

ENVIRONMENTAL QUALITY

CHAPTER 40

WATER TREATMENT SYSTEMS AND OPERATORS

Subchapter 2

Water and Wastewater Systems and Operators

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## Subchapter 2

## Water and Wastewater Systems and Operators

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

- (1) "Advanced or tertiary wastewater treatment" means additional treatment to remove suspended or dissolved substances remaining after conventional secondary wastewater treatment processes. Treatment may utilize biological or chemical treatment processes. Mechanical tertiary treatment processes refer to advanced treatment processes that require extensive use of mechanical equipment such as pumps, blowers, chemical metering, motors and other pieces of equipment and structures.
- (2) "Facility-based training" means training provided by the owner of a water treatment system, water distribution system or wastewater treatment system for its employees and either held at that treatment facility or taught, in whole or in part, by other employees of that facility.
- (3) "Fully certified operator" means an operator who:
  - (a) has met applicable continuing education requirements, if any, in ARM 17.40.213; and
  - (b) has passed the certification examination and satisfies the experience requirements set forth in ARM 17.40.207;
  - (c) is an operator certified pursuant to ARM 17.40.203(1) who is still employed at the system where he was employed July 1, 1967;
  - (d) was certified pursuant to 37-42-305, MCA, before March 1, 1982; or
  - (e) is certified pursuant to ARM 17.40.203(8).
- (4) "Ground water" means water occupying the voids within a geologic stratum and within the zone of saturation.
- (5) "On-site wastewater treatment system" means a sewage system using a mechanical or septic tank based treatment process where the treated waste is disposed of using a soil disposal system.
- (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) "Responsible charge" means responsibility exercised by an individual in day-by-day operation or supervision of a water system, wastewater treatment system, or any part thereof, which may affect the quality or quantity of water for human consumption or the quality of effluent produced by the wastewater treatment system.
- (8) "Secondary wastewater treatment" means a process that reduces the concentrations of contaminants in wastewater, through biological treatment methods such as lagoons, trickling filters, activated sludge, sequencing batch reactors or bio-discs to generally meet the numeric criteria of the National Secondary Treatment Standards contained in 40 CFR Part 133, which have been adopted by reference in ARM Title 17, chapter 30, subchapter 12.

(9) "Surface waters" means any water on the earth's surface including, but not limited to, streams, lakes, ponds, reservoirs, and irrigation drainage systems discharging directly into a stream, lake, pond, reservoir or other water on the earth's surface. Water bodies used solely for treating, transporting or impounding pollutants are not considered surface water for the purposes of this chapter.

(10) "Temporary certificate" means a certificate that is issued to a department-approved applicant, who does not meet the full certification requirements, to be an operator in responsible charge of a specified system.

(11) "Wastewater treatment system" means a wastewater treatment plant as defined in 37-42-102, MCA.

(12) "Water treatment system" means a water treatment plant as defined in 37-42-102, MCA. (History: 37-42-202, MCA; IMP, 37-42-202, MCA; NEW, Eff. 12/5/75; AMD, 1981 MAR p. 1787, Eff. 12/18/81; AMD, 1986 MAR p. 1078, Eff. 6/27/86; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 1998 MAR p. 2966, Eff. 11/6/98; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2012 MAR p. 886, Eff. 4/27/12.)

17.40.202 CLASSIFICATION OF SYSTEMS (1) 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 20,000 people;
- (ii) Class 2--serving 2,500 to 20,000 people;
- (iii) Class 3--serving 500 to 2,500 people;
- (iv) Class 4--serving 100 to 500 people;
- (v) Class 5--serving fewer than 100 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--well water supply serving greater than 2,500 people, with or without disinfection;
- (iv) Class 4--well water supply serving 100 to 2,500 people, with or without disinfection;
- (v) Class 5--well water supply serving fewer than 100 people, with or without disinfection.

(c) Wastewater treatment systems:

- (i) Class 1--secondary and advanced (tertiary) treatment provided by conventional activated sludge plants, biological nutrient removal plants, ammonia conversion processes, or other tertiary processes such as effluent filtration and membrane bioreactor systems;
- (ii) Class 2--secondary treatment provided by extended aeration activated sludge plants such as oxidation ditches and package plants, fixed-growth trickling filter and bio-disc plants, or sequencing batch reactors;
- (iii) Class 3--secondary treatment provided by aerated lagoons;
- (iv) Class 4--lagoons not utilizing artificial aeration.

