

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.15.301, ) ON PROPOSED AMENDMENT  
pertaining to boiler operating)  
engineer license fees )

TO: All Concerned Persons

1. On November 12, 2004, at 11:00 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 rule.

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. Todd Boucher no later than 5:00 p.m., November 8, 2004, to advise us of the nature of the accommodation you need. Please contact Todd Boucher, Boiler Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2368; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdboi@state.mt.us.

3. The rule proposed to be amended provides as follows, deleted matter stricken, new matter underlined:

8.15.301 FEE SCHEDULE FOR BOILER OPERATING ENGINEERS

(1) Initial application, including examination:

<del>(1)(a)</del>	First-class engineer license	\$ <del>60</del> <u>100</u>
<del>(2)(b)</del>	Second-class engineer license	<del>50</del> <u>100</u>
<del>(3)(c)</del>	Third-class engineer license	<del>40</del> <u>80</u>
<del>(4)(d)</del>	Agriculture-class engineer license	<del>40</del> <u>50</u>
<del>(5)(e)</del>	Low-pressure engineer license	<del>40</del> <u>60</u>
<del>(6)(f)</del>	Traction engineer license	<del>40</del> <u>50</u>
<del>(7)(2)</del>	Annual renewal of license <u>(all classes)</u>	<del>20</del> <u>50</u>
<del>(8)(3)</del>	Replacement of lost license	<del>15</del> <u>15</u>

~~(9) An applicant for licensure shall pay 50% of the license fee for which application is being made. The payment shall be forfeited in the event the applicant fails to appear for the examination at the scheduled time or fails to pass the examination. This subsection repeats statutory language to provide licensees with a single referral source for all fees.~~

~~(10)(4) An applicant who fails the examination shall again pay 50% of the licensure fee in order to retake the examination.~~

~~(11) The applicant shall pay the remaining 50% of the licensure fee at the time of successful completion of the examination.~~

(5) All fees are nonrefundable.

AUTH: 50-74-101, ~~50-74-309~~, MCA  
IMP: 50-74-309, 50-74-313, MCA

REASON: There is reasonable necessity to amend ARM 8.15.301 in order to have the license fees be commensurate with the costs of operating the boiler operating engineer license program. Section 50-74-309, MCA, requires that license fees be set commensurate with program area costs.

The Department notes that the boiler operating engineer license program is currently operating at a deficit, and started the fiscal year with an inter-agency loan. For the first quarter of fiscal year 2005, the program had revenues of approximately \$28,000, but expenditures of approximately \$50,000. The proposed fee increases are designed to place the program back on a self-supporting financial foundation.

The Department has reviewed the amount of work needed to process a new license application and administer an examination and concludes that the workload for processing each class of license application is not the same. The license application fee consists of three components: the application fee, the cost of administering the examination, and the license fee for the first year. The Department's cost for original licensing varies, depending on the type of license and the respective examination, proctoring time and grading. The Department therefore proposes to increase the license application and examination fee to \$100 for first and second class boiler operating engineer licenses, \$80 for third class boiler operating engineer licenses, \$60 for low pressure boiler operating engineer licenses, and \$50 for either the agriculture class or traction class of boiler operating engineer licenses. The re-examination fee will remain at 50% of the license application fee to cover the cost of administering the examination a second or subsequent time. The Department's cost for annual renewal licensing is \$50. Annual renewal fees are proposed to be increased to \$50.

Based on the number of persons licensed as boiler engineers in fiscal year 2004, the Department estimates that this rule will affect approximately 3,500 individuals who currently hold some class of boiler operating engineer license (including traction licenses). The Department estimates that the proposed fee increase for license renewal will generate approximately \$105,000 per year in additional revenue.

The Department estimates that approximately 207 individuals per year apply for a boiler operating engineer's license. The Department estimates additional annual revenue from the proposed fee increases for each license class as follows:

First class license (15 applicants)	\$ 600
Second class license (10 applicants)	500
Third class license (50 applicants)	2,000

Agriculture license (1 applicant)	10
Low pressure license (130 applicants)	2,600
Traction license (1 applicant)	10

The Department therefore estimates that it will receive approximately \$5,720 in additional annual revenue from the proposed increase in application fees. The Department estimates that increased examination re-take annual revenue is probably a minimal amount, approximately \$200. Accordingly, the Department estimates that the proposed fee increases will affect approximately 3,700 persons, with a total annual increased cost of \$110,920.

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: Todd Boucher, Boiler Program, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdboi@state.mt.us](mailto:dlibsdboi@state.mt.us) and must be received no later than 5:00 p.m., November 19, 2004.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Program's site on the World Wide Web at <http://discoveringmontana.com/dli/boi>, 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 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 Program administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Boiler Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdboi@state.mt.us](mailto:dlibsdboi@state.mt.us) or may be made by completing a request form at any rules hearing held by the agency.

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

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

DEPARTMENT OF LABOR AND INDUSTRY  
BOILERS, BLASTERS AND CRANES

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State October 8, 2004.