

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED  
2011 JUN 17 AM 10:00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: DHHR - BUREAU FOR PUBLIC HEALTH TITLE NUMBER: 64

RULE TYPE: LEGISLATIVE CITE AUTHORITY: WV CODE §§ 16-1-4.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: WASTEWATER SYSTEMS AND OPERATORS

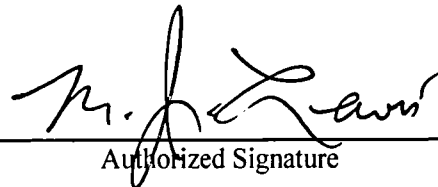
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON JULY 18 2011 AT 12 NOON ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Ann Goldberg, Director <del>Public Health Regulations</del> Bureau for Public Health 350 Capitol Street, Rm 702 Charleston, WV 25302 ann.a.goldberg@wv.gov (304) 558-2971 phone (304) 558-1033 fax	Walt Ivey, Director <del>Environmental Engineering</del> Division, OEHS 350 Capitol St. Rm. 313 Charleston, WV 25302 walter.m.ivey@wv.gov (304) 558-2981 phone (304) 558-0289 fax
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THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

## FISCAL NOTE FOR PROPOSED RULES

Rule Title: 64CSR5 - Wastewater Systems and Operators

Type of Rule:                      X   Legislative                           Interpretive                           Procedural

Agency: Health and Human Resources

Address: One Davis Square, Suite 100 East  
Charleston, WV 25301

Phone Number: 304-356-4122                    Email: Ann.A.Goldberg@wv.gov

### Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

Additional costs are expected with these regulatory changes due to the classification levels for the wastewater operator and the addition of classifications, enforcement efforts, outreach, educational programs and the continuing education program. Revenues will be generated by renewal fees from certified wastewater operators and late renewal of certifications. The proposed fees are necessary to ensure that the program has adequate resources to fulfill its obligations under the rules. Additional support will be required from state general revenue.

### Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2011 Increase/Decrease (use "-" )	2012 Increase/Decrease (use "-" )	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	265,000	265,000	265,000
Personal Services	202,500	202,500	202,500
Current Expenses	62,500	62,500	62,500
Repairs and Alterations			
Equipment			
Other			
<b>2. Estimated Total Revenues</b>	42,850	164,650	103,750

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

Current personnel program cost annually is estimated at \$91,000 based on 1.5 FTEs. Under the current rule, only OITs, Class III, and Class IV operators renew every 3 years. Under the proposed rule, 2 classifications were added and all operators have 2 year renewal requirements, there will be more on site review and determinations concerning operator coverage and additional administration of the continuing education program. It is estimated that staffing would have to increase to 3.25 FTEs to fully implement the new requirements, which has an estimated associated personnel cost of \$202,500. The estimated total cost for implementation would be \$265,000. Based on estimates of the total number of certified operators in each classification with the proposed fees, the cost needing funding is anticipated to be approximately \$161,250 annually fully implemented.

The Department proposes an initial and then biennial renewal fee for all certifications. The certification fees will be used to offset program costs incurred through application and test reviews, issuing, renewing certifications and tracking compliance of certified individuals.

**Memorandum**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The Department has evaluated these rules, and has determined that they are necessary, reasonable, and proper for the purpose as proposed.

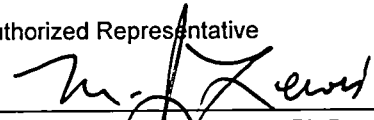
Date

6.16.11

Agency

Department of Health and Human Resources

Authorized Representative



Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

Legislative Rule, 64CSR05  
Department of Health and Human Resources  
Bureau for Public Health  
Office of Environmental Health Services  
Wastewater Systems and Operators

