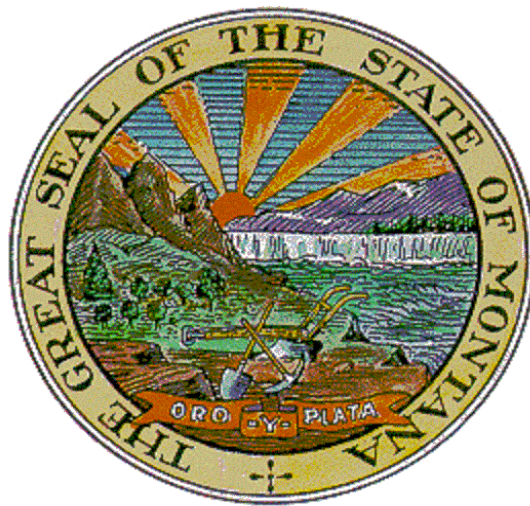


State of Montana
Department of Labor and Industry
Business Standards Division

STATUTES RELATING TO BOILER OPERATORS AND BOILER
ENGINEERS



ISSUED BY:

MONTANA BOILER LICENSING PROGRAM
301 SOUTH PARK AVE, 4TH FLOOR
PO BOX 200513
HELENA MT 59620 - 0513
(406) 841-2056
WEBSITE: <http://www.mt.gov/dli/boi>
EMAIL: dlibsdboi@mt.gov

UPDATED 2007

2-15-1701. Department of labor and industry -- head. (1) There is a department of labor and industry. As prescribed in Article XII, section 2, of the Montana constitution, the department head is the commissioner of labor and industry.

(2) The commissioner must be appointed and serve as provided in [2-15-111](#).

(3) The commissioner must receive an annual salary in an amount equal to other department directors.

(4) Before entering on the duties of the office, the commissioner shall take and subscribe to the oath of office prescribed by the Montana constitution.

History: (1)En. 82A-1001 by Sec. 1, Ch. 272, L. 1971; Sec. 82A-1001, R.C.M. 1947; (2) thru (4)Ap. p. Sec. 2, Ch. 177, L. 1951; Sec. 41-1602, R.C.M. 1947; Ap. p. Sec. 3, Ch. 177, L. 1951; amd. Sec. 1, Ch. 27, L. 1957; amd. Sec. 2, Ch. 225, L. 1963; amd. Sec. 20, Ch. 177, L. 1965; amd. Sec. 2, Ch. 237, L. 1967; amd. Sec. 19, Ch. 100, L. 1973; amd. Sec. 6, Ch. 343, L. 1977; Sec. 41-1603, R.C.M. 1947; R.C.M. 1947, 41-1602, 41-1603, 82A-1001(part); amd. Sec. 20, Ch. 184, L. 1979; amd. Sec. 1, Ch. 116, L. 1981; amd. Sec. 85, Ch. 61, L. 2007.

TITLE 37 CHAPTER 1 PART 4

Part 4

Uniform Regulations for Licensing Programs Without Boards

37-1-401. Uniform regulation for licensing programs without boards -- definitions.

As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 35, 72, or 76; or

(b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

- (a) Title 37, chapter 35, 72, or 76; or
- (b) Title 50, chapter 39, 74, or 76.

History: En. Sec. 1, Ch. 481, L. 1997; amd. Sec. 111, Ch. 483, L. 2001; amd. Sec. 21, Ch. 410, L. 2003.

37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity. (1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have violated a requirement of this part, the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

History: En. Sec. 2, Ch. 481, L. 1997.

37-1-403. Notice -- request for hearing. (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.

(2) A licensee or license applicant shall give the department the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the department may enter a decision on the basis of the facts available to it.

History: En. Sec. 3, Ch. 481, L. 1997.

37-1-404. Hearing -- adjudicative procedures. The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies, the Montana Rules of Civil Procedure, and the Montana Rules of Evidence govern a hearing under this part. The department has all the powers and duties granted by Title 2, chapter 4.

History: En. Sec. 4, Ch. 481, L. 1997.

37-1-405. Findings of fact -- order -- report. (1) If the department finds by a preponderance of the evidence, following a hearing or on default, that a violation of this part has occurred, the department shall prepare and serve findings of fact, conclusions of law, and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated this part, the department shall prepare and serve an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

- and
- (b) appropriate public and private organizations that serve the profession or occupation;
 - (c) the public.

History: En. Sec. 5, Ch. 481, L. 1997.

37-1-406. Sanctions -- stay -- costs -- stipulations. (1) Upon a decision that a licensee or license applicant has violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (4), the department may issue an order providing for one or any combination of the following sanctions:

- (a) revocation of the license;
- (b) suspension of the license for a fixed or indefinite term;
- (c) restriction or limitation of the practice;
- (d) satisfactory completion of a specific program of remedial education or treatment;
- (e) monitoring of the practice by a supervisor approved by the disciplining authority;
- (f) censure or reprimand, either public or private;
- (g) compliance with conditions of probation for a designated period of time;
- (h) payment of a fine not to exceed \$1,000 for each violation;
- (i) denial of a license application;
- (j) refund of costs and fees billed to and collected from a consumer.

(2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.

(3) A sanction may be totally or partly stayed by the department. To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(4) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department.

History: En. Sec. 6, Ch. 481, L. 1997.

37-1-407. Appeal. A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

History: En. Sec. 7, Ch. 481, L. 1997.

37-1-408. Reinstatement. A licensee whose license has been suspended or revoked under this part may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312. The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

History: En. Sec. 8, Ch. 481, L. 1997.

37-1-409. Enforcement of fine. (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the department may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

History: En. Sec. 9, Ch. 481, L. 1997.

37-1-410. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) the denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of the department;

(9) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(10) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

(11) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(12) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license.

History: En. Sec. 10, Ch. 481, L. 1997.

37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties. (1) The department may investigate a complaint or other information received

concerning practice by an unlicensed person of a profession or occupation governed by this part.

(2) The department may file an action to enjoin a person from practicing, without a license, a profession or occupation governed by this part.

History: En. Sec. 11, Ch. 481, L. 1997; amd. Sec. 5, Ch. 230, L. 1999.

