

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
17.40.201, 17.40.202, 17.40.206,)	PROPOSED AMENDMENT
17.40.207, 17.40.213, and 17.40.215)	
pertaining to definitions, classification)	(WATER TREATMENT SYSTEMS
systems, examinations, experience and)	AND OPERATORS)
education, continuing education)	
requirements, and approved training)	
providers)	

TO: All Concerned Persons

1. On November 4, 2015, at 9:30 a.m., the Department of Environmental Quality will hold a public hearing in Room 111, 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 public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., October 26, 2015, 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 rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.40.201 DEFINITIONS In addition to the terms defined in 37-42-102, MCA:

(1) remains the same.

(2) "Certified operator-in-training" means an operator who does not satisfy the experience requirements set forth in ARM 17.40.213, but has:

(a) passed the certification examination; and

(b) met applicable continuing education requirements, if any, in ARM 17.40.213.

(2) through (5) remain the same, but are renumbered (3) through (6).

~~(6) "Operator in training" means an operator who has passed the certification examination but does not yet meet the experience requirements set out in ARM 17.40.207.~~

(7) through (12) remain the same.

AUTH: 37-42-202, MCA

IMP: 37-42-202, MCA

REASON: The department is proposing to amend the definition of certified operator-in-training to add a requirement that each certified operator-in-training must earn continuing education credit(s) (CECs) to maintain a certificate. The purpose of the proposed amendment is to ensure that certified operators-in-training remain current with rules, regulations, and other topics in their fields.

In addition, the department is proposing to add the word "certified" before "operator-in-training" to emphasize that there are specific requirements to be met in order to become an operator-in-training.

17.40.202 CLASSIFICATION OF SYSTEMS (1) For operators certified prior to January 1, 2016, All water supply systems and wastewater systems are classified according to population served or type of treatment as shown below:

(a) through (e)(iv)(K) remain the same.

(2) For operators certified on or after January 1, 2016, all water supply systems and wastewater systems are classified according to population served or type of treatment as shown below:

(a) Water distribution systems:

(i) Class 1--serving more than 15,000 people;

(ii) Class 2--serving 1,501 to 15,000 people;

(iii) Class 3--serving 500 to 1,500 people;

(iv) Class 4--serving fewer than 500 people.

(b) Water treatment systems:

(i) Class 1--treatment for surface water utilizing chemical coagulation, filtration, and disinfection;

(ii) Class 2--treatment for surface water not utilizing chemical coagulation;

(iii) Class 3--ground water supply serving at least 500 people with or without disinfection;

(iv) Class 4--ground water supply serving fewer than 500 people with or without disinfection.

(c) Wastewater treatment systems:

(i) Class 1--secondary and advanced (tertiary) treatment provided by:

(A) conventional activated sludge plants;

(B) biological nutrient removal plants;

(C) ammonia conversion processes;

(D) extended aeration activated sludge plants, such as oxidation ditches and package plants, fixed-growth trickling filter, and bio-disc plants;

(E) sequencing batch reactors; and

(F) other tertiary processes, such as effluent filtration and membrane bioreactor systems;

(ii) Class 2--No class 2;

(iii) Class 3--secondary treatment provided by aerated lagoons or lagoons not utilizing artificial aeration;

(iv) Class 4--No class 4.

(d) Industrial wastewater treatment systems:

(i) Class 1--physical-chemical or biological treatment facility treating more than 1.0 mgd, including, but not limited to, the following:

(A) air flotation;

- (B) air stripping;
- (C) reverse osmosis;
- (D) electrochemical treatment;
- (E) activated sludge;
- (F) anaerobic digestion;
- (G) aerobic digestion;
- (H) nutrient removal systems;
- (I) tertiary treatment; or
- (J) chemical clarification;
- (ii) Class 2--biological treatment facilities treating 1.0 mgd or less, including, but not limited to, the following:
 - (A) clarification;
 - (B) filtration;
 - (C) constructed wetlands;
 - (D) carbon adsorption;
 - (E) ion exchange;
 - (F) disinfection;
 - (G) trickling filters;
 - (H) bio-disc systems;
 - (I) sequencing batch reactors;
 - (J) biological sand filters;
 - (K) membrane filtration; or
 - (L) advanced on-site treatment and disposal systems described under certification class (e)(ii) requirements;
- (iii) Class 3--industrial treatment facilities, including, but not limited to, the following:
 - (A) oil-water separation;
 - (B) grinding or comminutors;
 - (C) land surface disposal;
 - (D) neutralization (pH adjustment);
 - (E) aerated lagoons;
 - (F) on-site septic tank treatment systems with pressure dosed drainfields;
 - (G) siphon dosed drainfields; or
 - (H) elevated sand mounds;
- (iv) Class 4--industrial treatment facilities, including, but not limited to, the following:
 - (A) detention ponds;
 - (B) sedimentation ponds;
 - (C) stabilization ponds;
 - (D) lagoons without mechanical mixing or aeration;
 - (E) septic systems treating the discharge from drinking water treatment systems; or
 - (F) on-site treatment using standard septic tanks and gravity drainfields.
- (e) On-site systems:
 - (i) No class 1;
 - (ii) Class 2--package biological wastewater treatment systems, which are public sewage systems and are regulated with a MGWPCS discharge permit,

including, but not limited to, the following:

- (A) conventional activated sludge;
- (B) sequencing batch reactor;
- (C) fixed film; and
- (D) extended aeration activated sludge systems;

(iii) Class 3--treatment systems, which are public sewage systems and are regulated with a MGWPCS discharge permit, including, but not limited to, the following:

- (A) recirculating media trickling filters;
- (B) intermittent sand filters;
- (C) recirculating sand filters;
- (D) aerobic wastewater treatment units;
- (E) chemical nutrient reduction systems;
- (F) alternate advanced treatment systems; and
- (G) experimental systems;

(iv) Class 4--treatment with soil absorption systems, which are public sewage systems and are regulated with a MGWPCS discharge permit, including, but not limited to:

- (A) standard absorption trenches;
- (B) shallow capped absorption trenches;
- (C) deep absorption trenches;
- (D) sand-lined absorption trenches;
- (E) gravelless trenches and other absorption methods;
- (F) elevated sand mounds;
- (G) evapotranspiration absorption and evapotranspiration systems;
- (H) subsurface drip;
- (I) gray water irrigation systems;
- (J) absorption beds; and
- (K) experimental systems.

(2) and (3) remain the same, but are renumbered (3) and (4).

AUTH: 37-42-202, MCA

IMP: 37-42-104, 37-42-304, 37-42-306, MCA

REASON: The department is switching from Montana-specific examinations to standardized examinations in order to save the cost of updating and validating the current examinations. To make the transition smooth, the old examinations will be used until the end of 2015. After a one month moratorium in December 2015, the new examinations will be implemented in January 2016.

The standardized examinations are through the Association of Boards of Certification (ABC) testing, which administers tests to utilities throughout the United States. ABC has a nationwide system of classifying water and wastewater treatment plants and water distribution systems. Montana has revised its classification system to incorporate key provisions of the ABC system, yet still preserve Montana-specific requirements. These amendments are expected to allow operators to transfer operator certificates to and from Montana more easily.

Three major amendments have been proposed. First, water distribution class

population sizes were adjusted to more closely match ABC's classification system. Second, Montana's water treatment class 5 certification was combined with class 4. Class 4 will become ABC's "very small water treatment system" class, which will be the only remaining combination examination, thus keeping costs down for small systems. The other combination examinations will no longer be offered, requiring operators to take the distribution examination separately from the treatment examination. Third, the wastewater mechanical treatment plant classes will be combined into one class (designated 1C). In addition, the wastewater lagoon treatment plant classes will be combined into one class (designated 3C). There are two justifications for combining wastewater treatment classes. First, the knowledge base required on the ABC examination for mechanical plants, regardless of complexity, is very similar. The same is true for lagoon plants. Second, as systems upgrade, operator certification level can change. With the proposed changes, both mechanical treatment plants and lagoon systems can upgrade without changing operator certification requirements.

The amendments would clearly delineate implementation dates for the new examinations and the new requirements/classifications for water and wastewater treatment plants and water distribution systems in Montana.

17.40.206 EXAMINATIONS (1) remains the same.

(2) An annual application fee, ~~based on the state fiscal year~~, is required for each application for water certification and each application for wastewater certification. Examination fees are required for each examination taken.

(3) through (8) remain the same.

AUTH: 37-42-202, MCA

IMP: 37-42-201, 37-42-301, 37-42-305, 37-42-306, MCA

REASON: ARM 17.40.212 provides that an application fee entitles an applicant to take examinations for 12 months from the date of an examination application. This proposed amendment will delete conflicting ARM language in 17.40.206 that entitles an applicant to take examinations only during the fiscal year the fee was paid. This rule gives most operators less than a year, possibly only a couple of months, to take examinations before paying another application fee. There is no reason to allow applicants less than a full year.

17.40.207 EXPERIENCE AND EDUCATION (1) remains the same.

(2) To become fully certified, an operator, in addition to passing the certification examination for the operator's specific classification, must have the following operating experience in a facility of that classification:

- (a) Class 1--two and one-half years' experience;
- (b) Class 2--~~one and one-half~~ two years' experience;
- (c) Class 3--one and one-half years' experience;
- (d) Class 4--~~six months~~ one year experience;
- (e) ~~Class 5--three months~~ experience.

(3) and (4) remain the same.

(5) A person who has passed the examination but lacks the requisite

experience will be issued a certificate as CERTIFIED OPERATOR-IN-TRAINING. When the experience requirement is fulfilled and the operator returns a verified experience voucher to the department, a certificate as CERTIFIED OPERATOR will be issued.

AUTH: 37-42-202, MCA

IMP: 37-42-201, 37-42-302, 37-42-306, MCA

REASON: ABC has a nationwide system of certification standards, including experience requirements. Five surrounding states (Wyoming, Idaho, North Dakota, South Dakota, and Washington) and ABC-mandated experience requirements are more stringent than even the proposed Montana experience requirements. Currently, operators are sitting for examinations shortly after hire. However, past experience with current ABC prescriptive examinations has shown that more experience is generally necessary for operators to pass these examinations.