### **BRIEF SUMMARY**

The proposed rule consists of several major changes based on a stakeholder workgroup that consisted of state regulatory agencies, training providers, and industry related associations during several meetings which occurred over more than a year period. This workgroup reviewed the rule and proposed revisions based on mirroring the Public Water Systems Operator Regulations (64CSR04) and on technology changes. Renewal requirements were added to all classifications, where previously they only existed for OIT, Class III and Class IV operators. Class H and Class C systems and operator certifications were added to Section 4.1. to ensure certified operator coverage at these types of wastewater systems. Previously, collection system certification was voluntary and Class H coverage was approved by Department of Environmental Protection staff. Advanced designation of wastewater systems and operators has been added. Class II through Class IV certification experience requirements have been reduced by one year to more appropriately reflect the current training needs. The examination score expiration date has been reduced from no expiration to five years, which more appropriately reflects changes in technology and examination versions. Chief Operator requirements have been added. Initial and renewal certification fees were added for most certifications to support program administration. Clarification on adequate operator coverage for wastewater systems was also added to reflect modern communication resources, improve consistency in implementation and communication of intent. Limits were added to non treatment related operator experience such as laboratory, maintenance and collection duties.

### **STATEMENT OF CIRCUMSTANCES**

The Bureau for Public Health seeks to amend the rule for Wastewater Systems and Operators. The changes are needed to provide consistency between water and wastewater operator requirements, update the rules due to changes in technology, ensure baseline standards and incorporate new classification and related operator certification classifications. These proposed changes were also posted on the Certification & Training Program website at <http://www.wvdhhr.org/oehs/eed/swap/training%26certification/> and presented numerous times at the largest wastewater industry conferences in WV.

**TITLE 64**  
**WEST VIRGINIA ADMINISTRATIVE RULES**  
**DIVISION OF HEALTH**

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**SERIES 5**  
**WASTEWATER SYSTEMS AND OPERATORS**

SECRETARY OF STATE

**§64-5-1. General.**

1.1. Scope. -- This legislative rule governs the examination and certification of wastewater operators, establishes a system for the classification of wastewater systems, and specifies certain responsibilities of wastewater systems. The WV Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. -- WV Code §16-1-4(c).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal and replacement of former rule. -- This legislative rule repeals and replaces Wastewater Treatment Works & Operators, 64CSR5, effective May 1, 1995.

**§64-5-2. Application and Enforcement.**

2.1. Application. -- This rule applies to owners and certified operators of wastewater systems and to applicants for certification. This rule does not apply to industrial wastewater systems which are regulated by the West Virginia Department of Environmental Protection (WV DEP) or to the operators of such industrial wastewater systems. This rule does not apply to septic tanks serving individual homes unless such systems have a centralized component.

2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health.

**§64-5-3. Definitions.**

3.1. Adequate. -- A sufficient amount the Commissioner determines, considering treatment complexity, collection system, and other factors such as personnel leave.

3.2. Advanced Operator. -- An individual holding a valid advanced West Virginia wastewater operator designation issued by the Commissioner.

3.3. Certified Operator. -- An individual holding a valid West Virginia wastewater operator certification issued by the Commissioner.

3.4. Chief Operator. -- The certified operator(s) whom the owner designates to be responsible for managing the daily operational activities of a wastewater system and/or a

collection system in a manner that ensures meeting state and federal Clean Water Act rules and regulations.

3.5. Class I Operator. -- An individual holding a valid Class I West Virginia wastewater operator certification issued by the Commissioner.

3.6. Class II Operator. -- An individual holding a valid Class II West Virginia wastewater operator certification issued by the Commissioner.

3.7. Class III Operator. -- An individual holding a valid Class III West Virginia wastewater operator certification issued by the Commissioner.

3.8. Class IV Operator. -- An individual holding a valid Class IV West Virginia wastewater operator certification issued by the Commissioner.

3.9. Class C Operator. -- An individual holding a valid Class C West Virginia wastewater certification issued by the Commissioner. Previously referred to as 1C.

3.10. Class H Operator. -- An individual holding a valid Class H West Virginia wastewater certification issued by the Commissioner.

3.11. Class HR Operator. -- An individual holding a valid Class H West Virginia wastewater certification issued by the Commissioner with restricted (R) operations. This certification only applies to individual homeowners who were grandfathered in accordance with this rule or have taken the Class H course and passed the Class H exam who are limited to operating only their individually owned Class H system(s). Class HR certification does not have a certification fee and does not require a high school diploma or GED.