37-1-412. Violation of injunction -- penalty. (1) A person who has been enjoined and who violates an injunction issued pursuant to a proceeding under this part may be held in contempt of court and shall pay a civil penalty, as determined by the court, of not more than \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

(2) A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. In a complaint for an injunction or in an affidavit, information, or indictment alleging that a person has engaged in unlicensed practice, it is sufficient to charge that the person engaged in the unlicensed practice of a licensed profession or occupation on a certain day in a certain county without averring further or more particular facts concerning the violation.

(3) Unless otherwise provided by statute, a person practicing a licensed profession or occupation in this state without complying with the licensing provisions of this title is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

History: En. Sec. 12, Ch. 481, L. 1997; amd. Sec. 6, Ch. 230, L. 1999.

37-1-413. Department authority. For each licensing program regulated by the department under this part, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

History: En. Sec. 4, Ch. 230, L. 1999.

**TITLE 50
CHAPTER 74
PART 1 - 3**

**CHAPTER 74
BOILERS AND STEAM ENGINES**

Part 1 -- General Provisions

50-74-101. Definition -- department to formulate rules.

50-74-102. Boilers to conform to rules.

- 50-74-103. Boilers exempted.
- 50-74-104. Dinkey engines to be classed as traction engines.
- 50-74-105. Purchaser to notify department of purchase.
- 50-74-106. Certificate and license to be conspicuously displayed.
- 50-74-107. Wrongful certification or granting of a license a misdemeanor.
- 50-74-108. Tampering with safety valve a misdemeanor.

Part 2 -- Inspections

- 50-74-201. State boiler inspectors.
- 50-74-202. Special boiler inspectors.
- 50-74-203. Qualifications of boiler inspectors.
- 50-74-204. Joint or separate inspection authorized -- inspectors to certify inspection under seal.
- 50-74-205. Purchaser to receive certificate of inspection.
- 50-74-206. Boiler to be inspected prior to use -- duty of notification.
- 50-74-207. Boiler opened for repair subject to inspection -- duty of notification.
- 50-74-208. Penalty for operation without certificate or failure to give notice.
- 50-74-209. Required inspection intervals -- failure to comply with safety standards.
- 50-74-210. Duty to permit inspection.
- 50-74-211. Inspector to notify department of refused access.
- 50-74-212. Payment of costs resulting from refused access.
- 50-74-213. Failure to comply with department directed access a misdemeanor.
- 50-74-214. Engineer to assist in inspection.
- 50-74-215. Interior and exterior examination of boiler.
- 50-74-216. Hydrostatic pressure test.
- 50-74-217. Other inspection requirements.
- 50-74-218. Safe working pressure.
- 50-74-219. Fee for inspection.

Part 3 -- Licenses

- 50-74-301. License required to operate boilers and steam engines.
- 50-74-302. General requirements for licensure.
- 50-74-303. Engineer's license classifications.
- 50-74-304. Requirements for engineer's license.
- 50-74-305. Exceptions to requirements for engineer's license.
- 50-74-306. Traction licenses.
- 50-74-307. Requirements for traction licenses.
- 50-74-308. Waiver of experience requirement for traction licenses.
- 50-74-309. Repealed.
- 50-74-310. Repealed.
- 50-74-311. Waiting period before reexamination permitted.
- 50-74-312. Review of license rejection -- waiting period.
- 50-74-313. Repealed.
- 50-74-314. Repealed.

- 50-74-315. Unlawful to operate boiler or steam engine without license.
- 50-74-316. Unlawful to employ unlicensed operator.
- 50-74-317. When unlicensed person may operate.
- 50-74-318 and 50-74-319 reserved.
- 50-74-320. Examinations -- fees -- third parties.

Part 1

General Provisions

50-74-101. Definition -- department to formulate rules. (1) As used in this chapter, the term "department" means the department of labor and industry.

(2) The department shall adopt definitions and rules for the safe construction, installation, operation, inspection, and repair of equipment covered by this chapter. The definitions and rules must follow generally accepted nationwide engineering standards as published by the American society of mechanical engineers.

History: En. Sec. 550, Pol. C. 1895; re-en. Sec. 1639, Rev. C. 1907; amd. Sec. 1, Ch. 30, L. 1913; amd. Sec. 1, Ch. 12, L. 1921; re-en. Sec. 2712, R.C.M. 1921; re-en. Sec. 2712, R.C.M. 1935; amd. Sec. 1, Ch. 77, L. 1967; amd. Sec. 1, Ch. 225, L. 1971; amd. Sec. 25, Ch. 182, L. 1975; amd. Sec. 1, Ch. 152, L. 1977; R.C.M. 1947, 69-1501(1); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 12, Ch. 514, L. 1995; amd. Sec. 185, Ch. 483, L. 2001.

50-74-102. Boilers to conform to rules. No boiler which does not conform to the rules adopted by the department governing new construction and installation shall be installed and operated in this state after 12 months from the date upon which the first rules under this chapter pertaining to new construction and installation shall have become effective unless the boiler is of special design or construction, is not covered by the rules, or is in any way inconsistent with such rules, in which case a special installation and operating permit may be granted by the department at its discretion.

History: En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919, re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; R.C.M. 1947, 69-1503(3); amd. Sec. 64, Ch. 613, L. 1989.

50-74-103. Boilers exempted. (1) This chapter shall not apply to boilers under federal control.

(2) The provisions of this chapter requiring inspections, inspection fees, and certificates shall not apply to steam heating boilers operated at not over 15 pounds per square inch gauge pressure in private residences or apartments of six or less families or to hot water heating or supply boilers operated at not over 50 pounds per square inch gauge pressure and temperatures not over 250 degrees F when in private residences or apartments of six or less families.

(3) No persons operating any of the engines or boilers exempted from the operation of

this chapter shall be required to procure a license from the department.

