

**Chapter 531: WASTEWATER TREATMENT PLANT OPERATOR CERTIFICATION**

**SUMMARY:** This chapter establishes criteria for the classification of wastewater treatment plants and the requirements for certification as an operator of a wastewater treatment plant under the authority of 32 M.R.S §4179.

**1. Applicability.**

- A.** This chapter applies to any wastewater treatment plant in the State holding a state or federal pollutant discharge elimination system permit or a State waste discharge license under 38 M.R.S. §413.
- B.** This chapter applies to any person who is certified by the Department as an operator under the provisions of 32 M.R.S. §§ 4171-4182.

**2. Definitions.** The following terms, as used in this chapter, have the following meanings unless the context indicates otherwise.

- A. Biological Treatment.** “Biological treatment” means a process utilizing microorganisms to degrade organic wastes.
- B. Board.** “Board” means the Board of Environmental Protection.
- C. Certificate or Certification.** “Certificate” or “certification” means a certificate of competency issued by the Department stating that the applicant has met the requirements for the specified operator classification.
- D. Commissioner.** “Commissioner” means the Commissioner of the Department of Environmental Protection.
- E. Department.** “Department” The Department of Environmental Protection.
- F. Domestic Wastewater.** “Domestic wastewater” means wastewater derived principally from human activities in dwelling, business buildings, and educational institutions.
- G. Examination or Exam.** “Examination” or “exam” means a written or computer-based test developed by the Department or third parties to assess operator competency.
- H. Industrial Wastewater.** “Industrial wastewater” means wastewater generated from an industrial process requiring treatment prior to disposal into the environment.
- I. Operator.** “Operator” means a person who is certified by the Department as being competent to supervise, manage, or operate a wastewater treatment plant and to ensure that the plant is operated in accordance with state and federal laws, rules, and licenses.
- J. Operational Duties.** “Operational duties” means the day-to-day duties performed by wastewater staff to operate a wastewater treatment plant, in accordance with the grade level and complexity of the treatment process in order to maintain permit compliance.
- K. Operator in Responsible Charge (ORC).** “Operator in responsible charge” means an operator certified by the Department, with a certification in good standing, at or above the classification

for the wastewater treatment plant who is designated by the wastewater treatment plant owner to be the operator responsible for supervising, managing, or operating the wastewater treatment plant and ensuring that the wastewater treatment plant is operated in accordance with state and federal law, rules and licenses.

- L. Pond or Lagoon Systems.** “Pond system” or “Lagoon system” means a wastewater treatment plant consisting of stabilization ponds or lagoons to reduce the organic content and pathogens in domestic or industrial wastewaters.
  - M. Physical/Chemical (P/C) Treatment Plant.** “Physical/chemical treatment plant” means a wastewater treatment plant that employs physical and chemical processes as the primary means of treatment.
  - N. Reinstatement.** “Reinstatement” means the process for an operator to regain certification following revocation under section 13 of this chapter.
  - O. Spray Irrigation Treatment Systems (SITS).** “Spray irrigation treatment system” means a private residential or commercial system comprised of stabilization ponds, holding ponds or lagoons followed by effluent sprayed to an irrigation site with no direct discharge to a surface water body.
  - P. Training Contact Hours (TCH).** “Training contact hours” means the unit of measure for hours of approved training used to fulfill Department requirements for continuing education training.
  - Q. Treatment Plant Owner.** “Treatment plant owner” means the individual or entity, including but not limited to, municipality, quasi-municipality, district, commercial business, or corporation, that was issued a state or federal pollutant discharge elimination system permit or state waste discharge license under 38 M.R.S. §413.
  - R. Wastewater.** “Wastewater” means water that has been contaminated by any combination of domestic, industrial, commercial, or agricultural activities. The characteristics of wastewater vary depending on the source.
  - S. Wastewater Treatment Plant.** “Wastewater treatment plant” means the facility or group of treatment units that provides for the treatment of wastewater to meet the requirements of a state or federal pollutant discharge elimination system permit or a waste discharge license under 38 M.R.S. §413.
- 3. Classification of Wastewater Treatment Plants.** Wastewater treatment plants will be classified by the Department through the licensing process. Wastewater treatment plants are classified by type (Biological, Physical/Chemical, or Spray Irrigation Treatment System) and grade level following a standard evaluation of the treatment plant. Factors affecting plant classification include design flow, effluent discharge, influent characteristics, preliminary, primary, secondary, tertiary, and physical-chemical treatment, solids handling, disinfection, laboratory, collection system, and system complexity. The Department may upgrade or downgrade an individual treatment plant’s classification if the Department finds that its current classification does not properly account for the design, complexity or degree of skill required to operate the plant.
- A.** Biological treatment plants are classified B-1 through B-5 and include public and private treatment plants that utilize biological treatment as the primary treatment process.