3.12. Class S Operator. -- An individual holding a valid Class S West Virginia wastewater operator certification issued by the Commissioner. Previously referred to as 1S.

3.13. Collection System. -- Facilities upstream of the wastewater treatment plant used to convey wastewater to the treatment plant.

3.14. Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

3.15. Continuing Education Hour (CEH). -- One (1) hour of participation in an organized continuing education experience under responsible sponsorship approved by the Commissioner for renewal of wastewater operator certification.

3.16. Continuing Education Unit (CEU). -- Ten (10) CEHs.

3.17. Experience. -- Hands-on work performing certified operator duties at a wastewater system.

3.18. gpd. -- gallons per day.

3.19. Home aeration unit (HAU). -- Sewage treatment and disposal system of domestic sewage only (permitted capability of 600 gpd or less, serving individual residences and/or certain commercial establishments). Also known as aerobic treatment unit (ATU).

3.20. MGD. -- million gallons per day.

3.21. National Pollutant Discharge Elimination System (NPDES). -- The federal wastewater discharge permit issued by the WV DEP.

3.22. Operate. -- To perform the practical work and apply the technical knowledge and operational skills in the treatment and/or collection of wastewater.

3.23. Operator-in-Training (OIT). -- An individual holding a valid operator-in-training certificate issued by the Commissioner, who is training under the responsibility of the Chief Operator at a wastewater system while completing the educational and/or experience requirements to become a Class C or Class I operator.

3.24. Owner. -- The person legally responsible for the operation of a wastewater system.

3.25. Person. -- An individual, partnership, association, syndicate, company, firm, trust, corporation, government, institution, department, division, bureau, federal agency, or any other entity recognized by law.

3.26. Secretary. -- Secretary of the West Virginia Department of Environmental Protection (WV DEP) or his or her designee.

3.27. Wastewater. -- Water containing human, animal or domestic waste, except this definition does not include industrial wastewater regulated by the WV DEP.

3.28. Wastewater System. -- A facility collecting, treating and discharging wastewater, except this definition does not include industrial wastewater systems regulated by the WV DEP.

#### **§64-5-4. Classification of Wastewater Systems.**

4.1. A wastewater system is classified on the basis of the permitted flow capacity and complexity of wastewater treatment processes.

4.1.a. Class H – Lagoon, aerated lagoon, stabilization pond, recirculating media filters, package treatment plant, and/or small wastewater systems with flows less than 600 gpd. This rule does not apply to septic tanks serving individual homes.

4.1.b. Class S – Lagoon, aerated lagoon, stabilization pond, recirculating media filters, package treatment plant, and/or small wastewater systems with flows greater than 600 gpd but less than or equal to 0.05 MGD. Can also be multiple individual septic tanks within a managed residential district. Individual home owner septic tanks are only included if maintained under the jurisdiction of a responsible management entity. Previously referred to as 1S.

4.1.c. Class C – Facilities upstream of the wastewater treatment plant used to collect and convey wastewater and which may include pumps, valves, manholes, tanks and other appurtenances. These facilities are also known as a collection system. This does not include Class S facilities.

4.1.d. Class I – Lagoon, aerated lagoon, stabilization pond and/or wastewater systems with flows greater than 0.05 MGD but less than or equal to 1.0 MGD. Extended aeration package treatment plants with flows greater than 0.05 MGD but less than or equal to 0.1 MGD.

4.1.e. Class II – Lagoon, aerated lagoon, stabilization pond and/or wastewater systems with flows greater than 1.0 MGD but less than or equal to 1.75 MGD. Extended aeration treatment plants with flows greater than 0.1 MGD but less than or equal to 1.75 MGD.

4.1.f. Class III – Facilities with flows greater than 1.75 MGD but less than 6.0 MGD.

4.1.g. Class IV – Facilities with flows equal to or greater than 6.0 MGD.