- (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 comminators;
  - (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) In order to calculate the class of a particular water supply system pursuant to (1)(a) or (b) when an accurate population census is not available, the population served may be determined by multiplying the number of service connections by 2.5.

(3) For the purposes of this subchapter, a system classified with a lower number is considered more complex than a system classified with a higher number, i.e., a Class 1 system is more complex than a Class 2 system. (History: 37-42-202, MCA; IMP, 37-42-104, 37-42-304, 37-42-306, MCA; NEW, Eff. 12/5/75; AMD, 1981 MAR p. 1787, Eff. 12/18/81; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 1998 MAR p. 2966, Eff. 11/6/98; AMD, 2003 MAR p. 10, Eff. 11/15/02; AMD, 2012 MAR p. 886, Eff. 4/27/12.)

17.40.203 CERTIFICATION OF OPERATORS (1) Certification must be granted to an applicant under the grandfather clause (37-42-303(2), MCA) if the applicant submits a statement from the governing board or owner of a water supply system or wastewater system stating the applicant was in responsible charge of the system on July 1, 1967.

(2) If an addition is installed after July 1, 1967 to a system that existed on July 1, 1967, the person who was in responsible charge of the system on July 1, 1967 and has a grandfather clause certificate may be granted a grandfather clause certificate at a classification for a more complex system, if:

(a) the person participated in the installation; and

(b) evidence is presented to the department that the operator has been trained and is qualified to operate the more complex system.

(3) A fully certified operator who terminates employment as an operator may renew the operator's certificate annually for a period of two years beyond the expiration date of the operator's current certificate, if the operator meets the renewal requirements in 37-42-308, MCA, and ARM 17.40.213 each of these years. At the end of the two-year period, a certificate is invalid. After two years, to receive a new certificate, the operator must prove to the department that the operator:

(a) has sufficient continuing education credits for the current biennium;

(b) has paid a fee equal to the renewal fee required under ARM 17.40.212; and either:

(c) is employed in a position that provides continuing familiarity with hands-on operation of the system classification for which the operator is seeking certification; or

(d) is otherwise competent to operate the system classification for which the operator is seeking certification.

(4) The department may, upon receipt and approval of a fully completed application and payment of an appropriate fee as determined under ARM 17.40.212, issue a temporary certificate. A temporary certificate is effective for six months from the date of issuance, or until the operator becomes fully certified, whichever occurs first. The department may renew a temporary certificate for reasonable cause. A temporary certificate is valid only for the person to whom it is issued, for the system identified on the certificate, and for the period of time identified on the certificate. Temporary certificates may not be transferred to another person or system.

(5) The department shall issue a certificate to the applicant if the applicant meets all requirements of this chapter for certification. The certificate is only valid to the person to whom it is issued and may not be transferred to another person.

(6) If a census or a revision of the rules in this chapter shows a system qualifies for a more complex classification or the system is modified in a way that triggers a more complex classification, each fully certified operator of the system may obtain the more complex classification if:

(a) the operator makes a written request to the department for a more complex classification; and

(b) the department determines that the applicant has the education and experience that are necessary to operate the system, as defined in ARM 17.40.207.

(7) An operator whose system has been changed to a less complex classification because of a revision of the rules in this chapter or a change in status of the system will be given certification at that less complex classification upon renewal of the operator's annual certificate, unless the operator makes a written request to the department and the department determines that the operator meets all requirements for operating a more complex classified system. In that case, the operator will remain certified at the operator's present classification, and the renewal requirements are the requirements for that more complex certification classification.

(8) An operator who is fully certified in another state may obtain a reciprocal certification in Montana if the department determines that the operator's application and supporting material verify that the operator:

(a) has experience that meets Montana's minimum requirements;

(b) is in responsible charge of a system located in Montana that requires a certified operator; and

(c) has passed a water supply system operator examination in that state that has a U.S. environmental protection agency-approved water supply system operator certification program; or

(d) has passed a wastewater operator examination in that state at least equivalent to that required by Montana.

