

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code §16-1-7(2)

AMENDMENT TO AN EXISTING RULE: YES NO

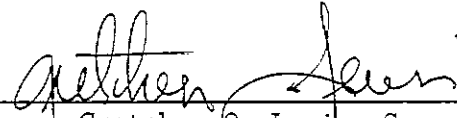
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Wastewater Treatment Works Operators

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Gretchen O. Lewis, Secretary
Department of Health and Human Resources

10,20

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Wastewater Treatment Works and Operators, 64 CSR 5

Type of Rule: Legislative Interpretive Procedural

Agency Department of Health and Human Resources

Address Building 3, Capitol Complex

Charleston, W. Va. 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

The proposed revisions and amendments will not increase the cost of administration of this rule.

3. Objectives of these rules:

This rule establishes minimum requirements for the examination and certification of wastewater treatment works operators, establishes a system for the classification of wastewater treatment works, and specifies certain responsibilities of wastewater treatment works.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date July 6, 1994

Signature of Agency Head or Authorized Representative

William T. Wallace, Jr.
William T. Wallace, Jr., M.D., M.P.H.
Commissioner, Bureau of Public Health

DATE: August 15, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Health and Human Resources

LEGISLATIVE RULE TITLE: Wastewater Treatment Works Operator

1. Authorizing statute(s) citation W. Va. Code §16-1-7(2)

2. a. Date filed in State Register with Notice of Hearing:

7-8-94

b. What other notice, including advertising, did you give of the hearing?

Wastewater treatment works and certified operators.

c. Date of hearing(s): Comment Period 7-8-94 to 8-8-94

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 15, 1994

f. Name and phone number of agency person to contact for additional information:

Kay Howard 558-3223

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ N/A _____

b. Date of hearing: _____ N/A _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

RULE ABSTRACT

Title: Wastewater Treatment Works and Operators

CSR Title and Series: 64 CSR 5

Type: Legislative

Agency: Department of Health and Human Resources

Summary: The Department of Health and Human Resources proposes to amend, rewrite and retitl e Wastewater Treatment Works Operator, 64 CSR 5 in order to improve and upgrade the professional qualifications of wastewater treatment works operators in West Virginia. In addition to substantive amendments, the rule has been rewritten to clarify it and to meet current legislative standards. This rule is authorized by W. Va. Code §16-1-7(2).

The substantive amendments clarify the professional qualifications of operators of wastewater treatment works; add continuing training requirements for renewal of Class III and IV certificates; correct inconsistencies with other Department rules; limit reciprocity to states which grant reciprocity to West Virginia; establish an informal conference process; and clarify a number of administrative procedures.

The attached two (2) tables identify substantive amendments and clarifications to the rule, and show the correspondence between the rewritten text and the old rule.

Copies of the old rule are available for review at local health department offices or may be purchased from the Administrative Law Division of the Office of the West Virginia Secretary of State, Building 1, Suite 157K, State Capitol Complex, Charleston, WV 25305, telephone (304) 558-6000. Copies of the proposed rule are available from the Office of Environmental Health Services (see below) or from the Secretary of State.

For further information contact: John Brown, Office of Environmental Health Services, telephone (304) 558-0624, Division of Health, 151 11th Avenue, South Charleston, West Virginia 25303, or the Office of Regulatory Development, telephone (304) 558-3223.

7/6/94

[PROPOSED]
TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

WASTEWATER TREATMENT WORKS AND OPERATORS

SERIES 5

For Filing with the
Legislative Rule-Making Review Committee

[PROPOSED]
WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH
WASTEWATER TREATMENT WORKS AND OPERATORS
64 CSR 5

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[PROPOSED]
TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

SERIES 5
WASTEWATER TREATMENT WORKS AND OPERATORS

§64-5-1. General.

1.1. Scope -- This rule establishes minimum requirements for the examination and certification of wastewater treatment works operators, establishes a system for the classification of wastewater treatment works, and specifies certain responsibilities of wastewater treatment works.

1.2. Authority -- W. Va. Code §16-1-7(2).

1.3. Filing Date --

1.4. Effective Date --

1.5. Supersession and Repeal of Former Regulations -- This rule repeals and supersedes Waste Water Treatment Works Operator, 64 CSR 5, 1983.

§64-5-2. Application and Enforcement.

2.1. Application - This rule applies to wastewater treatment works and wastewater treatment works operators.

2.2. Enforcement - This rule is enforced by the secretary of the West Virginia department of health and human resources.

§64-5-3. Definitions.

3.1. Chief Operator - The individual who is responsible for the over-all operation of the wastewater treatment works.

3.2. High school education - Graduated from high school, obtained a general equivalency diploma (GED), or an alternative approved by the State board of education.

3.3. Operator - An individual who performs operational or supervisory work functions at a wastewater treatment works.

3.4. Operator-in-Training - An individual who has an operator-in-training certificate.

3.5. Person - Includes individual persons, corporations, societies, associations, partnerships, companies, institutions, or other legal entities, whether public or private.

3.6. Population Equivalent Served - A figure which expresses the hydraulic load factor of the wastewater treated by the waste-

water treatment works, based on the concentration or quantity of waste, in terms of population equivalent served, regardless of the source of the waste (e.g., people, industry, agriculture). The population equivalent served is calculated based on 0.17 pounds of five (5) day biochemical oxygen demand or 0.20 pounds of suspended solids per day; the larger of the two (2) figures is used to determine the population equivalent served by the wastewater treatment works.

3.7. Secretary - Secretary of the West Virginia department of health and human resources or his or her designee.

3.8. Small Wastewater Treatment Works (IS) - Any wastewater treatment works that: 1) serves more than an individual home, excluding home aeration units and septic tank systems; 2) treats a daily flow of wastewater less than five hundred and one (501) population equivalent served; and 3) uses extended aeration, a form of pond treatment system or other technology approved by the secretary for treatment.

3.9. Wastewater - Water containing human, animal or domestic waste.

3.10. Wastewater Treatment Works - A facility for treating and discharging wastewater.

§64-5-4. Classification of Wastewater Treatment Works.

4.1. The secretary shall assign a point rating to a wastewater treatment works according to the rating system shown in Table 64-5A found at the end of this rule.

4.2. The secretary shall assign a class to a wastewater treatment works according to the classification system shown in Table 64-5B found at the end of this rule.

§64-5-5. Certified Operators Required; Duties of Wastewater Treatment Works and Wastewater Treatment Works Operators.