4.1.h. Advanced – System designation held in addition to Class S and Class I through Class IV classifications, where advanced treatment methods are used such as; membrane filtration or separate nitrification, denitrification, phosphorous removal, ammonia stripping, breakpoint chlorination, carbon adsorption, chemical coagulation, flocculation, precipitation, demineralization (ion exchange, reverse osmosis or electrodialysis) or other processes considered advanced by the Commissioner.

#### **§64-5-5. Required Personnel and Conditions of Employment.**

5.1. Any individual who operates a Class S, Class C, Class I, Class II, Class III, or Class IV wastewater system in West Virginia shall be certified by the Commissioner. Any individual who operates a Class H wastewater system in West Virginia shall be certified by the Commissioner or Secretary.

5.2. All certified wastewater operators shall:

5.2.a. Be responsible for their certification in accordance with all aspects of this rule.

5.2.b. Carry their current certification card issued by the Commissioner upon them at all times the operator is operating the wastewater system.

5.2.c. Not work in a wastewater system using the certification of another person; only the person whose name appears on the operator certification is certified by that document. Certifications are not transferable.

5.2.d. Notify the system owner at least twelve (12) calendar days in advance of the voluntary termination of his or her employment at a wastewater system.

5.2.e. Notify the Commissioner at least thirty (30) calendar days in advance of the

voluntary termination of his or her employment at a wastewater system.

5.2.f. Comply with the provisions of Bureau for Public Health rule, Sewer Systems, Sewage Treatment Systems, and Sewage Tank Cleaners, 64CSR9.

5.2.g. Demonstrate data integrity by providing complete, accurate, and true information for the period in which they were responsible for data collection including but not limited to records, reports, and lab results.

5.3. Class H, Class S, and the collection system portion only of a wastewater system under the direct jurisdiction of the treatment plant are not required to designate a Chief Operator;

5.3.a. The owner of a Class H wastewater system shall ensure it is operated by a Class H, Class I or higher wastewater operator.

5.3.b. The owner of a Class S wastewater system shall ensure it is operated by a Class S wastewater operator.

5.3.c. The owner of a Class C wastewater system shall ensure it is operated by a Class C, Class I or higher wastewater operator.

5.4. The owner of a wastewater system shall:

5.4.a. Employ a Chief Operator(s) with certification equal to or higher than the system classification, except for Class H, Class S and Class C systems. A wastewater system shall have more than one Chief Operator if jurisdiction is bifurcated between the collection system and treatment plant or otherwise approved in writing by the Commissioner based upon written request;

5.4.a.1. In the case of collection systems not under the direct jurisdiction of the treatment plant Chief Operator, employ an additional Chief Operator with a Class C certification and an adequate number of certified operators to operate the collection system.

5.4.a.2. Employ a Chief Operator to be on-site at all new wastewater systems, except for Class H, Class S and Class C, when construction is twenty five percent (25%) complete.

5.4.a.3. Place direct supervision of their wastewater system, including each treatment facility and/or collection system, under the responsible charge of the Chief Operator(s) holding an adequate certification.

5.4.b. Employ an adequate number of certified operators to operate the system;

5.4.c. Not employ more OITs than the number of employed certified operators of higher classification, unless written permission is granted by the Commissioner;

5.4.d. Notify the Commissioner and Secretary within twenty four (24) hours, in a

manner and form approved by the Commissioner, of any employment status changes of the system's certified operators, including their reassignment, except for Class H systems;

5.4.e. Submit a personnel status report as of July 1 by July 15 every year, except for Class H systems. The report is to be in a manner and form approved by the Commissioner and required information includes, at a minimum: a list of all certified operators employed, the Chief Operator, and the system owner; and,

5.4.f. Post a copy of the current certification of all certified operators employed at the wastewater system in a conspicuous location in the wastewater system treatment plant or the wastewater system office, except for Class H systems.