(9) The examination referred to in (8)(c) and (d) must be for a certification classification at least as complex as the classification for which the operator seeks reciprocal certification in Montana.

(10) Operators certified under (8) must pay a one-time fee of \$70 in addition to the fees applicable for the Montana certification sought.

(11) Certificates are effective for a base year from July 1 of one year through June 30 of the subsequent year. Certificates may be renewed annually. (History: 37-42-202, MCA; IMP, 37-42-304, 37-42-305, 37-42-306, 37-42-307, 37-42-308, MCA; NEW, Eff. 12/5/75; AMD, 1981 MAR p. 1787, Eff. 12/18/81; AMD, 1983 MAR p. 1720, Eff. 11/26/83; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 1999 MAR p. 1804, Eff. 8/27/1999; AMD, 2000 MAR p. 72, Eff. 1/14/00; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2012 MAR p. 886, Eff. 4/27/12.)

Rules 17.40.204 and 17.40.205 reserved

17.40.206 EXAMINATIONS (1) A person desiring to take the examination for certification as a water supply or wastewater treatment system operator must complete the department's application form and return it to the department at least 30 days before the date of the examination. The proper fee, as determined under ARM 17.40.212, must accompany the application. Upon department approval, the applicant may take the examination.

(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) An operator certified under one classification by examination and another under ARM 17.40.203(1) will receive one certificate showing both certifications, with that classification held under ARM 17.40.203(1) noted by "(g.c.)."

(4) All classes of examinations will be given by department staff or by a council member at a time and place set by the department.

(5) Each person submitting an application and application fee for certification that meet department requirements will be sent a notice of the time and place of the examination.

(6) Examinations will not be returned to examinees, but will be on file for one year at the department. A failing examination will be kept two years.

(7) An operator holding a temporary certificate who fails the examination two times loses the temporary certificate upon notice from the department of the second failure. However, the operator may take the examination whenever it is given by re-applying in conformance with department requirements.

(8) The department shall provide a duplicate original certificate, to the person certified only, upon payment of a \$10 fee. (History: 37-42-202, MCA; IMP, 37-42-201, 37-42-301, 37-42-305, 37-42-306, MCA; NEW, Eff. 12/5/75; AMD, 1981 MAR p. 1787, Eff. 12/18/81; AMD, 1983 MAR p. 1720, Eff. 11/26/83; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2004 MAR p. 1143, Eff. 5/7/04; AMD, 2010 MAR p. 745, Eff. 3/26/10; AMD, 2012 MAR p. 886, Eff. 4/27/12.)

17.40.207 EXPERIENCE AND EDUCATION (1) An operator certified after June 30, 1991, must have graduated from high school or hold a GED certificate, unless the applicant submits a written application for a special exception from this requirement and the department grants the exception. The department may only grant a special exception from this requirement upon finding that the applicant has the reading, writing and comprehension skills necessary to otherwise meet the requirements of this subchapter and to protect the public health and quality of Montana's waters.

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

(3) If the department determines that experience gained at a system classified as less complex is applicable to a system classified as more complex, this experience or a portion of it may be credited toward the experience requirement for the more complex classification.

(4) Two days of education in post-secondary engineering training or the equivalent may be substituted for each day of experience, up to 1/2 of the experience requirement.

(5) A person who has passed the examination but lacks the requisite experience will be issued a certificate as 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. (History: 37-42-202, MCA; IMP, 37-42-201, 37-42-302, 37-42-306, MCA; NEW, 1981 MAR p. 1787, Eff. 12/18/81; AMD, 1983 MAR p. 1720, Eff. 11/26/83; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 2002 MAR p. 3148, Eff. 11/15/02.)

17.40.208 CERTIFIED OPERATOR IN CHARGE OF SYSTEM:

EXCEPTIONS (1) Every water or wastewater treatment system must have an individual in responsible charge at the system site or on call at all times who can respond in a timely manner to threats to public or environmental health.

(2) Except as provided in this rule, the individual in responsible charge of a system must be a fully certified operator for that class or a more complex class of system.