5.1. Any individual who operates a Class IS, I, II, III, or IV wastewater treatment works in West Virginia shall be certified by the secretary.

5.2. A wastewater treatment works shall employ an individual as the chief operator to be responsible for the operation of the wastewater treatment works. The chief operator shall work on-site.

5.3. The chief operator of a Class IS wastewater treatment works may be employed on a part-time basis. The chief operator of a Class I, II, III or IV wastewater treatment works shall be a full-time employee, except that the secretary may permit the chief operator of a Class I wastewater treatment works to be employed on a part-time basis, based upon substantial evidence that

the facility will operate in accordance with applicable State laws and regulations.

5.4. The chief operator of a Class IS wastewater treatment works shall have: a Class IS wastewater treatment works operator certificate; or a Class I or higher wastewater treatment works certificate and previous experience in an IS extended aeration system; or a Class I or higher wastewater treatment works operator certificate and shall pass the Class IS examination prior to being employed as the chief operator: Provided, however, the secretary may require a Class IS wastewater treatment works to employ an operator certified at a class higher than IS to be responsible for on-site operations. The chief operator of a Class I, II, III or IV wastewater treatment works shall be certified at a level at least equal to the classification of the wastewater treatment works.

5.5. The chief operator of a new wastewater treatment works shall be employed and on-site at the wastewater treatment works when construction is twenty-five percent (25%) complete.

5.6. Individuals with an operator-in-training certificate shall be supervised on-site by an operator with a certificate at a class level equal to or greater than the classification of the wastewater treatment works, except that an operator-in-training at a Class IS wastewater treatment works shall be supervised by a certified wastewater treatment works operator who has a Class IS certificate or meets one (1) of the other criteria for a chief operator of a Class IS wastewater treatment works specified in Section 5.4 of this rule.

5.7. Except for Class IS wastewater treatment works, individuals may operate wastewater treatment works of a class equal to or lower than their wastewater treatment works operator classification without supervision. Individuals may operate a wastewater treatment works of a higher class than their wastewater treatment works classification, but shall be supervised on-site by an operator with a wastewater treatment works operator certificate at least equal to the classification of the wastewater treatment works. Individuals who operate a class IS wastewater treatment works who do not have a Class IS certificate shall be supervised by an operator who has a Class IS certificate or meets one (1) of the other criteria for a chief operator of a Class IS wastewater treatment works specified in Section 5.4 of this rule.

5.8. In addition to any other responsibilities and duties, a wastewater treatment works operator shall:

5.8.1. Comply with the provisions of Sewage System Rules, 64 CSR 9, related to wastewater treatment works control tests and records; and

5.8.2. Notify the secretary at least thirty (30) days in advance of the termination of his or her employment at a waste-

water treatment works.

5.9. The certificates of all individuals involved in operating a wastewater treatment works shall be prominently displayed at the wastewater treatment works.

§64-5-6. Initial Application; Examination; Expiration; Renewal; Reinstatement.

6.1. An individual desiring initial certification as an operator-in-training shall submit an application for certification to the secretary within one (1) month of employment as an operator-in-training. The application shall be on a form provided by the secretary and shall include documentation of education. If the application is not submitted within one (1) month of the date the applicant began employment, the secretary shall count experience required for the purposes of this rule as beginning on the date of receipt of an appropriately completed application for certification as an operator-in-training.

6.2. Operator-in-training certificates are valid for one (1) year. An individual desiring to be recertified as an operator-in-training shall submit a written application to the secretary thirty (30) days prior to the expiration date of the current certificate on a form supplied by the secretary.

6.3. The secretary shall issue an initial or renewal wastewater treatment works operator-in-training certificate to individuals who are currently working in a wastewater treatment works and who meet the educational requirements of Section 7.1.1 of this rule.

6.4. Individuals desiring certification as a Class IS, I, II, III, or IV wastewater treatment works operator shall submit a written application to the secretary at least thirty (30) days prior to the date the applicant wishes to take the certification examination. The application shall be on a form furnished by the secretary and shall include documentation of experience and education required by this rule.

6.5. The secretary conducts written examinations for Class IS, I, II, III, and IV wastewater treatment works operator certification, and notifies applicants of the date, time and place of examination. The secretary shall not permit an applicant who has knowingly submitted false or incorrect information on the application to take the examination.

6.6. An individual shall make a score of seventy percent (70%) on the examination in order to attain a passing grade.

6.7. Applicants who fail an examination shall wait sixty (60) days from the date they took the examination before reapplying for the examination. Applicants who fail the same examination level three (3) times in a one (1) year period shall wait a mini-

num of one (1) year from the date they failed the examination for the third time to apply for re-examination.

6.8. The secretary shall issue a Class IS wastewater treatment works operator certificate to an individual if the individual:

6.8.1. Takes twenty-four (24) hours of Class IS operator training and passes the examination for Class IS; or

6.8.2. Has five hundred (500) hours of on-site operating experience at a Class IS waste water treatment works and passes the Class IS examination.

6.9. The secretary shall issue a Class I, II, III or IV wastewater treatment works operator certificate to an individual if the individual:

6.9.1. Attains a passing grade on the examination for the class;

6.9.2. Has previously been certified at the next lower class level, except that prior certification at Class IS is not required for Class I certification; and

6.9.3. Meets the education and experience requirements specified for the class in Section 7 of this rule. The secretary may issue multiple class level certificates to an individual simultaneously.

6.10. The certificate of any individual who has not been gainfully employed as a wastewater treatment works operator, shift operator, chief operator, laboratory analyst, or supervisor in a classified wastewater treatment works for a two (2) year period shall expire.

6.11. Certificates of Class IS, I, and II operators and operator-in-training certificates which are valid at the time this rule becomes effective shall continue in effect as long as the individual to whom the certificate is issued remains in compliance with this rule. Certificates of Class III and Class IV operators shall expire three (3) years from the date of issuance of the certificate, except as specified in Section 7.5.3 of this rule.

6.12. Individuals who desire to renew their Class III or IV wastewater treatment works operator certificate shall submit an application for renewal, on a form supplied by the secretary, and documentation of the training credits required by this rule thirty (30) days before the expiration of the certificate.

6.13. Individuals whose certificates have expired under the provisions of Sections 6.10 or 6.11 of this rule who request recertification shall meet the requirements for initial certifi-

cation at the class level previously held, including passing an examination.

