

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Health TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code §16-1-7(2)

AMENDMENT TO AN EXISTING RULE: YES NO

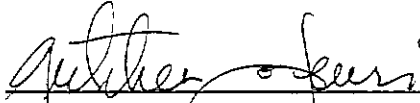
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Wastewater Treatment Works Operator

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


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

[PROPOSED]
TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

WASTEWATER TREATMENT WORKS AND OPERATORS

SERIES 5

For Filing Modifications 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

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SERIES 5
WASTEWATER TREATMENT WORKS AND OPERATORS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§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, except that this rule does not apply to industrial wastewater treatment works which are regulated by the division of environmental protection or to the operators of such industrial wastewater treatment works.

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,

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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 wastewater 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, except that this definition does not include industrial wastewater regulated by the division of environmental protection.

3.10. **Wastewater Treatment Works** - A facility for treating and discharging wastewater, except that this definition does not include industrial wastewater treatment works regulated by the division of environmental protection.

§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 rules.

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 class level wastewater treatment works certificate and previous experience in an IS extended aeration system; or a Class I or higher class level wastewater treatment works operator certificate and shall pass the Class IS examination prior to being employed as the chief operator: Provided, That 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. However, 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 wastewater 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 the applicant's 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 the experience and education required by this rule.

6.5. The secretary shall conduct written examinations for Class IS, I, II, III, and IV wastewater treatment works operator certification, and shall notify 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 minimum 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 expires 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 certification 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 shall approve management classes based on their relevance to managing a wastewater treatment works.

7.1.7. An applicant may substitute experience 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. An applicant may substitute experience at the preceding certification class level on a year for year basis for two (2) years of college education.

7.2.2. An applicant can not use experience used as a substitute for educational requirement to satisfy experience requirements.

7.2.3. An applicant may satisfy the requirement for one

(1) year of college education 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. An applicant may satisfy the requirement for one (1) training credit by six (6) hours of classroom instruction, such as courses, seminars, technical conferences, and similar activities.

7.2.5. The secretary shall approve 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 class level 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 class level wastewater treatment works and two (2) of which shall be at a Class II or higher class level 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 class level wastewater treatment works and three (3) of which shall be at a Class III or higher class level wastewater treatment works, to be certified as a Class IV operator.

7.3.7. An applicant may substitute two thousand (2,000) hours of wastewater treatment works operating experience for one (1) of the years of full-time wastewater treatment works operating experience required for a Class II or higher class level operator's certificate.

7.3.8. An applicant may substitute education and training for experience as specified in Section 7.4 of this rule.

7.4. Education and Training Substitutes for Experience.

7.4.1. An applicant may substitute twenty-four (24) class-room hours of IS operator training for four (4) of the training credits used to substitute for educational requirements for a Class II or higher class level certificate.

7.4.2. An applicant may substitute a maximum of two (2) years of college education on a year for year basis for the experience requirement for Class II certification.

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

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

7.4.5. An applicant may substitute training credits 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 class level.

7.4.6. An applicant can not use education used as a substitute for experience requirements to satisfy education requirements.

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

7.5.1. In order to renew a Class III wastewater treatment works operator certificate, an individual shall obtain three (3) training credits every three (3) years.

7.5.2. In order to renew a Class IV wastewater treatment works operator certificate, an individual shall obtain four (4) training credits every three (3) years.

7.5.3. The three-year period in 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 employ-

ment 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 for seeking the informal conference. The secretary shall conduct the informal conference 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 ini-

tially 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.

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.	4	_____
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.



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West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Joe Manchin, III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair

October 4, 1994

Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Gretchen O. Lewis, Secretary
Dept. Health and Human Services
Building 3, Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Wastewater Treatment Works and Operators

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Kay Howard
Regulatory Division