History: En. Sec. 5, Ch. 32, L. 1905; re-en. Sec. 1655, Rev. C. 1907; amd. Sec. 13, Ch. 30, L. 1913; amd. Sec. 4, Ch. 32, L. 1919; re-en. Sec. 2726, R.C.M. 1921; amd. Sec. 1, Ch. 140, L. 1923; re-en. Sec. 2726, R.C.M. 1935; amd. Sec. 4, Ch. 77, L. 1967; amd. Sec. 14, Ch. 225, L. 1971; amd. Sec. 33, Ch. 182, L. 1975; R.C.M. 1947, 69-1515(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-104. Dinkey engines to be classed as traction engines. Locomotives, commonly known as dinkey engines, used in operating logging or mining railroads or any similar work where such locomotives are owned, leased, or operated by any individual, company, or corporation and are used in the business of such individual, company, or corporation and not for general commercial purposes shall be classed as traction engines and be subject to inspection as are other traction engines, and the persons operating or firing such dinkey locomotives shall be required to hold traction licenses.

History: En. Sec. 5, Ch. 32, L. 1905; re-en. Sec. 1655, Rev. C. 1907; amd. Sec. 13, Ch. 30, L. 1913; amd. Sec. 4, Ch. 32, L. 1919; re-en. Sec. 2726, R.C.M. 1921; amd. Sec. 1, Ch. 140, L. 1923; re-en. Sec. 2726, R.C.M. 1935; amd. Sec. 4, Ch. 77, L. 1967; amd. Sec. 14, Ch. 225, L. 1971; amd. Sec. 33, Ch. 182, L. 1975; R.C.M. 1947, 69-1515(part).

50-74-105. Purchaser to notify department of purchase. (1) Any person purchasing any boiler, whether traction or stationary, not exempted by the provisions of 50-74-103 shall, within 10 days after such purchase, report the fact of such purchase to the department and shall notify the department as to where the boiler will be installed and operated.

(2) Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

History: En. Sec. 5, Ch. 32, L. 1905; re-en. Sec. 1655, Rev. C. 1907; amd. Sec. 13, Ch. 30, L. 1913; amd. Sec. 4, Ch. 32, L. 1919; re-en. Sec. 2726, R.C.M. 1921; amd. Sec. 1, Ch. 140, L. 1923; re-en. Sec. 2726, R.C.M. 1935; amd. Sec. 4, Ch. 77, L. 1967; amd. Sec. 14, Ch. 225, L. 1971; amd. Sec. 33, Ch. 182, L. 1975; R.C.M. 1947, 69-1515(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-106. Certificate and license to be conspicuously displayed. All certificates of inspection, operating certificates, and engineer's licenses must be displayed in a conspicuous place in the boiler room.

History: En. Sec. 562, Pol. C. 1895; re-en. Sec. 1651, Rev. C. 1907; amd. Sec. 11, Ch. 30, L. 1913; re-en. Sec. 2722, R.C.M. 1921; re-en. Sec. 2722, R.C.M. 1935; amd. Sec. 10, Ch. 225, L. 1971; amd. Sec. 20, Ch. 513, L. 1973; R.C.M. 1947, 69-1511(part).

50-74-107. Wrongful certification or granting of a license a misdemeanor. Any inspector or assistant inspector who willfully certifies regarding any boilers or their attachments or grants a license to any person to act as engineer contrary to the provisions of this chapter is guilty of a misdemeanor.

History: En. Sec. 562, Pol. C. 1895; re-en. Sec. 1651, Rev. C. 1907; amd. Sec. 11, Ch.

30, L. 1913; re-en. Sec. 2722, R.C.M. 1921; re-en. Sec. 2722, R.C.M. 1935; amd. Sec. 10, Ch. 225, L. 1971; amd. Sec. 20, Ch. 513, L. 1973; R.C.M. 1947, 69-1511(part).

50-74-108. Tampering with safety valve a misdemeanor. A renter, user, or owner of a boiler or a person who tampers with the safety valve to allow the boiler to carry greater pressure than is allowed by the inspection certificate is guilty of a misdemeanor.

History: En. Sec. 555, Pol. C. 1895; re-en. Sec. 1644, Rev. C. 1907; amd. Sec. 6, Ch. 30, L. 1913; re-en. Sec. 2715, R.C.M. 1921; re-en. Sec. 2715, R.C.M. 1935; amd. Sec. 4, Ch. 225, L. 1971; amd. Sec. 9, Ch. 187, L. 1977; R.C.M. 1947, 69-1504(2).

Part 2

Inspections

50-74-201. State boiler inspectors. The department shall appoint state inspectors of boilers and shall prescribe their duties and term of office and fix their compensation.

History: En. Sec. 550, Pol. C. 1895; re-en. Sec. 1639, Rev. C. 1907; amd. Sec. 1, Ch. 30, L. 1913; amd. Sec. 1, Ch. 12, L. 1921; re-en. Sec. 2712, R.C.M. 1921; re-en. Sec. 2712, R.C.M. 1935; amd. Sec. 1, Ch. 77, L. 1967; amd. Sec. 1, Ch. 225, L. 1971; amd. Sec. 25, Ch. 182, L. 1975; amd. Sec. 1, Ch. 152, L. 1977; R.C.M. 1947, 69-1501(2); amd. Sec. 64, Ch. 613, L. 1989.

50-74-202. Special boiler inspectors. (1) In addition to the state boiler inspectors, the department shall issue to the inspectors of boiler insurance companies authorized to do business in the state commissions, certificates, or other recognition as special boiler inspectors and may accept the inspection reports of such special inspectors as equivalent to those of the state inspectors.

(2) Each such special inspector shall hold a certificate as boiler inspector issued by the national board of boiler and pressure vessels inspectors.

(3) Such special inspectors shall receive no salary or expenses from the state, nor shall the state collect inspection fees for inspections made by such special inspectors.

History: En. Sec. 550, Pol. C. 1895; re-en. Sec. 1639, Rev. C. 1907; amd. Sec. 1, Ch. 30, L. 1913; amd. Sec. 1, Ch. 12, L. 1921; re-en. Sec. 2712, R.C.M. 1921; re-en. Sec. 2712, R.C.M. 1935; amd. Sec. 1, Ch. 77, L. 1967; amd. Sec. 1, Ch. 225, L. 1971; amd. Sec. 25, Ch. 182, L. 1975; amd. Sec. 1, Ch. 152, L. 1977; R.C.M. 1947, 69-1501(3); amd. Sec. 64, Ch. 613, L. 1989.

