

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
17.50.213 pertaining to reimbursement)	AMENDMENT
payments for abandoned vehicle removal)	
)	(MOTOR VEHICLE RECYCLING
)	AND DISPOSAL)
)	
)	(NO PUBLIC HEARING
)	CONTEMPLATED)

TO: All Concerned Persons

1. On February 28, 2011, the Department of Environmental Quality proposes to amend the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, please contact Elois Johnson, Paralegal, no later than 5:00 p.m., February 14, 2011, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

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

(3) The department shall pay each claim at the flat rate of ~~\$85.00~~ 100 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 drivers 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, and raised to \$85 in 2006. The money for reimbursement is contained in the junk vehicle fund authorized under 15-1-122(2), MCA.

Because of inflation and increased fuel expenses incurred by tow truck operators who are hired to remove these abandoned vehicles, the Montana Tow Truck Association has requested an increase in the reimbursement payment. The

president of that association provided the department with the following information concerning the increase in expenses from 2006 to 2010:

- (a) the national average price of diesel fuel in January of 2006 was \$2.47 per gallon, and on November 15, 2010, the price was about \$3.29, a 33% increase;
- (b) the price of tires has increased approximately 30% in that period;
- (c) the cost of electricity, heat, and consumer goods, based on the Consumer Price Index for 2006 through 2010, is up 9.8%; and
- (d) for his truck repair/towing business, insurance has risen about 30% and health insurance for employees is up 35%.

Based on that request, and on its belief that the costs of tow truck operators have risen sufficiently to justify the proposed increase in the reimbursement payment, the department is proposing to increase it from \$85 to \$100 per vehicle removed.

In calendar year 2009, approximately 300 tow truck operators removed approximately 810 vehicles for which reimbursement was paid. Therefore, the department estimates that the proposed increase in the reimbursement payment would provide each tow truck operator an average \$40 per year increase in reimbursement payments. The total proposed increase in reimbursement payments by the department is estimated to be about \$12,000 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.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than February 24, 2011. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than February 24, 2011.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 45 based on the 300 tow truck drivers and the 154 licensed motor vehicle wrecking facilities in Montana.

7. 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 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 supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; 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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; e-mailed to ejohnson@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ David Rusoff
DAVID RUSOFF
Rule Reviewer

BY: /s/ Richard H. Opper
RICHARD H. OPPER, Director

Certified to the Secretary of State, January 18, 2011.