- B. Physical/Chemical (P/C) treatment plants are classified as P/C-1 or P/C-2. The Department may assign P/C plants a Biological classification based on size and complexity.
  - C. Spray Irrigation Treatment Systems (SITS) include private and commercial spray systems classified as SITS-1 or SITS-2. The Department may assign SITS plants a Biological classification based on size and complexity. Municipal and quasi-municipal pond/lagoon systems treating domestic wastewater will be assigned a Biological classification.
4. **Certification of Operators.** The Department will issue certifications to operators in categories and grade levels that parallel the classification of wastewater treatment plants as described above. A certified operator will be considered by the Department to have demonstrated competency to supervise, manage, or operate a treatment plant of the same classification or lower of each classification.
5. **Operator in Responsible Charge (ORC).** The owner of a treatment plant shall designate a minimum of one person to be the ORC who has direct responsibility to successfully manage and supervise the operation of the wastewater treatment plant. Other employees under the supervision or management of an Operator in Responsible Charge (ORC) may but need not be certified.
- A. The ORC must hold a certification classification of a level equal to or greater than the classification of the wastewater treatment plant.
  - B. The ORC must have active status as defined in section 6 below.
  - C. A registered professional engineer (P.E.) in good standing may be designated by the owner to be the ORC of a treatment plant of any classification without obtaining additional certification.
  - D. The owner of a wastewater treatment plant may contract with an individual contract operator or contract operations firm to meet the ORC requirements. Contract agreements must be submitted to the Department and are subject to review and approval as follows:
    - 1) The owner may initiate an interim contract agreement with the contract operator or contract operations firm for up to 90 days, provided the interim contract is submitted to the Department within 24 hours of initiation. The contracted operator may serve as the ORC during the term of the interim contract.
    - 2) The owner must obtain Department approval of a final contract agreement before the expiration of the interim contract or, in the absence of an interim contract, prior to initiation.
  - E. An operator certified under the Biological classification will be considered qualified by the Department to operate a P/C or SITS of the same grade or lower without obtaining additional certification.
6. **Certification Status.** The Department will designate certification status as follows:
- A. **Active:** Operators who are in good standing and have maintained their certification through proper renewal, including receiving required training contact hours (TCH) and payment of fees are designated as active.

- B. Inactive:** Operators who have not renewed their certification completely by the biennial renewal deadline are designated as inactive. An operator with inactive status cannot be the ORC of a wastewater treatment plant.
- C. Provisional Certification:** An operator who has passed an examination for a specific classification and grade level but has not met the education and/or work experience requirements for that certification is designated as provisional. Provisional status cannot be the basis for an operator to be designated the ORC of a wastewater treatment plant. An operator with provisional status must hold an active wastewater certification that is at least a Grade B-1.
- D. Suspended:** A person whose certification has been suspended in accordance with 32 M.R.S. §4175-A and this chapter is no longer certified during the term of suspension. A person with a suspended certification may not serve as a certified operator or ORC during the term of suspension.
- E. Revoked:** A person whose certification has been revoked in accordance with 32 M.R.S. §4175-A and this chapter is no longer certified. A person with a revoked certification may not serve as a certified operator or ORC in any capacity. To become recertified at any classification, a person must apply for reinstatement pursuant to sections 7 and 8 of this chapter.

## 7. Requirements for Certification.

- A. Examination.** Applicants must meet education and experience requirements and pass a qualifying examination to achieve active status for the specified classification. Exams may be taken in sequential or direct-entry format.
  - 1) The Department may enter into contracts with third parties for the development, scoring, and delivery of exams.
  - 2) Examinations will be reviewed by the Department to assure adequate subject matter to cover the fundamentals of operation, maintenance, and administration of a wastewater treatment plant, and knowledge and understanding of rules applicable to wastewater plants.
  - 3) The Department will assure the availability of frequent exams and provide notice of exam application procedures.
  - 4) A person whose certification has been revoked in accordance with 32 M.R.S. §4175-A and this chapter must pass a qualifying examination for the specified classification prior to reinstatement. The Department may, at its discretion, waive the exam requirement for reinstatement.

## B. Education Requirements.

- 1) All applicants must hold a minimum of a high school diploma or General Educational Development certificate (GED).
- 2) Related education for determining eligibility is defined as post high school coursework or training in the areas of biology, chemistry, environmental science, environmental studies, engineering, water and wastewater treatment technology, and other related fields as approved by the Department. Education hours will be evaluated as follows:

- a. 30 semester credits, or equivalent, equals 1 year of study.
- b. Continuing Education Units (CEUs): one CEU equals one semester credit.
- d. Specialized training courses will be evaluated on a case-by-case basis.

**C. Experience Requirements.**

- 1) Wastewater Work Experience. Performance or supervision of operational duties directly related to wastewater treatment. Duties may include all or some of the following, depending on plant size and staffing structure: performance or supervision of operational duties, maintenance of process equipment, lab work, equipment operation, administration, process control, wastewater compliance, and sludge handling.
- 2) Related Work Experience. Performance or supervision of duties including, but not limited to drinking water, industrial wastewater, wastewater collections, wastewater design, or other related disciplines as approved by the Department. Any military service member (active, reserve, or veteran) having served greater than 1 year will be credited one year of related work experience.
- 3) Additional related work experience may be awarded by the Department to military service members (active, reserve, or veteran) based on specific service record (Military Occupational Specialties (M.O.S.)) as defined by the American Council on Education.
- 4) A certificate from a Department-accepted wastewater technology program, or equivalent, will be considered by the Department to be equivalent to one year of wastewater work experience.