50-74-203. Qualifications of boiler inspectors. No person is eligible to hold the office of inspector of boilers and steam engines who has not had at least 10 years of actual experience in the operation of steam engines, steam boilers, and steam machinery and who has not held for at least 3 years immediately preceding his appointment a first-class stationary engineer's license of the state of Montana or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating thereto.

History: En. Sec. 2, p. 102, L. 1889; amd. Sec. 551, Pol. C. 1895; re-en. Sec. 1640, Rev.

C. 1907; amd. Sec. 2, Ch. 30, L. 1913; re-en. Sec. 2713, R.C.M. 1921; amd. Sec. 2, Ch. 225, L. 1971; R.C.M. 1947, 69-1502.

50-74-204. Joint or separate inspection authorized -- inspectors to certify inspection under seal. In making an inspection of the boilers and machinery herein provided for, the inspectors may act jointly or separately, but the inspector or assistant inspector making such inspection must in all cases certify the same under the seal of the inspector of boilers and safety.

History: En. Sec. 562, Pol. C. 1895; re-en. Sec. 1651, Rev. C. 1907; amd. Sec. 11, Ch. 30, L. 1913; re-en. Sec. 2722, R.C.M. 1921; re-en. Sec. 2722, R.C.M. 1935; amd. Sec. 10, Ch. 225, L. 1971; amd. Sec. 20, Ch. 513, L. 1973; R.C.M. 1947, 69-1511(part).

50-74-205. Purchaser to receive certificate of inspection. (1) Any person purchasing any boiler, whether traction or stationary, shall be entitled to receive from the seller the certificates of inspection issued on such boiler.

(2) Any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

History: En. Sec. 5, Ch. 32, L. 1905; re-en. Sec. 1655, Rev. C. 1907; amd. Sec. 13, Ch. 30, L. 1913; amd. Sec. 4, Ch. 32, L. 1919; re-en. Sec. 2726, R.C.M. 1921; amd. Sec. 1, Ch. 140, L. 1923; re-en. Sec. 2726, R.C.M. 1935; amd. Sec. 4, Ch. 77, L. 1967; amd. Sec. 14, Ch. 225, L. 1971; amd. Sec. 33, Ch. 182, L. 1975; R.C.M. 1947, 69-1515(part).

50-74-206. Boiler to be inspected prior to use -- duty of notification. (1) The inspector of boilers must inspect all boilers and steam generators before the same are used.

(2) All persons who bring into this state for operation in this state any boiler or boilers must notify the department stating the number and kind of boilers and where they are to be located and operated in this state and must secure from the department a certificate of inspection before boilers are placed in operation except in the case of new boilers, which must be inspected within 90 days after they are put in use.

History: En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; R.C.M. 1947, 69-1503(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-207. Boiler opened for repair subject to inspection -- duty of notification. Any owner, operator, or user who opens a boiler or boilers between inspections for repair or other reasons must notify the department of such action, and such boiler or boilers shall at the discretion of the department be inspected by the state or special boiler inspector before the boiler or boilers may be placed back in operation.

History: En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; R.C.M. 1947, 69-1503(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-208. Penalty for operation without certificate or failure to give notice. Any

person failing to give notice to the department as provided in 50-74-206 or 50-74-207 or who operates such boilers without a certificate from the department shall be punished by a fine of not less than \$100 or more than \$500 for each offense, by imprisonment in the county jail for not less than 30 or more than 90 days, or by both such fine and imprisonment.

History: En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; R.C.M. 1947, 69-1503(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-209. Required inspection intervals -- failure to comply with safety standards.

(1) (a) All manually fired boilers and all boilers and banks of boilers rated with a total input of 400,000 Btu's an hour or greater must be inspected at least once each year.

(b) All automatically fired boilers rated with an input of less than 400,000 Btu's an hour must be inspected at least once every 2 years, except that an automatically fired boiler in a school, day-care center, hospital, rest home, retirement center, or place of assembly with a capacity for more than 100 persons must be inspected once a year.

(c) Boilers exempt under the provisions of 50-74-103 do not require inspections.

(d) Upon written application, longer inspection intervals may be authorized by the department.

(2) In addition to the inspection required by subsection (1), it is the duty of each inspector to examine at proper times, when in the inspector's opinion an examination is necessary, all boilers that have become unsafe from any cause and to notify the owner or the person using the boilers of any defect and what repairs are necessary to render them safe.

(3) If a boiler is found, upon inspection, to violate safety standards set forth in rules referred to in 50-74-101, the department shall order the owner of the boiler to comply with the standards. An owner who negligently or knowingly fails to comply with an order is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 or more than \$100, imprisonment for not more than 60 days in a county detention center, or both.

History: (1)En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; Sec. 69-1503, R.C.M. 1947; (2)En. Sec. 557, Pol. C. 1895; re-en. Sec. 1646, Rev. C. 1907; re-en. Sec. 2717, R.C.M. 1921; re-en. Sec. 2717, R.C.M. 1935; Sec. 69-1506, R.C.M. 1947; R.C.M. 1947, 69-1503(part), 69-1506; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 1, Ch. 499, L. 2001.

50-74-210. Duty to permit inspection. It is the duty of the owners, engineers, or managers of steam or water boilers to allow the inspector free access to the same.

History: En. Sec. 558, Pol. C. 1895; re-en. Sec. 1647, Rev. C. 1907; amd. Sec. 7, Ch. 30, L. 1913; re-en. Sec. 2718, R.C.M. 1921; re-en. Sec. 2718, R.C.M. 1935; amd. Sec. 6, Ch. 225, L. 1971; amd. Sec. 27, Ch. 182, L. 1975; R.C.M. 1947, 69-1507(part).

50-74-211. Inspector to notify department of refused access. In case the owner, operators, or manager of any boiler is notified by the inspector to have the boiler ready for inspection on a certain day and fails to have such boiler ready for inspection at such time, the inspector shall notify the department to gain access to the boiler.