5.4.g. Employ an advanced certified operator to be on-site at all new advanced systems when construction is fifty percent (50%) complete;

5.5. The Chief Operator of a wastewater system shall:

5.5.a. Be responsible for the operation of the wastewater system;

5.5.b. Be employed on a full-time basis by the wastewater system owner except in Class C and Class I systems;

5.5.c. Attend a course approved by the Commissioner for training as a Chief Operator. Current Chief Operators shall attend the Chief Operator course within three (3) years of the effective date of this rule. A person newly designated by the owner as the Chief Operator after the effective date of this rule shall attend within one (1) year;

5.5.d. Apply to the Commissioner for OIT certification, on behalf of OIT applicants, within thirty (30) calendar days of their hire at the wastewater system. Experience gained for certification starts only upon the issued date of the OIT certificate;

5.5.e. Be responsible for the training and job duty assignments of OITs and other certified operators and proper documentation of this experience towards certification upgrade;

5.5.f. Renew the OIT certification every two (2) years or until all requirements for Class C or Class I certification are met. Submit the renewal application at least thirty (30) calendar days prior to expiration date, in a manner and form approved by the Commissioner. The OIT shall attempt to pass the Class C or Class I examination at least once during each two (2) year renewal; and,

5.5.g. Be automatically designated as the Chief Operator if they are the only certified operator who meets the requirements of Section 5.4 for the system.

5.6. Adequate Operator Coverage:

5.6.a. Class H systems shall be operated by a Class H, Class I or higher wastewater operator operator. A Class H, Class I or higher operator shall be on call twenty four (24) hours a

day / seven (7) days a week. An adequate number of on-site visits by a Class H, Class I or higher operator shall be conducted to ensure proper operation in accordance with the NPDES permit.

5.6.b. Class S systems shall be operated by a Class S operator. This certified operator shall be on call twenty four (24) hours a day / seven (7) days a week. An adequate number of on-site visits by a Class S operator shall be conducted to ensure proper operation in accordance with the NPDES permit. If a Class S system is designated as advanced system, the individual providing adequate coverage in accordance with this section shall have the advanced designation.

5.6.c. Class C systems shall be operated by a Class C, Class I or higher operator who shall be on call twenty four (24) hours a day / seven (7) days a week. An adequate number of on-site visits by a properly certified operator shall be conducted to ensure proper operation in accordance with the NPDES permit.

5.6.d. Class I systems shall be operated by a Class I or higher operator who shall be on call twenty four (24) hours a day / seven (7) days a week. An adequate number of on-site visits by a properly certified operator shall be conducted to ensure proper operation in accordance with the NPDES permit. If a Class I system is designated as advanced system, the individual providing adequate coverage in accordance with this section shall have the advanced designation.

5.6.e. Class II, Class III, and IV systems shall be operated on-site at least forty (40) hours per week by an operator with certification equal to or greater than the system classification, unless the Commissioner grants a written exception to this requirement in response to a written request by the system owner. An operator certified at a level equal to or greater than the system classification shall be on call twenty four (24) hours a day / seven (7) days a week. Class II, Class III, and IV systems shall have at least one (1) certified operator (except Class H, Class S, or Class C level) in addition to the Chief Operator. If a Class II or higher system is designated as advanced system, the individual providing adequate coverage in accordance with this section shall have the advanced designation. At all times, adequate operator coverage shall be determined to ensure proper operation in accordance with the NPDES permit.

#### **§64-5-6. Qualifications for Certification.**

6.1. An individual desiring certification shall submit an application for certification to the Commissioner. The application shall be on a form provided by the Commissioner

6.2. Certification of a wastewater operator is based on application, education, a passing score on the applicable certification exam, and in some cases experience as an OIT or higher certified operator.

6.3. Class H, Class S and Class C certifications are not sequential towards OIT and Class I through IV. A Class H, Class S or Class C shall begin with an application for an OIT if he or she wishes to operate at a Class I or higher classification system.

6.4. A person working in a Class I, II, III, or IV system shall begin certification as an OIT.

6.5. Class I through IV certifications are sequential and shall be obtained in order.

6.6. Applicants for certification shall be eighteen (18) years of age or older. This may be waived to a minimum age of sixteen (16) upon written request to the Commissioner and in accordance with Section 7.3.

6.7. Applicants who qualify for Class H, Class S or Class C certification in addition to a current Class I or higher certification shall hold it concurrently but only maintain the renewal requirements for the highest certification held.

