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Montana Administrative Register Notice 24-351-276

No. 12 06/20/2013

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BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ARM )  
[24.351.215](#) license fee schedule and )  
the adoption of NEW RULE I split )  
weighing allowed )  
NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT AND  
ADOPTION

TO: All Concerned Persons

1. On July 12, 2013, at 10:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Weights and Measures Bureau (bureau) of 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 bureau no later than 5:00 p.m., on July 5, 2013, to advise us of the nature of the accommodation that you need. Please contact Tim Lloyd, Bureau Chief, Weights and Measures Bureau, Business Standards Division, Department of Labor and Industry, 2801 N. Cooke Street, P.O. Box 200516, Helena, Montana 59620-0516; telephone (406) 443-3289; facsimile (406) 443-8163; TTD (406) 444-2978; Montana Relay 1 (800) 253-4091; or e-mail [tlloyd@mt.gov](mailto:tlloyd@mt.gov).

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

[24.351.215](#) LICENSE FEE SCHEDULE FOR WEIGHING AND MEASURING DEVICES (1) remains the same.

- (a) each gasoline meter, diesel meter, compressed natural gas dispenser, or fuel oil meter with a listed maximum delivery rate of 20 or less gallons per minute (gpm) ~~\$24~~ 27
  - (b) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery rate of between 130 gpm and 20 gpm ~~70~~ 88
  - (c) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery of over 130 gpm ~~83~~ 104
  - (d) each liquefied petroleum gas (LPG) meter ~~402~~ 128
- (2) remains the same.

AUTH: [30-12-202](#), [82-15-102](#), [82-15-105](#), MCA  
IMP: [30-12-203](#), [82-15-105](#), MCA

**REASON:** The department determined it is reasonably necessary to amend this rule to increase meter license fees and maintain fees commensurate with associated inspection costs. The 2013 Montana Legislature enacted House Bill 591, which granted a statutory fee increase for scale license fees to be effective July 1, 2013. Because these license fees only pay for about half of the bureau's costs, it is reasonably necessary for the department to also increase meter license fees in this rule as proposed.

Due to funding shortages, the bureau has not been able to fill vacant positions, replace

old outdated equipment, or test meters each year as required by [30-12-203\(2\)](#), MCA. The department is proposing to increase meter license fees an average of 26 percent, or about the same as scale license fees. This proposed fee increase will affect approximately 550 businesses or meter owners and provide about \$127,000 in additional revenue each year.

4. The proposed new rule provides as follows:

**NEW RULE I SPLIT WEIGHING ALLOWED** (1) The net weight of any commodity, including raw logs, grain, and quarried rock, transported by any combination of truck, truck tractor, trailer, or semi-trailer, may be determined by split weighing on a scale licensed by the bureau.

(2) There must be a written agreement for loads that are split weighed and it must contain the following information:

- (a) names of both the vendor and purchaser;
- (b) agreement by the vendor and purchaser that the net weights of the loads covered by the agreement will be determined by split weighing;
- (c) scale owner's name and the location of the scale;
- (d) name(s) of the scale operator(s);
- (e) commodity covered by the agreement;
- (f) time period covered by the written agreement; and
- (g) acknowledgement that the weigh tickets clearly indicate the loads were split weighed.

(3) A copy of the agreement must accompany each load that is split weighed.

(4) A copy of the agreement must be submitted to the bureau before any loads are split weighed.

(5) For purposes of this rule, the weigh ticket must also include the following information:

- (a) name of the scale operator;
- (b) date;
- (c) location and address of the scale; and
- (d) clear indication the load was split weighed.

(6) The following information must be on the weigh ticket or on a separate signed supplemental document that must be attached to the weigh ticket and accompany the product while being delivered. The scale operator must certify for each load:

(a) each axle of the vehicle or combination of vehicles rests on a straight surface that is level with the deck of the vehicle scale; or, if not level, the amount by which the deck of the scale is not level does not exceed 1/3 inch per foot of distance between the deck of the vehicle scale and the axle;

(b) the brakes of the vehicle or combination of vehicles were not used while the vehicle was being weighed; and

(c) the transmission of the vehicle or combination of vehicles was in neutral.

AUTH: Chap. 296, section 1, L. of 2013

IMP: [37-12-306](#), [37-12-406](#), MCA; Chap. 296, section 1, L. of 2013

**REASON:** The 2013 Montana Legislature enacted Chapter 296, Laws of 2013 (House Bill 157), an act allowing split weighing of commodities and requiring the department to adopt rules to implement and administer split weighing. The bill was signed by the Governor on April 25, 2013, and will become effective July 1, 2013. The department is now proposing New Rule I to coincide with the new legislative changes and further implement the bill.

5. 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 Tim Lloyd, Bureau Chief, Weights and Measures Bureau, Business Standards Division, Department of Labor and Industry, 2801 N. Cooke Street, P.O. Box 200516, Helena, Montana 59620-0516; facsimile (406) 443-8163; or e-mail [tloyd@mt.gov](mailto:tloyd@mt.gov), and must be received no later than 5:00 p.m., July 22, 2013.

6. An electronic copy of this Notice of Public Hearing is available at [www.bsd.dli.mt.gov/bc/ms\\_index.asp](http://www.bsd.dli.mt.gov/bc/ms_index.asp) (department and bureau's web site). The department strives to make the electronic copy of this notice 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 web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this bureau. 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 the person who wishes to receive notices regarding all board 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 Tim Lloyd, Bureau Chief, Weights and Measures Bureau, Business Standards Division, Department of Labor and Industry, 2801 N. Cooke Street, P.O. Box 200516, Helena, Montana 59620-0516; faxed to the office at (406) 443-8163; e-mailed to [tlloyd@mt.gov](mailto:tlloyd@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of [2-4-302](#), MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 23, 2013, by telephone.

9. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

DEPARTMENT OF LABOR AND INDUSTRY

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 10, 2013

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For questions about the organization of the ARM or this web site, contact [sosarm@mt.gov](mailto:sosarm@mt.gov).