§64-5-7. Educational Requirements; Experience Substitutes for Education; Education Equivalents; Training Credits; Approval of Training; Experience Requirements; Education and Training Substitutes for Experience; Training Credits Required for Renewal of Class III and IV Certificates.

7.1. Educational Requirements.

7.1.1. A high school education is required for certification as an operator-in-training, except for Class IS wastewater treatment works.

7.1.2. A sixth (6th) grade education is required for certification as a Class IS operator.

7.1.3. A high school education is required for certification as a Class I operator.

7.1.4. A high school education is required for certification as a Class II operator.

7.1.5. Two (2) years of college education are required for certification as a Class III operator.

7.1.6. Four (4) years of college education and completion of a management class approved by the secretary are required for certification as a Class IV operator. The Secretary approves management classes based on their relevance to managing a wastewater treatment works.

7.1.7. Experience may be substituted for education as specified in Section 7.2 of this rule.

7.2. Experience Substitutes for Education; Education and Training Credit Equivalents; Approval of Training.

7.2.1. Experience at the preceding certification class level may be substituted on a year for year basis for two (2) years of college education.

7.2.2. Experience used as a substitute for educational requirement can not be used to satisfy experience requirements.

7.2.3. The requirement for one (1) year of college education may be satisfied by: thirty (30) semester hours or forty-five (45) quarter hours of college; or forty-five (45) training credits; or by a combination thereof.

7.2.4. The requirement for one (1) training credit may be satisfied by six (6) hours of classroom instruction, such as courses, seminars, technical conferences, and similar activities.

7.2.5. The secretary approves training credits based on their relevance to the operation of a wastewater treatment works.

7.3. Experience Requirements.

7.3.1. No experience is required for certification as an operator-in-training.

7.3.2. No experience is required for a Class IS operator; experience may be substituted for special Class IS training as specified in Section 6.8.2 of this rule.

7.3.3. An individual shall have a minimum of one (1) year of full-time on-site wastewater treatment works operating experience as an operator-in-training to be certified as a Class I operator.

7.3.4. An individual shall have a minimum of three (3) years of full-time on-site wastewater treatment works operating experience at a Class I or higher wastewater treatment works to be certified as a Class II operator.

7.3.5. An individual shall have a minimum of five (5) years of full-time on-site wastewater treatment works operating experience, at least three (3) of which shall be at a Class I or higher wastewater treatment works and two (2) of which shall be at a Class II or higher wastewater treatment works, to be certified as a Class III operator.

7.3.6. An individual shall have a minimum of six (6) years of full-time on-site wastewater treatment works operating experience, at least three (3) of which shall be at a Class II or higher wastewater treatment works and three (3) of which shall be at a Class III or higher wastewater treatment works, to be certified as a Class IV operator.

7.3.7. Two thousand (2,000) hours of wastewater treatment works operating experience may be substituted for one (1) of the years of full-time wastewater treatment works operating experience required for a Class II or higher operator's certificate.

7.3.8. Education and training may be substituted for experience as specified in Section 7.4 of this rule.

7.4. Education and Training Substitutes for Experience.

7.4.1. Twenty-four (24) classroom hours of IS operator training may be substituted for four (4) of the training credits used to substitute for educational requirements for a Class II or higher certificate.

7.4.2. A maximum of two (2) years of college education may be substituted on a year for year basis for the experience requirement for Class II certification.

7.4.3. A maximum of three (3) years of college education may be substituted on a year for year basis for the Class I experience requirements for Class III certificates.

7.4.4. A maximum of three (3) years of college education may be substituted on a year for year basis for the Class II experience requirements for Class IV certificates.

7.4.5. Training credits may be substituted on a year for year basis for an unlimited number of years of experience required by this rule for certification at the Class II level or higher.

7.4.6. Education used as a substitute for experience requirements can not be used to satisfy education requirements.

7.5. Training Credits Required for Renewal of Class III and IV Certificates.

7.5.1. Training credit requirements for renewing a Class III wastewater treatment works operator certificate are three (3) training credits every three (3) years.

7.5.2. Training credit requirements for renewing a Class IV wastewater treatment works operator certificate are four (4) training credits every three (3) years.

7.5.3. The three-year period of Sections 7.5.1 and 7.5.2 of this rule begins on the date the certificate is issued, except that for individuals who have valid Class III and IV certificates as of the effective date of this rule, the three-year period begins on the effective date of this rule.

§64-5-8. Reciprocity.

The secretary shall issue an appropriate wastewater treatment works operator certificate to the holder of a currently valid wastewater treatment works operator certificate issued by a governmental agency or another state upon presentation of written documentation of the following:

8.1. The applicant has been offered and has accepted employment in West Virginia which requires a certified operator;

8.2. The applicant has successfully passed an examination at least equivalent to that given under this rule for the class of certificate issued;

8.3. The applicant meets the educational and experience requirements of this rule for the class of certificate issued; and

8.4. The issuing authority grants reciprocity to West Virginia wastewater treatment works operators.

§64-5-9. Penalties.

9.1. The secretary may revoke the operator certificate of any individual for:

9.1.1. The use of fraud or deceit in obtaining a certificate; or

9.1.2. Neglect, incompetency or misconduct in performing the duties of a wastewater treatment works operator; or

9.1.3. Failure to comply with this rule.

9.2. The secretary shall revoke the operator certificate of any individual who fails to provide the notification required by Section 5.8.2 of this rule unless the individual has been discharged by the wastewater treatment works or other extenuating factors exist.

9.3. The secretary may reinstate the certificate of any individual whose certificate has been revoked upon presentation of evidence satisfactory to the secretary warranting the reinstatement.

9.4. Any person who violates any provision of this rule is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than thirty (30) days, or both, as provided in W. Va. Code §16-1-18. Each day's failure to comply with any applicable provision of this rule constitutes a separate offense.

§64-5-10. Administrative Due Process.

10.1. Those persons adversely affected by the enforcement of this rule, may request an informal conference, in writing, within ten (10) days of the adverse effect. The request shall be precise as to the reasons. The informal conference shall be conducted within thirty (30) days of receipt of the request.

10.2. Those persons adversely affected by the written decision provided subsequent to the informal conference or who initially desire a contested case hearing to determine any rights, duties, interests, or privileges, shall do so in a manner prescribed in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

§64-5-11. Severability.

The provisions of this rule are severable. If any provisions of this rule are held invalid, the remaining provisions remain in effect.

64 CSR 5

TABLE 64.5A. Point Rating System for Wastewater Treatment Works.