History: En. Sec. 558, Pol. C. 1895; re-en. Sec. 1647, Rev. C. 1907; amd. Sec. 7, Ch. 30, L. 1913; re-en. Sec. 2718, R.C.M. 1921; re-en. Sec. 2718, R.C.M. 1935; amd. Sec. 6, Ch. 225, L. 1971; amd. Sec. 27, Ch. 182, L. 1975; R.C.M. 1947, 69-1507(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-212. Payment of costs resulting from refused access. The owner, engineer, or manager of any boiler who has refused access resulting in a department order must pay all transportation and hotel expenses of the inspector who makes the inspection directed by such order in addition to the inspection fee provided by law.

History: En. Sec. 558, Pol. C. 1895; re-en. Sec. 1647, Rev. C. 1907; amd. Sec. 7, Ch. 30, L. 1913; re-en. Sec. 2718, R.C.M. 1921; re-en. Sec. 2718, R.C.M. 1935; amd. Sec. 6, Ch. 225, L. 1971; amd. Sec. 27, Ch. 182, L. 1975; R.C.M. 1947, 69-1507(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-213. Failure to comply with department directed access a misdemeanor. Any person failing to immediately comply with department directed access to the boiler shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$500, by imprisonment in the county jail for not less than 2 months or more than 6 months, or by both such fine and imprisonment.

History: En. Sec. 558, Pol. C. 1895; re-en. Sec. 1647, Rev. C. 1907; amd. Sec. 7, Ch. 30, L. 1913; re-en. Sec. 2718, R.C.M. 1921; re-en. Sec. 2718, R.C.M. 1935; amd. Sec. 6, Ch. 225, L. 1971; amd. Sec. 27, Ch. 182, L. 1975; R.C.M. 1947, 69-1507(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-214. Engineer to assist in inspection. It shall be the duty of the engineer operating any boiler or boilers to assist the inspectors in their examination of the same and point out any defects known to him in the boilers or machinery under his charge. Any engineer not complying with this section shall have his license revoked or suspended.

History: En. Sec. 558, Pol. C. 1895; re-en. Sec. 1647, Rev. C. 1907; amd. Sec. 7, Ch. 30, L. 1913; re-en. Sec. 2718, R.C.M. 1921; re-en. Sec. 2718, R.C.M. 1935; amd. Sec. 6, Ch. 225, L. 1971; amd. Sec. 27, Ch. 182, L. 1975; R.C.M. 1947, 69-1507(part).

50-74-215. Interior and exterior examination of boiler. (1) The inspector must satisfy himself by a thorough interior and exterior examination that the boilers are well-made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of the proper dimensions and free from obstructions; that the flues are circular in shape; that the fire line of the furnace is at least 2 inches below prescribed minimum waterline of the boilers; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and the steam connections may be safely employed without danger to life.

(2) No boiler or steam pipe or any of the connections thereto which are made in whole or in part of bad material or are unsafe from any cause shall be approved. Nothing herein shall be construed to prevent the use of any boiler or steam generator, which may not be constructed of riveted iron or steel plates, when the inspector has satisfactory evidence that such boiler or steam

generator is equal in strength to and as safe from explosion as boilers of the best quality, constructed of iron or steel plates.

History: (1)En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; Sec. 69-1503, R.C.M. 1947; (2)En. Sec. 556, Pol. C. 1895; re-en. Sec. 1645, Rev. C. 1907; re-en. Sec. 2716, R.C.M. 1921; re-en. Sec. 2716, R.C.M. 1935; amd. Sec. 5, Ch. 225, L. 1971; Sec. 69-1505, R.C.M. 1947; R.C.M. 1947, 69-1503(part), 69-1505.

50-74-216. Hydrostatic pressure test. When necessary, the boiler inspector shall subject boilers, except those exempted by 50-74-103, to hydrostatic pressure, which hydrostatic pressure shall not exceed 150% of the steam pressure allowed on the boilers, providing there are no such leaks on such boilers which prevent the inspector from applying such hydrostatic pressure.

History: En. Sec. 554, Pol. C. 1895; re-en. Sec. 1643, Rev. C. 1907; amd. Sec. 5, Ch. 30, L. 1913; amd. Sec. 1, Ch. 32, L. 1919; re-en. Sec. 2714, R.C.M. 1921; re-en. Sec. 2714, R.C.M. 1935; amd. Sec. 2, Ch. 77, L. 1967; amd. Sec. 3, Ch. 225, L. 1971; amd. Sec. 26, Ch. 182, L. 1975; R.C.M. 1947, 69-1503(part).

50-74-217. Other inspection requirements. The inspector must satisfy himself that:

- (1) the safety valves are of suitable relieving capacity ratings, sufficient in number and area, and properly arranged and are properly adjusted so as not to allow a greater pressure in a boiler than the amount prescribed by the inspection certificate;
- (2) there are a sufficient number of gauge cocks properly inserted to indicate the amount of water and suitable gauges that will correctly record the pressure of steam; and
- (3) adequate and certain provisions for an ample supply of water to feed the boiler at all times and suitable means for blowing out are provided so as to thoroughly remove mud and sediment from all parts of the boiler when it is under pressure of steam.

History: En. Sec. 555, Pol. C. 1895; re-en. Sec. 1644, Rev. C. 1907; amd. Sec. 6, Ch. 30, L. 1913; re-en. Sec. 2715, R.C.M. 1921; re-en. Sec. 2715, R.C.M. 1935; amd. Sec. 4, Ch. 225, L. 1971; amd. Sec. 9, Ch. 187, L. 1977; R.C.M. 1947, 69-1504(1).

50-74-218. Safe working pressure. (1) If a boiler is constructed with lap horizontal seams on the boiler, dome, or drum, a factor of 4 1/2 shall be used in determining the safe working pressure allowed on the boiler.

- (2) If a boiler is constructed with butt strap horizontal seams, a factor of four may be used in determining the safe working pressure.
- (3) If a boiler rests on a side wall on lugs, is hung by I-beams, or is in any way set up so that the weight of the boiler is pulling against the horizontal seam of rivets, a factor of five must be used in determining the safe working pressure.
- (4) If the horizontal lap seams of a boiler are exposed to the fire, a factor of five must be used in determining the safe working pressure.
- (5) On new stay bolts, 7,500 pounds pressure per square inch is allowed. If the stay bolts are corroded or defective, the inspector must determine the pressure to be allowed on them.
- (6) On braces made of solid material, 8,000 pounds pressure per square inch is allowed.