(3) An operator with a temporary certificate or an operator-in-training certificate may be the operator in responsible charge of a system upon:

(a) written request to the department by the system owner and verification by the owner that the system is unable to employ a fully certified operator; and

(b) a finding by the department that the operator has the basic knowledge necessary to operate the system and that public health will be protected. The department shall base its decision on:

(i) the results of any on-site inspection of the system;

(ii) review of the plans and specifications of the system;

(iii) review of the operator's records, experience and training; and

(iv) examination of any other reasonably available and relevant information.

(History: 37-42-202, MCA; IMP, 37-42-104, 37-42-302, 37-42-305, MCA; NEW, 1981 MAR p. 1787, Eff. 12/18/81; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2012 MAR p. 886, Eff. 4/27/12.)

Rules 17.40.209 through 17.40.211 reserved

17.40.212 FEES (1) An applicant for certification shall pay to the department:

(a) for any classification level of water distribution or water treatment system, an application fee of \$70, the payment of which entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in (2); and

(b) for any classification level of wastewater treatment, an application fee of \$70, the payment of which entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in (2).

(2) The fee is \$70 for each examination for certification as an operator of a water treatment system, water distribution system, or wastewater treatment system.

(3) A certified operator applying for renewal of a certificate shall pay to the department by June 30 of every year:

(a) for a certificate in any classification level of water distribution or water treatment, a renewal fee of \$30;

(b) for a certificate in any classification level of wastewater treatment, a renewal fee of \$40.

(4) The department shall suspend a certificate and mail notice of the suspension to the operator by the seventh working day after June 30 if the department did not receive the renewal fee specified in (3) by June 30.

(5) Any renewal application received from an applicant whose certificate has been suspended must be accompanied by \$30 in addition to the fee required by (1). (History: 37-42-202, MCA; IMP, 37-42-304, 37-42-308, MCA; EMERG, NEW, 1983 MAR p. 1250, Eff. 9/16/83; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 2000 MAR p. 72, Eff. 1/14/00; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2004 MAR p. 1143, Eff. 5/7/04.)

17.40.213 CONTINUING EDUCATION REQUIREMENTS (1) A fully certified operator 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) The department shall count continuing education credits taken by a certified operator in the month of June of each even-numbered year toward satisfying the operator's continuing education requirements for the next continuing education two-year period only.

(b) A certified operator shall submit all continuing education credit report forms to the department by June 15 of each even-numbered year. If the department has not received continuing education credit report forms showing that an operator earned sufficient credits to entitle the operator to renew a certificate during a continuing education two-year period by June 15 of an even-numbered year, the department shall, by July 1 of that even-numbered year, mail to the operator, and every system for which the operator is designated as an operator under ARM Title 17, chapter 38, subchapter 2, a notice suspending the certificate of the operator until the department receives a credit report form showing that sufficient credits were earned by May 31 of the even-numbered year. If the department receives, within 30 days after the notice of suspension was mailed, a report form showing that a suspended operator earned sufficient credits during a continuing education two-year period, and all other requirements for renewal have been met, the department shall lift the suspension and renew the certificate. The department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least ten days before the time set for action to be taken by the department on the certificate.

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

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

(e) A Class 5 certified operator shall earn 0.4 credits for each water certificate held by the operator for water treatment or water distribution.

(2) A credit consists of ten contact hours, and 1/2 credit consists of five contact hours. A contact hour is defined as a 60-minute participation in an approved course.

(a) To determine the number of credits to be awarded to a certified operator for teaching a course, 0.1 credit per actual hour of instruction shall be awarded in addition to the credits earned for attending that course.

(3) Newly certified operators (previously uncertified) who are certified from January 1 of an odd-numbered year to June 30 of the following even-numbered year are not required to earn the credit applicable to each certificate until the next two-year period.

(4) If an 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 operator who fulfills the credit requirements before the end of each two-year period may renew 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) All subject matter for which credit will be granted must be relevant to the operation, maintenance, or safety of water treatment systems, water distribution systems, wastewater treatment systems, or industrial wastewater treatment systems as classified in ARM 17.40.202. Eligible topics may include subjects regarding operation and maintenance of systems and machinery, electrical systems, hydraulics, chemical treatment, biological testing, disinfection, or use of mathematics and chemistry where applicable.

