

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 18.15.101, 18.15.504,)	AMENDMENT
18.15.801, 18.15.802, 18.15.803, and)	
18.15.805 pertaining to Alternative)	NO PUBLIC HEARING
Fuels)	CONTEMPLATED

TO: All Concerned Persons

1. On June 24, 2024, the Department of Transportation (department) proposes to amend 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 accommodation, contact the department no later than 5:00 p.m. on June 14, 2024, to advise us of the nature of the accommodation that you need. Please contact Aliselina Strong, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620; telephone (406) 444-0806; fax (406) 444-9415; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail astrong@mt.gov.

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

18.15.101 DEFINITIONS The following definitions apply in this chapter:

(1) remains the same

(2) "Alternative fuel" means a gas, liquid, or other fuel as defined in 15-70-701, MCA.

(3) "Alternative fuel dealer" means a person who is licensed or required to be licensed under 15-70-702, MCA, who delivers alternative fuel into the fuel supply tank or tanks of a motor vehicle.

(2) through (22) remain the same but are renumbered (4) through (24).

AUTH: 15-70-104, 15-70-115, 15-70-522, MCA

IMP: 15-70-403, 15-70-419, 15-70-426, 15-70-430, 15-70-455, 15-70-501, 15-70-502, 15-70-503, 15-70-511, 15-70-512, 15-70-513, 15-70-514, 15-70-521, 15-70-522, 15-70-523, 15-70-527, MCA

REASON: The proposed amendment is necessary to reflect the changes to Montana alternative fuel tax law as directed by 15-70-701, MCA, which was revised in 2023 to reflect emerging technologies and alternative fuel types being used to propel motor vehicle engines.

18.15.504 DYED SPECIAL FUEL (1) through (3) remain the same.

- (4) Use of high sulphur dyed special fuel on public roads is prohibited by the federal environmental protection agency (EPA), ~~as set forth in 40 CFR 80.29.~~
(5) through (7) remain the same.

AUTH: 15-70-104, 15-70-441, ~~60-2-201~~, MCA
IMP: 15-70-443, ~~60-2-111~~, MCA

REASON: The amendment to ARM 18.15.504 is necessary as 40 CFR 80.29 is no longer applicable.

18.15.801 ALTERNATIVE FUEL CNG AND LPG DEALER LICENSE (1) A person may not act as an alternative fuel dealer ~~a compressed natural gas (CNG) or liquefied petroleum gas (LPG) dealer~~ in this state unless the person is a holder of a valid alternative fuel dealer's license issued by the department of Transportation.

(2) Every alternative fuel dealer must apply for and obtain an alternative fuel ~~a CNG or LPG dealer license~~ prior to distributing alternative fuel CNG or LPG directly into the supply tank of a motor vehicle for highway use in this state. Application for the alternative fuel CNG or LPG dealer's license must be made on forms provided by the department and must contain information the department deems necessary. Upon receipt and approval of the application, the alternative fuel dealer license will be issued, ~~and must be conspicuously displayed at the dealer's principal place of business at, which the fuel is to be distributed in this state.~~

(3) Every alternative fuel CNG or LPG dealer who distributes fuel at more than one location ~~needs only~~ shall obtain one alternative fuel dealer license for all locations and file a consolidated return. The alternative fuel dealer license must be obtained prior to distributing fuel at any location. ~~The original license or copy of the original must be conspicuously displayed at each location which distributes CNG or LPG fuel.~~

(4) Upon cancellation or revocation of the alternative fuel dealer license or discontinuance of distributing alternative fuel, CNG or LPG, ~~the dealer must return the license to the department. The name and address of the person or firm retaining records for audit purposes and the disposition of all fuel inventories must be provided to the department when the license is returned.~~

AUTH: 15-70-104, MCA
IMP: 15-70-702, 15-70-703, 15-70-705, 15-70-706, 15-70-712, 15-70-713,
MCA

REASON: The proposed amendment is necessary to reflect the changes to Montana alternative fuel tax law as directed by 15-70-701, MCA, which was revised in 2023 to reflect emerging technologies and alternative fuel types being used to propel motor vehicle engines.