On welded braces or braces with only one crowfoot, 6,000 pounds pressure per square inch is allowed.

(7) No cast iron may be used in the construction or reinforcements of a boiler if the pressure allowed on the boiler is more than 100 pounds per square inch.

History: En. Sec. 555, Pol. C. 1895; re-en. Sec. 1644, Rev. C. 1907; amd. Sec. 6, Ch. 30, L. 1913; re-en. Sec. 2715, R.C.M. 1921; re-en. Sec. 2715, R.C.M. 1935; amd. Sec. 4, Ch. 225, L. 1971; amd. Sec. 9, Ch. 187, L. 1977; R.C.M. 1947, 69-1504(3).

50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, a fee must be charged and collected by the department prior to issuance of a boiler operating certificate in accordance with the following schedule:

- (a) operating certificate, \$31;
- (b) internal inspection, \$75;
- (c) external inspection:
 - (i) hot water heating and supply, \$35;
 - (ii) steam heating, \$50; and
 - (iii) power boiler, \$70; and
- (d) special inspection, \$50 an hour plus expenses.

(2) If two or more boilers in the same room are inspected at the same time, the total fee imposed for all boilers must be the fee for inspection of one boiler, and the fee is the amount for the type of boiler with the highest fee.

(3) Fees collected under this section must be deposited in the state special revenue fund in an account credited to the department for administration of the boiler inspection program.

History: En. Sec. 4, Ch. 32, L. 1905; re-en. Sec. 1652, Rev. C. 1907; amd. Sec. 12, Ch. 30, L. 1913; amd. Sec. 3, Ch. 32, L. 1919; re-en. Sec. 2723, R.C.M. 1921; re-en. Sec. 2723, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1959; amd. Sec. 3, Ch. 77, L. 1967; amd. Sec. 1, Ch. 255, L. 1969; amd. Sec. 11, Ch. 225, L. 1971; amd. Sec. 30, Ch. 182, L. 1975; amd. Sec. 1, Ch. 83, L. 1977; R.C.M. 1947, 69-1512(1); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 13, Ch. 514, L. 1995; amd. Sec. 3, Ch. 385, L. 1997; amd. Sec. 2, Ch. 499, L. 2001; amd. Sec. 5, Ch. 68, L. 2005.

Part 3

Licenses

50-74-301. License required to operate boilers and steam engines. All boilers and steam engines, except as exempted in 50-74-103, come under the provisions of this chapter, and persons operating same are required to hold the proper grade of license.

History: En. Sec. 5, Ch. 32, L. 1905; re-en. Sec. 1655, Rev. C. 1907; amd. Sec. 13, Ch. 30, L. 1913; amd. Sec. 4, Ch. 32, L. 1919; re-en. Sec. 2726, R.C.M. 1921; amd. Sec. 1, Ch. 140, L. 1923; re-en. Sec. 2726, R.C.M. 1935; amd. Sec. 4, Ch. 77, L. 1967; amd. Sec. 14, Ch. 225, L. 1971; amd. Sec. 33, Ch. 182, L. 1975; R.C.M. 1947, 69-1515(part).

50-74-302. General requirements for licensure. No person may be granted a license to

operate steam or water boilers and steam machinery under the provisions of this chapter who has not met the qualifications for licensing and been found to be competent by examination to perform the duties of an engineer.

History: En. Sec. 559, Pol. C. 1895; re-en. Sec. 1648, Rev. C. 1907; amd. Sec. 8, Ch. 30, L. 1913; re-en. Sec. 2719, R.C.M. 1921; re-en. Sec. 2719, R.C.M. 1935; amd. Sec. 7, Ch. 225, L. 1971; amd. Sec. 10, Ch. 187, L. 1977; R.C.M. 1947, 69-1508(part).

50-74-303. Engineer's license classifications. (1) Engineers entrusted with the operation, care, and management of steam or water boilers and steam machinery, as specified in 50-74-302, are divided into five classes, including first-class engineers, second-class engineers, third-class engineers, agricultural-class engineers, and low-pressure engineers.

(2) Licenses for the operation of steam or water boilers and steam machinery are divided into five classifications in accordance with the following schedule:

(a) First-class engineers are licensed to operate all classes, pressures, and temperatures of steam and water boilers and steam-driven machinery with the exception of traction and hoisting engines.

(b) Second-class engineers are licensed to operate steam boilers operating not in excess of 250 pounds per square inch gauge saturated steam pressure, water boilers operating not in excess of 375 pounds per square inch gauge pressure and 450 degrees F temperature, and steam-driven machinery not to exceed 100 horsepower per unit, with the exception of traction and hoisting engines.

(c) Third-class engineers are licensed to operate steam boilers operating not in excess of 150 pounds per square inch gauge saturated steam pressure and not in excess of 150 horsepower per hour and water boilers operating not in excess of 160 pounds per square inch gauge pressure and 350 degrees F temperature.

(d) Agricultural-class engineers are licensed to operate steam boilers that operate not in excess of 150 pounds per square inch saturated steam pressure and that:

(i) are not operated for more than 6 months of the year; and

(ii) are not operated for purposes other than the harvesting or processing of agricultural products.

(e) Low-pressure engineers are licensed to operate steam boilers operating not in excess of 15 pounds per square inch gauge pressure and water boilers operating not in excess of 50 pounds per square inch gauge pressure and 250 degrees F temperature.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(1), (2); amd. Sec. 14, Ch. 514, L. 1995; amd. Sec. 1, Ch. 392, L. 2003.

50-74-304. Requirements for engineer's license. Each applicant for an engineer's license must be physically and mentally capable of performing the required duties and must meet the following minimum requirements for the class of engineer's license for which application is being made:

(1) Except as provided in subsection (6), an applicant for a low-pressure engineer's license must be 18 years of age or older, must have at least 3 months' full-time experience in the operation of a boiler in this classification under an engineer who holds a valid low-pressure or

higher license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(2) Except as provided in subsection (6), an applicant for an agricultural-class engineer's license must be 18 years of age or older, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(3) Except as provided in subsection (6), an applicant for a third-class engineer's license must be 18 years of age or older, must have at least 6 months' full-time experience in the operation of a boiler in this classification under an engineer holding a valid third-class or higher license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler in this classification by the department.