ITEM	POINT RATING SYSTEM	RATING POINTS
Size		
Maximum population equivalent (P.E.) served	1 per 10,000 P.E. or part thereof	_____
Design flow (average day) or peak month's flow (average day), whichever is larger, in millions of gallons per day (MGD).	1 per 1.0 MGD or part thereof	_____
Effluent Discharge		
Receiving stream (sensitivity).	1 - 6	_____
Land Disposal - evaporation	2	_____
Ground Water.	4	_____
Variation in raw wastes (slight to extreme)	0 - 6	_____
Pretreatment		
Screening, Comminution.	3	_____
Grit Removal.	3	_____
Plant pumping of main flow.	3	_____
Neutralization.	1 - 8	_____
Primary Treatment		
Primary clarifiers.	5	_____
Combined sedimentation/digestion.	5	_____
Chemical addition (except chlorine, enzymes). . . .	4	_____
Secondary Treatment		
Trickling filtration with secondary clarifiers. . .	10	_____
Activated sludge with secondary clarifiers. . . .	15	_____
Stabilization ponds without aeration.	5	_____
Aerated lagoon.	8	_____
Additional final clarification.	5	_____
Advanced Waste Treatment		
Polishing Pond.	2	_____
Chemical/Physical	10	_____
Biological or Chemical/Biological	12	_____
Ion Exchange, Rev. Osmosis.	1 - 0	_____
Chemical Recovery, carbon regeneration.	4	_____
Solids Handling		
Thickening.	5	_____
Anaerobic Digestion	10	_____
Aerobic Digestion	6	_____
Evaporative sludge drying	2	_____
Mechanical Dewatering	8	_____
Solids Reduction (Incineration, Wet Oxidation). . .	12	_____
Disinfection		
On-site generation of disinfectant.	5	_____
Laboratory Control by Plant Personnel		
Bacteriological (complexity).	0 - 10	_____
Chemical/Physical (complexity).	0 - 10	_____
Other (as determined by the secretary)		_____
TOTAL RATING POINTS.		_____

TABLE 64.5B. WASTEWATER TREATMENT WORKS CLASSIFICATION SYSTEM¹

CLASS	IS	I	II	III	IV
Wastewater Treatment Works Point Rating	N/A	0 to 30	31 to 55	56 to 75	76 or more
Population Equivalent Served	less than 501	501 to 1,500	1,501 to 15,000	15,001 to 50,000	50,001 or more

¹If the ranges of total point rating and population differ from those contained in the table, the secretary shall determine the appropriate facility classification, taking into account the public health and safety, the type of system, the history of the system, the type of the treatment process, and, in the instance of small communities which have "natural" treatment systems, the potential for adverse economic impact.

Discussion of Public Comments Received
Concerning the Proposed Rule,
Wastewater Treatment Works and Operators, 64 CSR 14

The proposed rule was filed July 8, 1994, for a public comment period to end August 8, 1994. The Department's responses to comments received are presented below. A new clarifications have been made.

1. Comment(NK): There should be a meeting with all chief operators and management personnel of sewer systems within the State to discuss the proposed rules and to receive their input before these rules are implemented.

Response: The proposed rules were approved by the Operator's Association several years ago. The proposed rules have been presented twice at management classes at the Environmental Training Center and once at an annual meeting of the West Virginia Rural Water Association. No one in those three meetings objected to the proposed rules.

2. Comment(RW): The rule should include provisions for the creation of a Certification Board. The Association of Boards of Certification has developed a Model Act and Regulations for operator certification, which outlines general provisions for a Certification Board. A nominal examination fee with the revenue dedicated specifically to the administration of this program is recommended.

Response: An Advisory Committee already exists. The Certification Board Model Act is for water supply operators, where a board might be more relevant due to the greater diversity of people certified. Creation of a certification board and establishing an examination fee would require a new law.

3. Comment(RW): The definitions do not exclude industrial waste treatment systems containing human waste.

Response: Sections 3.9 and 3.10 exclude industrial waste. Industrial wastewater operator certification is a Department of Environmental Protection responsibility.

4. Comment(RW): Section 3.2. Change the definition to state "successfully earned a high school diploma or a GED certificate."

Response: The department agrees and the proposed rule has been amended accordingly.

5. Comment(MA): Section 3.9. "Wastewater" should be more specifically defined and a definition of "waste" should be pro-

vided.

Response: The Department believes this existing definition is adequate. Industrial waste is excluded.

6. **Comment(MA):** Section 3.10. The definition of "wastewater treatment works" is too broad.

Response: The Department believes this existing definition is adequate. Industrial waste is excluded.

7. **Comment(NK):** Section 5.2. The chief operator should be a full-time employee, but should not be restricted to work only on-site in the plant, since the scope of the duties of the operator is such that there will be many occasions when the operator will not be on-site.

Response: The Department recognizes that the chief operator has functions that will require his or her absence from the facility; however, his or her office should be at the treatment works.

8. **Comment(RW):** Section 5.4. Line three should read "or a Class I or higher wastewater treatment works certificate..." otherwise, both and IS and a Class I certificate are required.

Response: The department agrees and the proposed rule has been amended accordingly.

9. **Comment(MA):** Section 5.5. Instead of requiring the chief operator to be employed and on-site when the wastewater treatment works is 25% complete, this section should simply require the chief operator to be fully familiar with the construction and operation of the facility prior to operation start-up.

Response: The Department of Environmental Protection and the Operator's Association both favor the 25% on-site rule. Section 5.3 requires the chief operator to be employed on a full-time basis, with the possible exception of a Class I works. The current rule has a 50% on-site provision that has created no problems. The chief operator 25% on-site provision will not result in idle time because most new treatment works are completed in less than a year, and the chief operator is almost always also the inspector for the legal entity or the responsible engineering firm.

10. **Comment(MA):** Section 5.8.2. Amend this section to require the chief operator to provide the earliest possible notice to the secretary of the termination of himself or any other operator, instead of thirty days.

Response: The intent of this section is to insure the

proper operation of a works. It can take thirty days to fill a vacancy. The thirty-day resignation notification has been in effect since 1974 with few problems. In fact, Section 9.2 has been broadened to cover unusual situations where less than a thirty-day resignation is acceptable.

11. Comment(RW): Section 6.4. The thirty-day pre-application requirement should be deleted.

Response: This requirement is in the present rule; it has not been problematic.