(a) A safety course qualifies for full credits if it is specific to any type of water supply or wastewater treatment system operation; other safety courses that contain topics that are generally applicable to water or wastewater treatment system qualify for half credit.

(b) The department shall maintain a list of topics that, although not specific to water or wastewater treatment system operation, are generally applicable and are approved for half credit.

(7) There are three types of education offerings that qualify for continuing education credit:

(a) training courses offered by the department;

(b) courses or conferences specifically approved for credit by the department; and

(c) training courses or conferences offered by training providers approved by the department pursuant to ARM 17.40.215.

(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 operator may receive credit only for courses approved for the type of certificate(s) held by that operator.

(9) A correspondence course that is approved by the department may be used to earn credit. However, the provider must issue proof of completion to the department before credit may be awarded.

(10) Fully 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) Facility-based training is eligible for credits only if the training meets all other requirements of this subchapter for continuing education credits.

(12) Vendor shows approved by the department under this rule qualify for credit. A maximum amount of 0.05 credits per vendor show will be allowed for participation in a department-approved vendor show. The certified operator will be required to provide evidence of attendance at the approved vendor show to validate participation for credit.

(13) The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to one year to fulfill the minimum credit requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator which prevent attendance at the required activities. All requests for extensions must be made prior to June 30 of the even-numbered year in which the credit is required to be submitted for registration.

(14) It is the certified operator's responsibility to notify the department on the appropriate form of the credit earned during the period. The credit earned during the period must be included with the application for renewal.

(15) The continuing education credit requirements of this rule are waived for one continuing education two-year period for a certified operator during periods when the person is a government employee working as an operator and assigned to duty outside of the United States.

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

(17) The department shall reactivate the certificate temporarily inactivated under (16) upon the return of the operator to the continental United States if the operator:

- (a) requests in writing that the department reactivate the certificate(s); and
- (b) pays to the department the renewal fee for the year the operator returns.

(18) After a certificate has been reactivated under (17), the 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. (History: 37-42-202, MCA; IMP, 37-42-304, 37-42-305, 37-42-306, 37-42-307, 37-42-308, MCA; NEW, 1986 MAR p. 1078, Eff. 6/27/86; AMD, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 1998 MAR p. 2966, Eff. 11/6/98; AMD, 2002 MAR p. 3148, Eff. 11/15/02; AMD, 2004 MAR p. 1619, Eff. 5/7/04.)

17.40.214 DISCIPLINARY ACTIONS--DESCRIPTION OF GROUNDS--PROCEDURES FOR REVOCATION OR SUSPENSION OF CERTIFICATE, AND REPRIMAND OF CERTIFIED OPERATOR (1) The department may issue a written order imposing any of the disciplinary actions in (2) if the department determines that, as provided in 37-42-321(1), MCA:

- (a) the operator has practiced fraud or deception;
- (b) reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties; or
- (c) the operator is incompetent or unable to properly perform the operator's duties.

(2) Disciplinary actions the department may order under (1) include revoking a certificate or any of the other disciplinary actions listed in 37-1-136, MCA, including:

- (a) suspension of an order of revocation on terms and conditions determined by the department;
- (b) suspension of the right to operate under a certificate for a period not exceeding one year;
- (c) placing a certified operator on probation;
- (d) reprimand of a certified operator.

(3) The department shall serve the order, by certified mail or personally, on the certified operator.

(4) Section 37-42-321(3), MCA, states: "A person aggrieved by an order of the department under this section may request a hearing before the board by submitting a written request stating the reason for the request within 30 days after receipt of the department's decision." The department's order becomes final if the aggrieved person does not appeal it within 30 days after receiving it.

(5) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply to a hearing held under this rule. (History: 37-42-202, MCA; IMP, 37-42-321, MCA; NEW, 1991 MAR p. 1276, Eff. 7/26/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1997 MAR p. 545, Eff. 3/25/97; AMD, 2002 MAR p. 3148, Eff. 11/15/02.)

17.40.215 APPROVED TRAINING PROVIDERS (1) To be approved as a training provider, the provider must first apply to the department for approval and demonstrate in writing, using the department's form, that:

- (a) training is one of the provider's principal programs;
- (b) the provider offers training appropriate for water and wastewater treatment operators; and
- (c) that the provider does not have a vested interest in selling or marketing any product or service related to water or wastewater treatment other than training.