(4) An applicant for a second-class engineer's license must be 18 years of age or older and:

(a) must have at least 2 years' full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid second-class or first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department; or

(b) must hold a valid third-class engineer's license, must have at least 1 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid second-class or first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department.

(5) An applicant for a first-class engineer's license must be 18 years of age or older and:

(a) must have at least 3 years' full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department;

(b) must hold a valid second-class engineer's license, must have at least 1 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department; or

(c) must hold a valid third-class engineer's license, must have at least 2 year's full-time experience in the operation of a boiler and steam-driven machinery in this classification under an engineer holding a valid first-class license, is required to successfully pass a written examination prescribed by the department, and must be found competent to operate a boiler and steam-driven machinery in this classification by the department.

(6) As an alternative to the requirements of subsections (1) through (3), an applicant who is 18 years of age or older may apply for and be issued a license for any of the three classes of licenses provided for in subsections (1) through (3) if:

(a) the applicant completes a training course acceptable to the department that is specific to the class of boiler license sought by the applicant and successfully passes a written examination administered by the department that is specific to the class of boiler license sought by the applicant; and

(b) an engineer with a license at least equal to the class of boiler license sought by the

applicant informs the department that the applicant has worked with the type of boiler for which a license is sought under the engineer's supervision for a minimum of 40 hours and that the applicant is competent to operate a boiler of the class for which licensure is sought by the applicant.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(3); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 15, Ch. 514, L. 1995; amd. Sec. 2, Ch. 392, L. 2003.

50-74-305. Exceptions to requirements for engineer's license. Allowable exceptions or variances to the minimum requirements set out in 50-74-304 are as follows:

(1) An applicant for an engineer's license in any classification who holds a valid license in that classification from another state having licensing requirements equal to or exceeding the minimum requirements set out in 50-74-304, who successfully passes a written examination prescribed by the department, and who is found competent to operate a boiler and steam-driven machinery in that classification by the department must be granted a license in that classification.

(2) Operating experience in a classification accumulated in the United States military services or the merchant marine service satisfactory to the department may be accepted in lieu of the operating experience required for licensing of engineers in each of the license classifications.

(3) An applicant who has training in the operation of steam or water boilers and steam machinery and who has been certified as having satisfactorily completed a prescribed training course from a department-approved institution or training program in the classification for which the applicant is applying may, pursuant to department rule, be credited with experience toward a first-, second-, or third-class or low-pressure engineer's license.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(4); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 33, Ch. 308, L. 1995; amd. Sec. 16, Ch. 514, L. 1995.

50-74-306. Traction licenses. (1) The licenses named in 50-74-303 do not entitle the holder to operate a traction engine.

(2) A person who is entrusted with the care and management of traction engines or boilers on wheels is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(3) A person who is entrusted with the care, management, and operation of steam locomotives not addressed by federal regulations is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(4) A traction license does not entitle its holder to operate any other class of steam machinery.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(part); amd. Sec. 1, Ch. 65,

L. 2001.

50-74-307. Requirements for traction licenses. An applicant for a traction engineer's license:

- (1) must be 18 years of age or older;
- (2) must have at least 480 hours total experience in the operation of steam traction engines;
- (3) shall successfully pass a written examination prescribed by the department; and
- (4) must be found competent to operate a traction engine by the department.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(part); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 17, Ch. 514, L. 1995; amd. Sec. 2, Ch. 65, L. 2001.

50-74-308. Waiver of experience requirement for traction licenses. The department, at its discretion, may waive the experience requirement for operators of traction engines which are maintained and operated as a hobby for the restoration and show purposes of antique equipment.

History: En. Sec. 3, Ch. 32, L. 1905; re-en. Sec. 1649, Rev. C. 1907; amd. Sec. 9, Ch. 30, L. 1913; amd. Sec. 2, Ch. 32, L. 1919; re-en. Sec. 2720, R.C.M. 1921; re-en. Sec. 2720, R.C.M. 1935; amd. Sec. 8, Ch. 225, L. 1971; amd. Sec. 26, Ch. 94, L. 1973; amd. Sec. 28, Ch. 182, L. 1975; amd. Sec. 11, Ch. 187, L. 1977; R.C.M. 1947, 69-1509(part); amd. Sec. 64, Ch. 613, L. 1989.

50-74-309. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 4, Ch. 32, L. 1905; re-en. Sec. 1652, Rev. C. 1907; amd. Sec. 12, Ch. 30, L. 1913; amd. Sec. 3, Ch. 32, L. 1919; re-en. Sec. 2723, R.C.M. 1921; re-en. Sec. 2723, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1959; amd. Sec. 3, Ch. 77, L. 1967; amd. Sec. 1, Ch. 255, L. 1969; amd. Sec. 11, Ch. 225, L. 1971; amd. Sec. 30, Ch. 182, L. 1975; amd. Sec. 1, Ch. 83, L. 1977; R.C.M. 1947, 69-1512(2); amd. Sec. 18, Ch. 514, L. 1995.

50-74-310. Repealed. Sec. 28, Ch. 196, L. 2003.

History: En. Sec. 4, Ch. 32, L. 1905; re-en. Sec. 1652, Rev. C. 1907; amd. Sec. 12, Ch. 30, L. 1913; amd. Sec. 3, Ch. 32, L. 1919; re-en. Sec. 2723, R.C.M. 1921; re-en. Sec. 2723, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1959; amd. Sec. 3, Ch. 77, L. 1967; amd. Sec. 1, Ch. 255, L. 1969; amd. Sec. 11, Ch. 225, L. 1971; amd. Sec. 30, Ch. 182, L. 1975; amd. Sec. 1, Ch. 83, L. 1977; R.C.M. 1947, 69-1512(3).

50-74-311. Waiting period before reexamination permitted. In case of the failure of any applicant to successfully pass an examination, 45 days must elapse before he can again be examined for license.