18.15.802 QUARTERLY TAX RETURNS (1) Every alternative fuel dealer must submit the quarterly tax return regardless of whether ~~he~~ the alternative fuel dealer has distributed alternative fuel during the immediately preceding calendar quarter. Failure to file the tax return will be considered sufficient cause for

revocation of the alternative fuel dealer's license, and the alternative fuel dealer license may be revoked as of that date.

(2) remains the same

(3) The department of ~~Transportation~~ may accept alternative fuel CNG and LPG dealer tax returns without requiring a listing of all individual sales made by those dealers.

AUTH: 15-70-104, MCA

IMP: 15-70-706, 15-70-713, 15-70-714, MCA

REASON: The proposed amendment is necessary to reflect the changes to Montana alternative fuel tax law as directed by 15-70-701, MCA, which was revised in 2023 to reflect emerging technologies and alternative fuel types being used to propel motor vehicle engines.

18.15.803 ALTERNATIVE FUEL DEALER RECORDS--AUDIT (1) Every alternative fuel dealer shall maintain all records necessary to support their alternative fuel CNG or LPG tax returns. The records must ~~account for all changes to CNG or LPG and~~ must include:

(a) a record of alternative fuel receipts together with invoices, bills of lading, and other documents relative to the acquisition of alternative fuel; and

(b) a record of alternative fuel disbursements together with the invoices, as well as bills of lading, and other documents relative to the disbursements of alternative fuel.

AUTH: 15-70-104, MCA

IMP: 15-70-712, 15-70-713, MCA

REASON: The proposed amendment is necessary to reflect the changes to Montana alternative fuel tax law as directed by 15-70-701, MCA, which was revised in 2023 to reflect emerging technologies and alternative fuel types being used to propel motor vehicle engines.

18.15.805 ALTERNATIVE FUEL CNG OR LPG DEALER'S BOND (1) ~~If an alternative fuel CNG or LPG dealers fails to file timely reports, they may will~~ be required to furnish the department of ~~Transportation~~ a corporate surety bond or other collateral security or indemnity equivalent to twice the alternative fuel dealer's estimated quarterly alternative fuel CNG or LPG tax ~~if the dealer fails to file timely reports~~. Failure to timely file as used in 15-70-704, MCA, means:

(a) an alternative fuel dealer has failed to file for more than one reporting period;

(b) an alternative fuel dealer has given the ~~state~~ department a non-sufficient fund check or whose non-sufficient fund check was returned as a result of a bank error more than twice; or

(c) and (2) remain the same.

AUTH: 15-70-104, MCA

IMP: 15-70-704, MCA

REASON: The proposed amendment is necessary to reflect the changes to Montana alternative fuel tax law as directed by 15-70-701, MCA, which was revised in 2023 to reflect emerging technologies and alternative fuel types being used to propel motor vehicle engines.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Aliselina Strong, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620; telephone (406) 444-9415; fax (406) 444-5411; or e-mail astrong@mt.gov, and must be received no later than 5:00 p.m., June 21, 2024.

5. If persons who are directly affected by the proposed actions 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 to Aliselina Strong at the above address no later than 5:00 p.m., June 21, 2024.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons 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 directly affected has been determined to be five persons based on a total of 49 alternative fuel dealers.

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, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in paragraph 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted by email on March 15, 2024.

10. The special notice requirements of 2-4-303, MCA, have been fulfilled. On May 8, 2024, written contact with Transportation Interim Committee staff members was made by email.

11. 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.

12. With regard to the requirements of 2-15-142, MCA, the department has determined the amendment of the above-referenced rules will not have direct tribal implications.

/s/ Valerie A. Balukas
Valerie A. Balukas
Rule Reviewer

/s/ Lawrence Flynn
Lawrence Flynn
Deputy Director
Department of Transportation

Certified to the Secretary of State May 14, 2024.

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TO: All Concerned Persons

1. On May 24, 2024, the Department of Transportation published MAR Notice No. 18-197 pertaining to the proposed amendment of the above-stated rules at page 1104 of the 2024 Montana Administrative Register, Issue Number 10.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Valerie A. Balukas
Valerie A. Balukas
Rule Reviewer

/s/ Lawrence Flynn
Lawrence Flynn
Deputy Director
Department of Transportation

Certified to the Secretary of State June 25, 2024.