12. Comment(NK): Section 6.5. Should be amended to provide that the agency have established testing dates for the proposed examinations so that the dates are known by all personnel so appropriate scheduling can be made in advance.

Response: The Department publishes, in January or February every year, list of certification courses conducted at the Environmental Training Center, and reminders of these classes three or four times a year.

13. Comment(WG): Section 6.7. The proposed change allowing applicants for operator certification to take the required examination only three times in one year and then wait a minimum of one year from the date they failed the examination for the third time to apply for re-examination is too strenuous. The examinations are very difficult to pass and the rule as it currently exists (no limit to the number of times in one year an applicant may take the examination as long as sixty days have passed between examinations, and no one-year waiting period for starting re-examination) is more than adequate.

Response: The rule has had the three examination failure maximum per year rule since 1989 with no problem. A very small number of wastewater treatment works have a one-year pass/dismiss policy, but none of them have encountered any significant problems. Many states only offer examinations twice a year.

14. Comment(RW): Section 6.9.1. This section should end with the word "and" since all three of these provisions must be met.

Response: The department agrees and the proposed rule has been amended accordingly.

15. Comment(WG): Section 6.11. Objects to the proposed change which limits the effective time of Class III and IV operator certifications to three years.

Response: The need exists for upgrading knowledge

through continuing training credits. Most professions, e.g, sanitarians and engineers, now require on-going training. The department believes this is a critical need and the Operator's Association agrees.

16. Comment(WP): Section 7.2.3. Change "one (1) year" to "two (2) years" in line one, and add "for each year" following the words "satisfied by" in line two.

Response: The proposed changes would not change the meaning of the rule.

17. Comment(NK): Section 7.2.5. The Department needs to have guidelines for training credits printed and distributed, based on the relevance to the operation of a wastewater treatment works for a Class III and Class IV operation. There also needs to be a printed schedule for classes being offered.

Response: See Comment #12.

18. Comment(WP): Section 7.3.5. Amend this section to allow only a Class II Chief Operator to acquire a Class III certificate.

Response: This would be discriminatory.

19. Comment(WP): Section 7.3.6. Amend this section to require that only experience as a chief operator at a Class II or higher wastewater treatment works can be used to be certified as a Class IV operator.

Response: The Department has always required Class III or greater works level experience to qualify for a Class IV certificate. The proposed rule decreases by one-half the experience requirement for a Class II operator at a Class II works to acquire a Class IV certificate in the event of employment at a Class III or IV works.

20. Comment(WP): Section 7.3.7. Amend this section to disallow substitution of education or training for experience as a chief operator.

Response: No substitution of education or training for experience for a Class II Chief Operator to obtain a Class II or higher certificate would create undo hardships for many operators. In-service training and education have always been creditable.

21. Comment(NK): Section 7.5. There needs to be a provision that courses offered in other states can be approved for the appropriate credits so that West Virginia operators may take, for credit, courses offered by other states. This should be able to

be accomplished for Class III and Class IV operators as well as Class I and Class II operators.

Response: Generally, credit is granted to classroom courses conducted in other states which are approved by that state's wastewater treatment works operators certification board. No state certification board provides a list of all out-of-state creditable classes.

22. Comment(WG): Section 7.5. Currently no training credits are necessary for renewal of Class III and Class IV operators certificates. The proposed change would require three training credits every three years for Class III certificates and four training credits every three years for the Class IV certificates. The current requirements are satisfactory to insure well trained, competent operators.

Response: See Comment #15.

23. Comment(RW): Section 7.5. The proposed training credits for renewal of Class III and Class IV operator certificates should also be required for Class I and Class II operator certificates as well. Additional training should be required as follows:

Class I and II	3 Training Credits/3 years
Class III and IV	6 Training Credits/3 years

Increasing training credits can benefit operators by making them attend more program. This is particularly important for lower certification levels where management may be reluctant to provide training opportunities to their operators.

Response: The Department and the Operators Association believe the proposed training credit provision is adequate.

24. Comment(MA): Section 8.4. This section should be deleted or amended to read "The issuing authority grants reciprocity of West Virginia wastewater treatment works operators, or has at least an equivalent program of wastewater treatment works operator certification." Other states may have more stringent requirements for operators than West Virginia, and may not grant reciprocity. These operators should not be penalized because they are certified under a more stringent program.

Response: With the exception of Florida, which grants reciprocity to no other state, West Virginia operators have had little, if any, problem in achieving reciprocity. The Department has a reciprocity agreement with the Association of Boards of Certification of Environmental Occupations that insures, in most cases, reciprocity for West Virginia operators. To the Department's knowledge West Virginia certification requirements are as

stringent as any state's, and this has allowed for very easy reciprocity for West Virginia operating personnel in other states.

25. Comment(MA): Section 9.2. This section should be deleted. The obligations to provide notice to the secretary when operators are terminated by the facility should belong to the facility's management, not the individual operators.

Response: Since 1974 it has been the resigning operator's responsibility to notify the Department of his or her departure. This has created few problems. If the chief operator is ill, on vacation, at a conference, etc., the resignation would be significantly delayed.

26. Comment(MA): Section 9.4. This section should be deleted, since criminal offense provisions are appropriately handled by statute and not by rule.

Response: Section 9.4 restates W. Va. Code §16-1-18 and is included in the rule for informational purposes only.

WASTEWATER TREATMENT WORKS OPERATORS
64 CSR 5
Comments

Date Received	Name	Copy to John Brown & Kay
7/20/94	William E. Pence, Sanitary Board, City of Hinton	7/20/94
7/22/94	William K. Goodwin, Class IV Supt. Clarksburg Wastewater Treatment Plant	7/22/94
8/2/94	Norris Kantor KATZ, KANTOR & PERKINS [on behalf of Sanitary Board of the City of Bluefield]	8/2/94
8/5/94	Richard G. Weigand, CET WV Environmental Training Center	8/5/94
8/8/94	Karyn M. Schmidt Law Offices Robinson & McElwee [for the WV Manufacturers Association]	Faxed 8/9/94 (by Judy)



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JUL 22 1994

CITY OF CLARKSBURG

REGULATORY DEVELOPMENT
WEST VIRGINIA
SECTION

July 20, 1994

TO: Regulatory Development
Dept. of Health & Human Resources
Room 265, Building 3, Capitol Complex
Charleston, WV 25305
ATTN: Kay Howard

FROM: Bill Goodwin, Supt.
Clarksburg Wastewater Treatment Plant
227 West Pike Street
Clarksburg, WV 26301

RE: Proposed Legislative Rule §16-1-7(2)

Dear Kay,

I am writing this letter in opposition to specific proposed changes to the above referenced Legislative Rule. The specific proposed changes I am opposed to are as follows;

1.) §64-5-6. - Initial Application; Examination; Expiration; Renewal; Reinstatement.