6.8. The Commissioner shall charge an initial fee for certification provided as listed in Table 64-5A.

**§64-5-7. Education Requirements.**

7.1. The education requirements for each certification are listed in Table 64-5B.

7.2. Class H education requirements can be waived by the Commissioner, in writing, if the individual agrees to restricted operations.

7.3. OIT education requirements can be waived by the Commissioner, in writing, to completion of the tenth (10<sup>th</sup>) grade. Minimum requirements are verification each semester the student is currently attending school and maintaining a 2.0 average on a 4.0 scale towards graduation requirements. Failure to meet the above requirements shall be grounds for revocation of the certificate.

7.4. Education requirements can be waived by Commissioner, in writing, to actively working towards a GED. Minimum requirements are verification each semester that the student is currently enrolled in an adult education program and completing graduation requirements. Failure to meet the above requirements shall be grounds for revocation of the certificate.

7.5. The number of CEUs credited for courses and operating experience, are in Table 64-5C of this rule.

7.6. All education courses for CEU shall be evaluated by the Commissioner. One hundred percent (100%) credit shall be awarded for those deemed to be directly related to wastewater treatment and collection (examples are mathematics, science, and business courses). If the Commissioner deems the course not directly related, fifty percent (50%) credit shall be awarded.

7.7. Class III and IV applicants may substitute up to half of the required CEU education as specified in Table 64-5B of this rule with additional experience upon written request to the Commissioner.

7.7.a. An applicant cannot use experience used as a substitute for educational requirement to also satisfy experience requirements.

7.7.b. An applicant may use the Class H, Class S, Class C, Class I, Class II, and advanced courses towards the educational requirements for a Class III or higher class level certificate.

**§64-5-8. Experience Requirements.**

8.1. The experience requirements for each classification are listed in Table 64-5B of this rule.

8.2. Only experience obtained as a valid certified wastewater operator shall count towards experience required for the purposes of this rule.

8.3. Experience as an operator should be predominantly “hands-on” or necessary skills, knowledge, ability, and judgment acquired from daily operating experience rather than from text book study or supervisory observation. It means the individual has actually operated a wastewater treatment plant or worked in the collection system and has performed tasks including, but not limited to, routine tests, sample collection, completion of operational reports, calculations of chemical dosages and subsequent adjustment of chemical feeders or backwashed filters.

8.4. Experience obtained exclusively in collection, maintenance, and other non operational/treatment duties shall not count more than six hundred (600) hours of the total experience required for Class I through IV certification.

8.5. Experience obtained exclusively in laboratory duties shall not count more than one thousand (1,000) hours of the total experience required for Class I through IV certification.

8.6. An applicant may substitute the experience requirements with education and training as specified below:

8.6.a. Class II, III and IV applicants may substitute up to half of the required experience with additional education upon written request to the Commissioner.

8.6.b. An applicant cannot use education used as a substitute for experience requirements to satisfy education requirements.

**§64-5-9. Examination Requirements.**

9.1. Examination requirements for each certification are listed in Table 64-5B.

9.2. Examinations shall not be administered until the Commissioner-approved certification course requirements are first met, unless the Commissioner grants a written exception based on a written request.

9.3. An applicant for operator certification shall submit an application for examination in a form and manner approved by the Commissioner with proof of education and, if required, separate proof of work experience.

9.4. The Commissioner shall schedule examinations for wastewater operator certification applicants that meet the requirements and notify them before the examination date.

9.5. An individual shall make a score of seventy percent (70%) or better on the examination in order to be considered a passing grade.

9.6. The results of certification examinations are valid for five (5) years. If the applicant has not met the requirements for education, experience, or both within those five (5) years, the applicant shall reapply for examination.

9.7. Applicants who fail an examination shall wait a minimum of sixty (60) calendar days from the date they took the examination before reapplying for the examination.

**§64-5-10. Renewal Requirements.**

10.1. Ensure renewal applications are submitted at least thirty (30) calendar days before the expiration date and no earlier than sixty (60) calendar days prior to expiration in a manner and form approved by the Commissioner.

10.2. The Commissioner shall approve continuing education hour (CEH) courses based on their relevance to wastewater systems.

