



ADMINISTRATIVE RULES OF MONTANA

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.

Authorizing statute(s): 37-42-202, MCA

Implementing statute(s): 37-42-321, MCA

History: 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.