Section 6.7. - The proposed change only allows applicants for wastewater treatment works operator certification to take the required examination three (3) times in a one (1) year period and then wait a minimum of one (1) year from the date they failed the examination for a third time to apply for re-examination.

Currently there is no limit to the number of times in one (1) year an applicant may take the examination as long as sixty (60) days have passed between examinations. The one (1) year waiting period after taking an examination for the third time also currently does not exist.

The Clarksburg Sanitary Board currently has adopted a policy requiring all new employees to successfully pass the class I wastewater treatment works operator certification examination within one (1) year to continue employment at the wastewater treatment plant. As the rule now exists, this gives the employee an opportunity to take the examination six (6) times in one (1) year to successfully pass the examination before losing their employment.

The examinations are very difficult to pass and I feel the rules as they currently exist are more than adequate. The only benefit I see to amend the rule is to lesson the amount of examination grading required which has nothing to do with the purpose of certifying operators.

(2)

2.) Section 6.11. - The proposed change limits the effective time of class III and class IV operator certifications to three (3) years. There is currently no limit to the effective duration of these certification levels as long as an individual remains employed at a treatment facility. I would like to see it stay as is.

3.) §64-5-7. - Educational Requirements; Experience Substitutes for Education; Education Equivalents; Training Credits; Approval of Training; Experience Requirements; Education and Training Substitutes for Experience; Training Credits Required for Renewal of Class III and IV Certificates.

Section 7.5. - Training Credits Required for Renewal of Class III and IV Certificates.

The proposed change would require class III and class IV wastewater treatment plant operators to obtain three (3) training credits every three (3) years for the class III and four (4) training credits every three (3) years for the class IV for renewing these certificates. There is currently no training credits necessary to hold these certification levels.

I am against these requirements for several reasons. First and foremost is the fact that regardless of the certification level of an operator, it has very little to do with the competency of an operator to operate a given treatment facility effectively to maintain compliance with the effluent limitations established by State and Federal Regulatory Agencies. Laws are currently in effect that require a properly certified operator based on the classification level of the facility they are responsible for operating. The Clean Water Act mandates that treatment facilities discharge treated water that meets specific limitations and we are under the close scrutiny at all times by local inspectors to see that we meet these requirements. All treatment plants operate differently and an operator, regardless of the amount of training he has, has to learn the specific needs of his/her particular treatment plant in order to produce the best treatment possible for their specific plant. To require training credits to maintain certification will have no affect on the operators ability to operate the given facility he/she works at. It would seem that making this requirement is only being done to generate revenues for the Environmental Training Center at Ripley or it is a ploy to get more operators to attend conferences. I for one can tell you that we have to stay current with technologies simply to stay in compliance with new and stricter effluent requirements and then again, an operator has to make his/her plant meet these requirements. The knowledge of an operators particular plant is what it takes to meet these goals, not training credits. If revenues are behind this requirement, I would prefer to see a renewal fee in lieu of requiring training credits. The current requirements to obtain a class IV certification are sixteen (16) years of education or equivalent and six (6) years of class III or greater works operating experience at a wastewater treatment works and, in addition, the completion of a management class approved by the Director. Surely these requirements along with the requirements of the National Clean Water Act are sufficient to maintain qualified operators.

In summary, I feel that the current requirements are satisfactory to insure that well trained, competent operators are in the responsible positions to insure that treatment plants are operated as they are designed to do. If there is a problem, perhaps enforcing the current laws is all it would take to correct any problems that may exist.

(3)

Thank you for the opportunity to voice my opinion regarding these proposed rule changes.

Respectfully yours,

William K. Goodwin
William K. Goodwin, Class IV Supt.
Clarksburg Wastewater Treat. Plant

KAY

KATZ, KANTOR & PERKINS

ATTORNEYS AT LAW

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PHILLIP A. SCANTLEBURY **
KENNETH E. CHITTUM
GREGORY S. MATNEY **
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MICHAEL K. BLANKENSHIP ****

TEL 304/327-3551
FACSIMILE NO. 304/325-7495

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AUG - 2 1994

REGULATORY DEVELOPMENT
SECTION

August 1, 1994

** WV & VA BARS
*** VA BAR

Regulatory Development
DEPT. OF HEALTH & HUMAN SERVICES
Room 265, Building 3
Capitol Complex
Charleston, WV 25305

Attn: Kay Howard

Re: Proposed West Virginia Administrative Rules
Division of Health
Waste Water Treatment Works & Operations
64 CSR 5

Gentlemen:

For and on behalf of the Sanitary Board of the City of Bluefield, we wish to comment on the proposed rules recently mailed to our client, the Sanitary Board of the City of Bluefield, with the comment period ending August 8, 1994. The Sanitary Board makes the following comments regarding these rules and they are as follows:

§64-5-5.2 - The Sanitary Board believes the proposed rule is too restrictive wherein it provides: "The chief operator shall work on site." The Sanitary Board believes that the chief operator should be a full-time employee, but not restricted to work only on-site in the plant in question. The chief operator of a plant as large as a 1.2 million gallon plant, which is the size of the Sanitary Board's Ada Treatment Plant, must be responsible for the following:

- Sludge disposal and farm management
- Pre-treatment and site inspection
- Regulatory meetings
- Pump station maintenance
- I & I Program
- Attend numerous federal, state and city meetings pertaining to rules, regulations, operating of plants, etc.
- Be responsible for revolving loan fund programs and necessary meetings in that regard.

KATZ, KANTOR & PERKINS

DEPT. OF HEALTH & HUMAN SERVICES
August 1, 1994
Page -2-

Without any enlargement of the above cited proposed rule, many of the functions of a chief operator will be precluded or severely restricted and the proposed regulation should reflect the full scope of the duties of the operator and recognize that there will be many occasions when the operator will not be on-site.

§64-5-6.5 should be modified to provide that the agency should have established testing dates for the proposed examinations so that the dates are known by all personnel so appropriate scheduling can be made sufficiently in advance to allow not only those who need to be tested to attend, but to allow for modifications of work schedules, etc., to take care of the absence of those being tested. Other states, such as the neighboring State of Virginia, have established testing dates and all involved know when the tests are going to be held and can schedule accordingly.


