

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.50.213 and 17.50.216 pertaining to)
junk vehicles)
)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

(JUNK VEHICLES)

TO: All Concerned Persons

1. On September 26, 2019, at 10:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer, Legal Secretary, no later than 5:00 p.m., September 19, 2019, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov.

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

17.50.213 PAYMENT REQUESTS (1) and (2) remain the same.

(3) The department shall pay each claim at the flat rate of ~~\$100.00~~ \$115 per vehicle removed.

(4) through (8) remain the same.

AUTH: 75-10-503, MCA

IMP: 75-10-532, MCA

REASON: Section 75-10-503(3), MCA, authorizes the department to adopt rules for reimbursement of charges by tow truck operators for removing abandoned vehicles at the request of law enforcement in accordance with 61-12-401, MCA. ARM 17.50.213 establishes the amount of the reimbursement payment for each abandoned vehicle removed with a valid claim for payment. The reimbursement rate was set at \$70 in 1999, raised to \$85 in 2006, and raised again to \$100 in 2011. The money for reimbursement is contained in the junk vehicle fund authorized under 15-1-122(2), MCA.

Due to inflation and increased fuel and maintenance expenses incurred by tow truck operators who are hired to remove these abandoned vehicles, the Capital City Tow Association has requested an increase in the reimbursement payment. Based on that request and the rising costs incurred by tow truck operators, the

department concluded it is reasonably necessary to increase the reimbursement payment from \$100 to \$115 per vehicle removed.

Since fiscal year 2011 up to fiscal year 2018, the average number of vehicles towed per year is 428. Approximately 300 tow truck operators seek reimbursement during a fiscal year. Therefore, the department estimates that the proposed increase in the reimbursement payment would provide each tow truck operator an average \$21 per year in additional reimbursement payments. The total proposed increase in reimbursement payments by the department is estimated to be about \$6,420 per year. Sufficient funds are available in the junk vehicle fund authorized under 15-1-122(2), MCA, to pay for the proposed increase in reimbursement payments.

17.50.216 ITEMIZED ACCOUNTING BUDGET PROCEDURES--COUNTY JUNK VEHICLE PROGRAMS (1) ~~An itemized accounting shall be submitted to the department for each~~ Each county junk vehicle program shall submit to the department an itemized accounting for the past fiscal year by December 31 before an approval will be granted for the department will approve the next fiscal year's budget.

(2) ~~Itemized accountings shall~~ The itemized accounting must be submitted on forms provided by the department.

(3) ~~County A county's~~ county's junk vehicle budgets for each fiscal year must be spent, or encumbered (purchase order or signed contract), ~~or, subject to the limitations set forth in 75-10-521, MCA, designated to a motor vehicle recycling and disposal capital improvement fund by June 30. Any funds not encumbered by June 30 must be returned to the state.~~

(4) ~~Prior to paying a county's approved budget as provided for in 75-10-534, MCA, the department shall deduct any funds from the county's approved budget for the past fiscal year that were not spent, encumbered, or designated to a motor vehicle recycling and disposal capital improvement fund by June 30.~~

(4) and (5) remain the same but are renumbered (5) and (6).

AUTH: 75-10-503, MCA

IMP: 75-10-503, 75-10-521, 75-10-534, MCA

REASON: The department is proposing several amendments to the county junk vehicle program budgeting and accounting procedures to set deadlines, implement recent legislation, align the rules with current department practice, and update grammar and language choices. The department also is adding citation to additional statutes that are implemented by this rule.

The department is proposing to add a December 31 deadline in (1) to give the department adequate time to determine the county's junk vehicle budget for the subsequent fiscal year. Under current rule, a county may submit its itemized accounting at any point during the following fiscal year, which at times has caused delays and prevented some counties from receiving their budget funds by fiscal year end. The proposed December 31 deadline would also give counties sufficient time to create an accurate expenditure report for the preceding fiscal year.

The department is proposing changes to (3) to implement amendments to 75-

10-521, MCA, enacted by the 2017 Montana Legislature at Chapter 88, Laws of 2017 (House Bill 152). The 2017 amendments to 75-10-521, MCA, allow counties to establish motor vehicle recycling and disposal capital improvement funds. The proposed changes to (3) establish in rule the alternative method by which a county may use its junk vehicle budget funds.

The department is proposing (4) to accurately reflect current department procedures relating to county budget funds remaining at the end of the fiscal year. The department has found that it is more efficient to deduct unused funds from the following fiscal year's budget rather than requiring the county to return the unused funds to the department.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to sscherer@mt.gov, no later than 5:00 p.m., October 4, 2019. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

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 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: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wind energy, wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Sandy Scherer at sscherer@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

6. Nicholas Whitaker, attorney for the department, has been designated to preside over and conduct the hearing.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply. The bill sponsor was notified by letter on February 18, 2019.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ Edward Hayes

EDWARD HAYES

Rule Reviewer

BY: /s/ Shaun McGrath

SHAUN McGRATH

Director

Certified to the Secretary of State August 27, 2019.