10.3. The number of CEHs required by each classification each renewal period as follows:

10.3.a. Class S: three (3) CEHs

10.3.b. Class C: six (6) CEHs

10.3.c. OIT: six (6) CEHs

10.3.d. Class I: twelve (12) CEHs

10.3.e. Class II, III, and IV: twenty four (24) CEHs

10.3.f. Class H and advanced designation does not require CEHs.

10.4. CEHs cannot be repeated in consecutive renewal periods.

10.5. Operators shall not carry over additional CEHs completed during the two (2) year period to satisfy the CEH requirements for the next certification renewal period.

10.6. The Commissioner may grant extensions upon written request by the applicant.

10.7. The Commissioner may specify certain courses an operator shall attend in order to qualify for renewal.

10.8. The Commissioner shall charge a renewal fee for certification provided as listed in Table 64-5A.

**§64-5-11. Expiration.**

11.1. All wastewater operator certifications expire two (2) years from the date of issuance. An individual with expired certification shall not operate a wastewater system in West Virginia.

11.2. An applicant seeking reinstatement of his or her previous certification shall pass the examination at the certification level previously held if their certification has been expired for more than one (1) year.

11.3. Advanced designation of an individual does not expire.

11.4. If an individual holds a Class H, Class S or Class C in addition to a Class I or higher certification, the Class H, Class S or Class C shall not expire so long as the Class I or higher is properly maintained.

**§64-5-12. Grandfathering.**

12.1. The below specifications only apply to grandfathering or facilitated implementation of the newly revised rule to currently certified operators.

12.1.a. Individuals operating Class H systems approved by WVDEP as of the effective date of this rule shall apply to the Commissioner for restricted Class H (Class HR) or Class H certification within one (1) year of the rule change. The application shall document Class H system(s) operated by the individual prior to the effective date of this rule at a minimum. Class HR shall be given to individuals operating their own home system(s).

12.1.b. Current 1S certificates as of the effective date of this rule shall expire October 31<sup>st</sup> two (2) years after the effective date of this rule and be referred to herein as Class S.

12.1.c. 1C certificates issued prior to the effective date of this rule shall expire one (1) year from the effective date of this rule and be referred to herein as Class C.

12.1.d. Current OIT certificates as of the effective date of this rule shall expire in accordance with the terms of the current certificate (one year from date of issuance).

12.1.e. Current Class I certificates as of the effective date of this rule shall expire April 30<sup>th</sup> two (2) years after the effective date of this rule.

12.1.f. Current Class II certificates as of the effective date of this rule shall expire July 31<sup>th</sup> two (2) years after the effective date of this rule.

12.1.g. Current Class III and IV certificates as of the effective date of this rule shall expire in accordance with the terms of the current certificate (three years from date of issuance).

12.1.h. Upon designation as advanced in accordance with this rule, operators currently employed at advanced wastewater systems classified under this rule shall take an approved advanced course and pass the exam within three (3) years of the effective date of this rule to be grandfathered as an advanced certified operator.

12.1.i. Approved CEH courses taken by individuals within one (1) year prior to the effective date of this rule shall be applied to the first renewal period under the effective date of this rule.

**§64-5-13. Certification from Another Jurisdiction.**

13.1. The Commissioner shall grant certification to a wastewater operator certified by another jurisdiction, if the applicant:

13.1.a. Is actively seeking, has been offered or has accepted employment in West Virginia which requires a certified operator;

13.1.b. Submits a completed application in a manner and form approved by the Commissioner;

13.1.c. Meets the educational and work experience requirements of this rule; and,

13.1.d. Passes the West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner.

**§64-5-14. Suspension and Revocation.**

14.1. The Commissioner may suspend or revoke the certification of an operator if the individual:

14.1.a. Used fraud or deceit in obtaining certification;

14.1.b. Failed to comply with this rule;

14.1.c. Performed the duties of a wastewater operator in a negligent or incompetent manner;

14.1.d. Knowingly or negligently submitted misleading, inaccurate, or false reports to the Commissioner; or

14.1.e. Violated or caused to be violated, any portion of DEP's legislative rule, NPDES Program, 47CSR10, or the U.S. Clean Water Act.