The proposed increase in experience requirements will be combined with operator certification encouragement to work as long as possible before sitting for examinations. As a result, even with new standardized ABC examinations, examination pass rates should increase.

17.40.213 CONTINUING EDUCATION REQUIREMENTS (1) A Each fully-certified operator and certified operator-in-training (hereafter collectively called "certified operators") shall earn a continuing education credit or credits, as specified in this rule, during each two-year period commencing on July 1 of each even-numbered year as follows:

(a) and (b) remain the same.

(c) A Class 1 fully-certified operator shall earn two credits for ~~each certificate held by the operator for water treatment, or water distribution, or both, a water certification~~ and shall earn two credits for each a wastewater certificate certification held by the operator.

(d) A Class 1 certified operator-in-training shall earn one credit for a water certification and one credit for a wastewater certification held by the operator.

~~(d) (e)~~ A Class 2, 3, and or 4 fully-certified operator shall earn one credit for each ~~certificate held by the operator for water treatment, or water distribution, or both, a water certification~~ and shall earn one credit for each a wastewater certificate certification held by the operator.

(f) A Class 2, 3, or 4 certified operator-in-training shall earn 1/2 credit for a water certification and 1/2 credit for a wastewater certification held by the operator.

~~(e) (g)~~ A Class 5 fully-certified operator shall earn 0.4 credits for each a water certificate certification held by the operator for water treatment or water distribution.

(h) A Class 5 certified operator-in-training shall earn 0.2 credits for a water certification held by the operator.

(2) through (3) remain the same.

(4) If an certified operator upgrades a certificate or becomes newly certified during the period from January 1 of an odd-numbered year to June 30 of the following even-numbered year and that upgrade increases the credit requirement, the operator shall during that same two-year period earn the lower credit

requirement but is not required to meet the higher credit requirement until the next two-year period commences.

(5) Only an certified operator who fulfills the credit requirements before the end of each two-year period may obtain renewal of a certificate. Except as provided in (1) and (13), the certificate of an operator who does not fulfill the credit requirements expires on June 30 of the applicable two-year period and the person may receive a new certificate on submission of an application, payment of the appropriate application and examination fees, and passage of the appropriate examination.

(6) through (7)(c) remain the same.

(8) In addition to the requirements in (6), the subject matter of the educational offering must be relevant to the particular class(es) of certificates to which the credit is being applied. An certified operator may receive credit only for courses approved for the type of certificate certifications(s) held by that operator.

(9) remains the same.

(10) ~~Fully e~~Certified operators holding both water and wastewater certificates may earn credits toward the continuing education requirements of both certificates (i.e., dual credits) by attending a course which has been approved for both classes of certificates.

(11) through (15) remain the same.

(16) The department shall temporarily inactivate the certificate of an certified operator who is on active military duty if the operator notifies the department in writing of the change in status and requests inactivation.

(17) through (17)(b) remain the same.

(18) After a certificate has been reactivated under (17), the certified operator shall meet the continuing education credit requirements for the current continuing education two-year period by the June 30 deadline or within 18 months of the operator's return, whichever is longer.

AUTH: 37-42-202, MCA

IMP: 37-42-304, 37-42-305, 37-42-306, 37-42-307, 37-42-308, MCA

REASON: The department is proposing to add continuing education requirements (CECs) to maintain certified operator-in-training certification, beginning with the June 2016 to May 2018 certification period so OITs remain current on rules, regulations, and topics in their fields.

17.40.215 APPROVED TRAINING PROVIDERS (1) through (2) remain the same.

(3) An approved training provider shall provide the following documentation, maintain the following records, and make such information available to the department upon request:

(a) through (d) remain the same.

(e) The training provider shall distribute to each attendee a continuing education credit report form provided by the department to be filled out by the attendee.

(i) through (iv) remain the same.

(v) For continuing education credits taken during a continuing education two-year period to count toward satisfying an certified operator's continuing education requirements, those credits must be reported on credit report forms received by the department by June 15 of each even-numbered year. If credits sufficient to satisfy the continuing education requirements are not so reported, the certificate of the operator may be suspended or revoked as set forth in ARM 17.40.213.

(vi) through (5) remain the same.

AUTH: 37-42-202, MCA

IMP: 37-42-202, MCA

REASON: The proposed amendment, by adding the word "certified," would add continuing education requirements (CECs) to maintain certified operator-in-training certification, beginning with the June 2016 to May 2018 certification period. This proposed amendment will specify that all certified operators will have the same two-year period of time to earn and report credits. Making the CEC periods the same for both certifications will facilitate credit tracking and will maximize use of credits for both certifications.

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 Elois Johnson, Paralegal, 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 ejohnson@mt.gov, no later than 5:00 p.m., November 12, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Carol Schmidt, attorney for the Department of Environmental Quality, has been designated to preside over and conduct the hearing.

6. 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 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 the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

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

Reviewed by: DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North BY: /s/ Tom Livers
JOHN F. NORTH TOM LIVERS, Director
Rule Reviewer

Certified to the Secretary of State, October 5, 2015.