With respect to proposed Rule §7.2.5 and §7.5, the Sanitary Board submits that the Department needs to have printed and distributed guidelines for training credits, based on the relevance to the operation of a wastewater treatment works for a Class III and Class IV operation. Additionally, there needs to be a printed schedule for classes being offered, etc., so a system can schedule its personnel to attend the classes. Likewise, there needs to be a provision that courses offered in other states can be approved for the appropriate credits so that West Virginia operators, if they so desire, may take, for credit, courses offered by other states; this is done with respect to the continuing legal education program for lawyers as well as the continuing medical education program for doctors and should be able to be accomplished for Class III and Class IV operators as well as Class I and Class II operators.

Additionally, the Sanitary Board of the City of Bluefield would suggest that there should be a meeting with all chief operators and management personnel of sewer systems within the State of West Virginia to discuss these proposed rules and to receive their input before these rules are implemented.

Trusting this is the information you desire, I am

Sincerely,

KATZ, KANTOR & PERKINS


Norris Kantor

NK/slm

cc: Sanitary Board of the City of Bluefield

Date: 7/18/94

JUL 20 1994

From: William E. Pence, Operator, Hinton W.W.T.P.

REGULATORY DEVELOPMENT
SECTION

To: Attn: Kay Howard, Regulatory Development, Dept. of Health
and Human Resources, Room 265, Building 3, Capital Complex,
Charleston, W. Va. 25305

To Whom It May Concern:

I would like for my comments on the proposed Legislative Rule, Title Number sixtyfour (64) to be considered.

I believe the proposed rule to be unfair. The majority of the plants in the state are Class II and the operators of these plants are unable to obtain a Class IV certification without changing jobs to a Class III or higher certified plant.

With the following changes to the rule I would believe it to be fair.

Under 64-5-7.2.3. Change To: The requirement for ~~two~~ (2) ^{one (1)} years of college may be satisfied by, For each year: Thirty (30) semester hours or forty-five (45) quarter hours of college; or forty-five (45) training credits; or by a combination thereof.

Under 64-5-7.3.5. Change To: An individual shall have a minimum of five (5) years of full-time on-site wastewater treatment works operating experience, at least three (3) of which shall be at a Class I or higher wastewater treatment works and two (2) of which shall be as the Chief Operator at a Class II or higher wastewater treatment works to be certified as a Class III operator.

Under 64-5-7.3.6. Change To: An individual shall have a minimum of six (6) years of full-time on-site wastewater treatment

works operating experience, at least three (3) of which shall be at a Class II or higher wastewater treatment works and three (3) of which shall be ~~as the Chief Operator~~ at a Class II or higher wastewater treatment works, to be certified as a Class IV operator.

Under 64-5-7.3.7. Change To: An individual cannot substitute education or training for experience as the Chief Operator of a wastewater treatment works.

Thank - you for your consideration. If you need more information you may reach me at 304-466-0622.

Yours for a better community,

William E. Pence

William E. Pence

City of Hinton, Sanitary Board

SANITARY BOARD, CITY OF HINTON
P. O. BOX 566
HINTON, WEST VIRGINIA 25951

Kay

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600 UNITED CENTER
500 VIRGINIA STREET, EAST
CHARLESTON, WEST VIRGINIA 25301

KARYN M. SCHMIDT
DIRECT DIAL NO. (304) 347-8329

August 8, 1994

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AUG - 8 1994

**REGULATORY DEVELOPMENT
SECTION**

Kay Howard
Division of Health
Department of Health & Human Resources
Room 265, Building 3, Capitol Complex
Charleston, West Virginia 25305

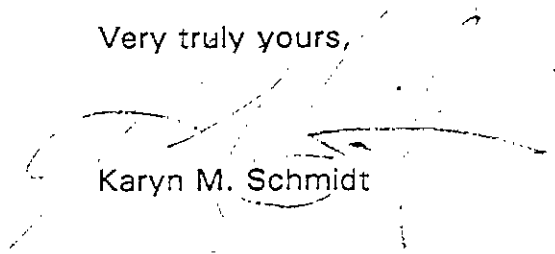
VIA HAND DELIVERY

Dear Ms. Howard:

Enclosed for filing are the written comments of the West Virginia Manufacturers Association for the Division's proposed Wastewater Treatment Works Operators. I would appreciate your returning a stamped copy of the comments to our office.

If you have any questions regarding the comments, please feel free to call me.

Very truly yours,



Karyn M. Schmidt

**COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING PROPOSED REGULATIONS AMENDING
WASTEWATER TREATMENT WORKS OPERATORS
64 CSR 5**

I. INTRODUCTION.

On July 8, 1994, the West Virginia Department of Health and Human Resources, Division of Health ("DOH") filed with the Secretary of State a proposed rule that would amend regulations governing wastewater treatment works operators. The Preamble to the proposed rule requested written comments. Pursuant to this notice, the West Virginia Manufacturers Association ("WVMA") has undertaken a review of the proposed rule and files these comments.

The WVMA recognizes that the Division of Health has worked over the years to improve and refine this rule, and offers these comments to assist the Division in the development of a reasonable, effective, and protective rule.

II. COMMENTS.

1. Definitions -- Section 5-3.

"Wastewater" should be more specifically defined. In addition, a definition of "waste" should be provided.

The definition of "wastewater treatment works" is overbroad. The definition provided covers any "facility" for treating and discharging wastewater. The Division should also clarify whether this rule is applicable to private industrial facilities.

2. Section 5-5.5.

This provision requires the chief operator of a new wastewater treatment works to be employed and on-site at the wastewater treatment works when construction is 25% complete. The intent of this provision appears to be to familiarize the chief operator with the construction and operation of the plant. This section could better achieve these results by simply requiring the chief operator to be fully familiar with the construction and operation of the facility prior to operation start-up.

In the alternative, the Division could require the chief operator to be on-site a specific period prior to operations start-up, such as two weeks, or when construction is 75% complete, whichever occurs first. As the rule is drafted, a facility taking years to construct would result in a great deal of idle time for the operator with little benefit. Further, the rule as drafted requires the chief operator to be employed and on-site, but the rule does not clarify whether this is full-time employment or a 40-hour work week presence at the site.

