will then renew on an annual date of April

1, starting 2007, with a \$35.00 annual renewal fee. Those fees, based on the proposed annual rate of \$35.00 will be as follows:

May 2006 through April 1, 2007 prorated renewal fee	\$32
June 2006 through April 1, 2007 prorated renewal fee	29
July 2006 through April 1, 2007 prorated renewal fee	26
August 2006 through April 1, 2007 prorated renewal fee	23
September 2006 through April 1, 2007 prorated renewal fee	20
October 2006 through April 1, 2007 prorated renewal fee	17
November 2006 through April 1, 2007 prorated renewal fee	14
December 2006 through April 1, 2007 prorated renewal fee	11
January 2007 through April 1, 2008 prorated renewal fee	44
February 2007 through April 1, 2008 prorated renewal fee	41
March 2007 through April 1, 2008 prorated renewal fee	38

24.122.401 FEE SCHEDULE FOR BOILER OPERATING ENGINEERS

(1) remains the same.

(2) Annual renewal of license (all classes) 45 35

(3) through (5) remain the same.

AUTH: 50-74-101, MCA

IMP: ~~50-74-309, 50-74-313~~ 37-1-101, 37-1-134, 37-1-141, 50-74-320, MCA

REASON: It is reasonable and necessary to amend ARM 24.122.401 in order to have the license fees be commensurate with the costs of operating the boiler operating engineer license program. Section 37-1-134, MCA, requires that license fees be set commensurate with program area costs.

The department imposed a fee increase in February 2005 to place the program back on a self-supporting financial foundation. The department also stated in the notice that fees would be reviewed, and adjusted when the program became self-supporting. Projections forecast that the program will be self-supporting by the end of state fiscal year 2006. The number of persons affected by this amendment will be approximately 3,411 licensees. This proposed fee amendment decreases licensing fees by approximately \$34,110 a year, starting in May 2006.

In addition there is reasonable necessity to update the IMP citations to correctly reflect the statutes being implemented in light of the statutory changes provided by Chap. 467, L. of 2005.

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 by mail to Mr. Dan Bernhardt, Boiler Operating Engineers Program, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to [dlibsdboi@mt.gov](mailto:dlibsdboi@mt.gov) and must be received no later than 5:00 p.m., March 10, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Program's website on the World Wide Web at <http://boileroperator.mt.gov>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing 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 Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Boiler Operating Engineers Program 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 and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Boiler Operating Engineers Program administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Boiler Operating Engineers Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to [dlibsdboi@mt.gov](mailto:dlibsdboi@mt.gov) or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA apply and have been fulfilled.

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 30, 2006.