(2) Based on the written submittal, the department may, in writing, approve the provider for educational offerings under this rule for up to two years. The department may revoke its approval of the training provider, in writing, for good cause, after notice and an opportunity for an informal conference with the department.

(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) Attendance registration forms must be maintained. The provider shall keep registration forms on file for at least two years. The registration forms must state:

- (i) the provider's name;
- (ii) the title of the course;
- (iii) the date and location of the course;
- (iv) the name of the person monitoring attendance at each course;
- (v) each attendee's name and operator number;
- (vi) the water or wastewater treatment system where each attendee is employed;
- (vii) the number of continuing education credits (credits) earned by each attendee; and
- (viii) whether the course is facility-based training.

(b) A notice of a course sponsored by an approved training provider must be sent to the department two weeks before the course begins, along with the training announcement required under (3)(c). The provider shall keep a copy of this notice on file for at least two years. The notice must be on the department's form or an equivalent form requiring the same information. The notice must include:

- (i) the name of the training provider;
- (ii) the title of the course;
- (iii) the number of contact hours;
- (iv) the class(es) of certificate(s) for which the course is approved;
- (v) any prerequisites;
- (vi) the name(s) of the instructor(s) and their qualifications for teaching the course as provided in (4);
- (vii) location and date of the course;
- (viii) fee or membership required; and
- (ix) the provider's contact person for the course.

(c) The provider shall prepare a training announcement for each course announcing the availability of the course. The provider shall send a copy of the training announcement to the department along with the notice required in (3)(b) and shall keep the training announcement on file for at least two years. The training announcement must state:

- (i) the classes of certification for which the course is approved;
- (ii) the number of credits available;
- (iii) a specific agenda;
- (iv) identity and qualifications of the instructor(s); and
- (v) date(s), location(s), and fee.
- (vi) In addition, the training announcement must clearly inform attendees that they will receive credit only if the attendee holds the class of certificate for which the course is approved.

(d) The training provider shall provide each attendee with a form on which attendees can evaluate the course. The course evaluation form must, at a minimum, provide attendees with the opportunity to state how the course might be improved, whether the course imparts knowledge that is useful to attendees and attendee's evaluation of instructor(s). The training provider shall keep course evaluations on file for at least two years.

(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) Attendees shall fill out the form by providing:

- (A) their name;
- (B) certification class and type;
- (C) system operated;
- (D) address; and
- (E) instructions for applying credits earned.

(ii) Attendees shall return the credit report form to the training provider. The provider shall complete the form adding information concerning:

- (A) course title, location and date;
- (B) subject of training including whether credits are available for more than one class of certificate;
- (C) number of credits earned by each attendee; and
- (D) whether the course is facility-based training.

(iii) The provider shall verify the information by signing the form and shall send the completed and signed form to the department within two weeks after the end of the course.

(iv) The department shall count continuing education credits taken by a certified operator in the month of June of each even-numbered year toward satisfying the operator's continuing education requirements for the next continuing education two-year period only.

(v) For continuing education credits taken during a continuing education two-year period to count toward satisfying an 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) The department shall keep the credit report forms on file for at least two years.

(f) The provider shall keep copies on file of any written instructional materials or exams used in the course for at least two years.

- (4) In order for a course to qualify for credits, all instructors must:
- (a) have at least four years' practical experience in the subject matter to be presented;
  - (b) have experience as a professional trainer in the subject matter to be presented;
  - (c) be selected or recommended as an instructor by a nationally known water or wastewater organization;
  - (d) be professional or technical staff of the department or another Montana state or federal agency with expertise in the subject matter to be presented; or
  - (e) be approved by the department based on instructor's education and experience in the subject matter to be presented.
- (5) The training provider shall determine, subject to department approval, the number of credits available and to what class(es) of certificate(s) credits apply in accordance with ARM 17.40.213. The provider shall include this information in the training announcement as required in (3)(c) of this rule. (History: 37-42-202, MCA; IMP, 37-42-202, MCA; NEW, 1998 MAR p. 2966, Eff. 11/6/98; AMD, 2002 MAR p. 3148, Eff. 11/15/02.)