3. Section 5-5.8.2.

This section requires thirty day notification by an operator to the secretary of the operator's termination of employment. This requirement cannot be met in a variety of common workplace scenarios, such as the provision of two weeks' notice by employer or employee, sickness, death, and other occasions. Likewise, this section is not sensitive to the possibility that labor laws in this state do not demand that an employee make such notice to his or her employer -- an operator who suddenly quits, in full compliance with the law, may be in violation of this section for

failure to provide thirty day's notice. This section should be redrafted to provide that the chief operator shall provide the earliest possible notice to the secretary of the termination of himself or any other operator.

4. Reciprocity -- Section 5-8.

Subsection 8.4 of this rule should be deleted. Other states may have much more stringent requirements for wastewater treatment works operators than West Virginia, and accordingly may not grant West Virginia operators reciprocity. Such operators should not be penalized because they are certified under a more stringent program. In the alternative, the Director could retain this subsection as follows:

The issuing authority grants reciprocity to West Virginia wastewater treatment works operators, or has at least an equivalent program of wastewater treatment works operator certification.

5. Failure to Comply -- Section 5-9.1.3.

Subsection 9.2 should be deleted. The obligation to provide notice to the secretary when operators are terminated by the facility should belong to the facility's management, not the individual operators. Consistent with comment 3 above, the chief operator should bear the responsibility for making this notification, and the penalties for failure to do so.

Subsection 9.4 should also be deleted. Criminal offense provisions are appropriately handled by statute, not by rule.

III. CONCLUSION.

The WVMA appreciates this opportunity to present its comments and suggestions. It acknowledges the difficulties of keeping pace with changing federal requirements, and endorses the Division's responsible approach of doing this yearly, as necessary. Please address any questions or comments to Robert L. Foster, Chairman, Environmental, Health, and Safety Committee, at 342-0161.

Respectfully submitted August 8, 1994.

Karen S. Price, President
West Virginia Manufacturers Association
2001 Quarrier Street
Charleston, West Virginia 25311
(304) 342-2123

Prepared by:
Robinson & McElwee
P.O. Box 1791
Charleston, West Virginia 25326

Contact:
Karyn M. Schmidt, Esquire
(304) 347-8329

KAY

West Virginia



Cedar Lakes • Ripley, WV 25271 • (304) 372-7015

Environmental Training Center

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AUG 25 1994

REGULATORY DEVELOPMENT
SECTION

August 4, 1994

Ms. Kay Howard
Regulatory Development
Department of Health & Human Resources
Room 265, Building 3, Capitol Complex
Charleston, WV 25305

Dear Ms. Howard:

The attached comments are in regards to the proposed Wastewater Treatment Works Operator rules. I am hopeful the Review Committee will consider them before issuing a final operator certification rule.

Sincerely,

Richard G. Weigand, CET

RGW/em

Enclosures

xc: Mr. John Riddle
Mr. John Brown

COMMENTS ON PROPOSED WASTEWATER
TREATMENT WORKS OPERATOR RULES

Definitions

Sec. 3.2.

High school education. The definition states "completion of twelve school grades" which does not specify graduation. Change the definition to state "successfully earned a high school diploma or a GED certificate."

Also, the definitions do not exclude industrial waste treatment systems containing human waste. Thus, are these industrial systems now governed by these regs?

Sec. 5.4.

Line 3 should read "or a class I or higher wastewater treatment works certificate..." otherwise, both an IS and a Class I certificate are required.

Sec. 6.4

It is not practical to require written applications 30 days before the exam date. Many operators attend 5 day certification classes and submit the application only 4 days in advance.

Also, the 30-day application period would be added to a 60-day waiting period following failure as noted in Sec. 6.7. Thus, an operator failing an exam would actually wait 90 days to be retested.

The 30-day pre-application requirement should be deleted.

Section 6.9.1

This section should end with the word "and" since all three of these provisions must be met.

Sec. 7.5

The proposed rule requires renewal training credits for Class III and IV only. Training credits should be required for Class I and II as well. Also, additional training should be required beyond that outlined as follows:

Class I and II	3 Training Credits/3 years
Class III and IV	6 Training Credits/3 years

Increasing the Training Credit requirement can only benefit the operators by making them attend more programs. This is particularly important for lower certification levels where management may be reluctant to provide training opportunities to their operators. (See additional comments below.)

ADDITIONAL COMMENTS

The new Wastewater Operator Rules should include provisions for the creation of a Certification Board. Although the duties of the Certification Officer would remain the same, such a Board would provide guidance and recommendations in a number of areas. For example:

- *Recommend approval of activities suitable for Training Credits
- *Review and recommend examinations
- *Recommend and review reciprocity agreements with other states
- *Review certification applications where needed
- *Review and recommend certificate revocations
- *Recommend additional policies and procedures for implementation of the program

The Association of Boards of Certification (ABC) was established by the USEPA in 1972 to assist certifying authorities to develop stronger administrative programs and more effective certification criteria. ABC has developed a Model Act and Regulations for operator certification. This model outlines general provisions for a Certification Board, a copy of which is attached.

ABC's model regulations also recommend re-certification training for all certification levels at a rate of 24 contact hours/2 years. This reinforces my suggested changes above to Section 7.5.

A listing of certifying authorities assembled by ABC indicated 29 states have wastewater operator certification boards or advisory committees. A total of 23 of these programs charge examination fees of \$5-\$100 per exam. I would recommend establishment of a ~~\$15~~ exam fee with the revenue dedicated specifically to the administration of this program.

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MODEL REGULATIONS

1) Certification Board [Section 5 of the Model Act]

A. Representatives to the certification board shall include:

1. A representative(s) from the (or each) state/provincial agency (agencies) responsible for environmental control.
2. A local government employee in a managerial position (not an elected official) responsible for environmental control.
3. Management representative of an industry required to employ certified persons for environmental control.
4. A faculty member of a college, university, community college or vocational training school who conducts environmental control education.
5. A large minority of the members of the certification board shall consist of certified operators and laboratory analysts holding active, valid certificates with representation from environmental control utilities.
6. If very small water systems operators are certified, at least one member of the board shall be a certified very small water system operator.

B. Members of the certification board shall serve 3-year terms which are staggered so that the terms of one third of the members of the certification board shall expire each year. Members of the certification board may be reappointed but shall not succeed themselves automatically and shall not serve more than three consecutive terms. Each year the certification board shall select, from its membership, a chair and such other officers as may be needed to conduct its business.

C. All members of the certification board shall be reimbursed for their actual and necessary expenses incurred while discharging their official duties.