14.2. The Commissioner shall notify the certified operator and the employer via certified

mail of a proposed suspension or revocation. The notification shall set forth the action proposed, the effective date, the reason, and the length of time of the proposed action.

14.3. The suspension of an operator's certification is effective for an initial period of not more than one (1) year, during which time the certification is not valid and the individual cannot operate a wastewater system. The individual shall obtain the CEHs required for that certification level, as if the suspension had not occurred.

14.4. The revocation of an operator's certification is for a period of not less than one (1) year during which time the certification is not valid and the individual cannot operate a wastewater system. After the period of ineligibility (caused by the revocation) has expired, the formerly certified operator may apply for examination for certification at the former certification classification held by the operator.

#### **§64-5-15. Penalties.**

15.1. A person subject to the provisions of this rule shall comply fully with them and shall not direct or assist another person to violate this rule.

15.2. A person who violates any provision of this rule or any rules or orders of the Division of Health is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500), as provided under W.Va. Code §16-1-18. Each day there is a failure to comply with a provision of this rule is a separate offense.

#### **§64-5-16. Administrative Due Process.**

16.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with Rules of Procedures for Contested Case Hearings and Declaratory Rulings (64CSR1).

**Table 64-5A  
FEES**

<b>Type</b>	<b>Amount</b>
Class HR Initial and Renewal	No Fee
Class H Initial and Renewal	\$100
Class S Initial and Renewal	\$100
Class C Initial and Renewal	\$100
OIT Initial and Renewal	No Fee
Class I Initial and Renewal	\$125
Class II Initial and Renewal	\$150
Class III Initial and Renewal	\$175
Class IV Initial and Renewal	\$200
Advanced Designation	No Fee
Renewal Late Fee	\$25

Note: Individuals who hold multiple wastewater operator certifications shall pay the initial fee for each and only the renewal fee associated with the highest level certification held thereafter.

**Table 64-5B  
OPERATOR EDUCATION AND EXPERIENCE REQUIREMENTS**

<b>Class</b>	<b>Education</b>	<b>Experience</b>
Class H	HS diploma or GED*, Commissioner-approved certification course & passing the Class H exam.	None
Class S	HS diploma or GED, Commissioner-approved certification course & passing the Class S exam.	None
Class C	HS diploma or GED, Commissioner-approved certification course & passing the Class C exam.	None
OIT	HS diploma or GED.*	None
Class I	HS diploma or GED, Commissioner-approved certification course & passing the Class I exam.	Two thousand (2,000) hours (1 year full-time) wastewater system experience as an OIT.**
Class II	HS diploma or GED, Commissioner-approved certification course & passing the Class II exam.	Four thousand (4,000) hours (2 years full- time) wastewater system experience at a Class I or higher class level wastewater system as a Class I operator.**
Class III	HS diploma or GED, ninety (90) CEUs* & passing the Class III exam.	Eight thousand (8,000) hours (4 years full- time) wastewater system experience, 2,000 of which shall be at a Class II or higher class level wastewater system as a Class II operator.**
Class IV	HS diploma or GED, one hundred eighty (180) CEUs* & passing the Class IV exam.	Ten thousand (10,000) hours (5 years full- time) wastewater system experience, at least 4,000 of which shall be at a Class III or higher class level wastewater system as a Class III operator.**
Advanced	Commissioner-approved training course & passing the Advanced exam.	None

\* and \*\* Refer to Sections 7, 8, and 9.

**Table 64-5C**  
**CEUs FOR COURSES AND OPERATING EXPERIENCE**

Ten (10) CEHs	1 CEU
One (1) College Semester Credit Hour	1.5 CEUs
One (1) College Quarter Credit Hour	1 CEU
Two thousand (2,000) hours of experience	45 CEUs

Note Section 7.6: All courses shall be evaluated by the Commissioner and 100% credit shall be awarded for those deemed to be directly related to wastewater treatment and collection (examples are mathematics, science, and business courses). If the Commissioner deems the course not directly related, 50% credit shall be awarded.