History: En. Sec. 4, Ch. 32, L. 1905; re-en. Sec. 1652, Rev. C. 1907; amd. Sec. 12, Ch. 30, L. 1913; amd. Sec. 3, Ch. 32, L. 1919; re-en. Sec. 2723, R.C.M. 1921; re-en. Sec. 2723, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1959; amd. Sec. 3, Ch. 77, L. 1967; amd. Sec. 1, Ch. 255,

L. 1969; amd. Sec. 11, Ch. 225, L. 1971; amd. Sec. 30, Ch. 182, L. 1975; amd. Sec. 1, Ch. 83, L. 1977; R.C.M. 1947, 69-1512(4).

50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant may reapply to take the license examination, as provided in 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license.

History: (1) thru (3)En. Sec. 564, Pol. C. 1895; re-en. Sec. 1653, Rev. C. 1907; re-en. Sec. 2724, R.C.M. 1921; re-en. Sec. 2724, R.C.M. 1935; amd. Sec. 12, Ch. 225, L. 1971; amd. Sec. 31, Ch. 182, L. 1975; Sec. 69-1513, R.C.M. 1947; (4)En. Sec. 565, Pol. C. 1895; re-en. Sec. 1654, Rev. C. 1907; re-en. Sec. 2725, R.C.M. 1921; re-en. Sec. 2725, R.C.M. 1935; amd. Sec. 13, Ch. 225, L. 1971; amd. Sec. 32, Ch. 182, L. 1975; Sec. 69-1514, R.C.M. 1947; R.C.M. 1947, 69-1513, 69-1514; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 19, Ch. 514, L. 1995; amd. Sec. 186, Ch. 483, L. 2001; amd. Sec. 26, Ch. 196, L. 2003; amd. Sec. 125, Ch. 467, L. 2005.

50-74-313. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 6, Ch. 32, L. 1905; re-en. Sec. 1656, Rev. C. 1907; amd. Sec. 14, Ch. 30, L. 1913; amd. Sec. 1, Ch. 54, L. 1919; re-en. Sec. 2727, R.C.M. 1921; amd. Sec. 2, Ch. 54, L. 1959; amd. Sec. 167, Ch. 147, L. 1963; amd. Sec. 15, Ch. 225, L. 1971; R.C.M. 1947, 69-1516; amd. Sec. 54, Ch. 492, L. 1997.

50-74-314. Repealed. Sec. 46, Ch. 481, L. 1997.

History: En. Sec. 561, Pol. C. 1895; re-en. Sec. 1650, Rev. C. 1907; amd. Sec. 10, Ch. 30, L. 1913; re-en. Sec. 2721, R.C.M. 1921; amd. Sec. 9, Ch. 225, L. 1971; amd. Sec. 29, Ch. 182, L. 1975; R.C.M. 1947, 69-1510; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 20, Ch. 514, L. 1995.

50-74-315. Unlawful to operate boiler or steam engine without license. (1) It is unlawful for any person in this state to operate a stationary boiler or steam engine or any boiler or steam engine other than engines and boilers exempted by the provisions of 50-74-103 without a license granted under the provisions of this chapter. The owner, renter, or user of any engine or boiler is equally liable for the violation of this section.

(2) A person who operates a boiler or steam engine without first obtaining a license is guilty of a misdemeanor and, upon conviction, shall be fined no less than \$50 or more than \$100 or be imprisoned in the county jail for any term not to exceed 60 days, or both.

History: (1)En. Sec. 568, Pol. C. 1895; re-en. Sec. 1657, Rev. C. 1907; amd. Sec. 15, Ch. 30, L. 1913; re-en. Sec. 2728, R.C.M. 1921; re-en. Sec. 2728, R.C.M. 1935; amd. Sec. 16, Ch. 225, L. 1971; amd. Sec. 34, Ch. 182, L. 1975; Sec. 69-1517, R.C.M. 1947; (2)En. Sec. 559, Pol. C. 1895; re-en. Sec. 1648, Rev. C. 1907; amd. Sec. 8, Ch. 30, L. 1913; re-en. Sec. 2719, R.C.M. 1921; re-en. Sec. 2719, R.C.M. 1935; amd. Sec. 7, Ch. 225, L. 1971; amd. Sec. 10, Ch. 187, L. 1977; Sec. 69-1508, R.C.M. 1947; R.C.M. 1947, 69-1508(part), 69-1517(part).

50-74-316. Unlawful to employ unlicensed operator. It shall be unlawful, except as stated in 50-74-317, for any person, firm, or corporation to employ any person not duly licensed as an engineer within the meaning of this chapter to run or operate any of the boilers or engines subject to the provisions of this chapter.

History: En. Sec. 568, Pol. C. 1895; re-en. Sec. 1657, Rev. C. 1907; amd. Sec. 15, Ch. 30, L. 1913; re-en. Sec. 2728, R.C.M. 1921; re-en. Sec. 2728, R.C.M. 1935; amd. Sec. 16, Ch. 225, L. 1971; amd. Sec. 34, Ch. 182, L. 1975; R.C.M. 1947, 69-1517(part).

50-74-317. When unlicensed person may operate. (1) In case of accident, sickness, or any unforeseen event that prevents a licensed engineer, employed by an owner, renter, or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days employ any person 18 years of age or older whom the owner, renter, or user considers competent to run the engine or boiler.

(2) Although the person employed may not be the holder of an engineer's license, the person must have reasonable qualifications acceptable to the department.

(3) A person employing an unlicensed engineer shall immediately notify the department.

(4) An owner, renter, or user of boilers or steam machinery may not employ unlicensed engineers for more than 15 days in any 1 calendar year.

History: En. Sec. 568, Pol. C. 1895; re-en. Sec. 1657, Rev. C. 1907; amd. Sec. 15, Ch. 30, L. 1913; re-en. Sec. 2728, R.C.M. 1921; re-en. Sec. 2728, R.C.M. 1935; amd. Sec. 16, Ch. 225, L. 1971; amd. Sec. 34, Ch. 182, L. 1975; R.C.M. 1947, 69-1517(part); amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 21, Ch. 514, L. 1995.

50-74-318 and 50-74-319 reserved.

50-74-320. Examinations -- fees -- third parties. (1) The department shall administer the engineer examinations at least once every 3 months at places within the state as determined by the department.

(2) The department shall determine the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.

(3) The department may use a third party to provide examination and grading services.

History: En. Sec. 25, Ch. 196, L. 2003.