**D. Grade-Specific Requirements for Biological Certification.** Applicants must submit evidence of education and/or experience as follows:

- 1) Biological Grade 1. No work experience is required.
- 2) Biological Grade 2. One year of wastewater work experience, or four years of a combination of related work experience and related education.
- 3) Biological Grade 3. Two years of wastewater work experience at a plant classified B-2 or higher. Four years of a combination of related work experience and related education may be substituted for one year of wastewater work experience.
- 4) Biological Grade 4. Six years of wastewater work experience at a plant classified B-2 or higher. Up to three years of a combination of related education and related work experience may be substituted for the same number of years of wastewater work experience.
- 5) Biological Grade 5. Eight years of wastewater work experience at a plant classified B-3 or higher. Up to four years of a combination of related education and related work experience may be substituted for the same number of years of wastewater work experience.

**E. Grade-Specific Requirements for Spray Irrigation Treatment Systems (SITS) and Physical/Chemical (P/C) Certification.** Applicants must submit evidence of education and/or experience as follows:

- 1) SITS-1 and P/C-1. No work experience is required.
- 2) SITS-2 and P/C-2. One year of wastewater work experience, or two years of related work experience.

#### **F. Provisional Certification**

- 1) An operator may take an examination for levels B2-B5 without the required work and/or educational experience to become provisionally certified. The Department will award the operator with an active certification at a level commensurate with their work and/or education experience at the time the examinations was passed, as well as a provisional certification at the level of the passed examination. The operator is subject to all fees and requirements for the active certification level to remain in active status. An operator with provisional certification cannot serve as the ORC at the provisional level.
- 2) An operator with provisional status may upgrade from the active certification held to the certification level commensurate with their work experience, up to the provisional certification held, by applying to the Department and providing documentation of completed work experience and/or education and paying all applicable fees. Completed work experience must be verified by the operator's supervisor. The operator must apply for upgrade within 6 years of passing the provisional qualifying exam or the provisional certification will expire.

#### **G. Reciprocity**

- 1) A person holding a valid certification in another state or country may apply to the Department for certification at a comparable grade level without examination, provided the person's certification is in good standing and that certification was obtained through an examination program that the Department has deemed at least equivalent to Departmental requirements.

#### **H. Certification Procedures.**

- 1) Applicants must apply for certification using methods provided by the Department, including payment of required fees and submission of materials supporting education and work experience as required for each category and grade level. Any applicant who submits false or misleading information on an application will be disqualified and may be subject to penalties under 38 M.R.S. §349.
- 2) An operator or ORC whose certification has been revoked must provide additional Proof of Competency to the Department in accordance with section 8 of this chapter prior to applying for the reinstatement of certification at the prior held or lower classification.
- 3) Examinations.
  - a. Applicants must follow instructions provided by the Department or third-party providers and pay applicable fees for scheduling and completing the examination.
  - b. Applicants who pass the examination will be awarded certification indicating the classification level of treatment plant for which the individual is qualified to act as an operator.

- c. Applicants who do not pass may retake the examination at the same or lower grade level using methods provided by the Department and paying applicable fees.
- 8. Additional Proof of Competency Following Revocation.** A person whose certification has been revoked may apply for reinstatement of a certification pursuant to section 7 of this chapter only after providing to the Department additional Proof of Competency and passing a qualifying exam. This Proof of Competency must include evidence that the operator has met minimum qualifications, based on education, experience, and training, and is capable of performing operational duties and maintaining permit compliance in accordance with the classification and grade level of certification held, using reasonable care and judgment, and abiding by all laws relevant to their profession. Additional Proof of Competency shall include evidence of the following:
- A. Work under the direct supervision of an ORC with an active certification at the same grade or higher than the grade sought by the applicant for a period of at least one year. Following this period, the supervising ORC must submit documentation to the Department describing the type and quality of operational duties performed, with confirmation that the operator has complied with section 16 of this chapter.
  - B. Attendance of up to 10 hours of Department-approved training for process control, laboratory, operator ethics, and/or management, depending on plant complexity and position held.
  - C. The Proof of Competency must be reviewed and approved by the Department before the person is allowed to retake the examination.
  - D. The person must pass a qualifying examination for the specified classification prior to reinstatement. The Department may, at its discretion, waive the exam requirement for reinstatement.
- 9. Biennial Renewals.** Certifications will be renewed on a two-year cycle as follows:
- A. The initial certification period shall not exceed two years and must be based on the biennial certification period.
  - B. Requirements for renewals include payment of required fees, updating contact information, fulfilling continuing education requirements, and submitting required documentation in accordance with deadlines specified by the Department.
  - C. The cycle of renewal does not change with late or reinstated certifications. Upgrading a certification within a certification period does not extend the renewal deadline.
  - D. An operator's certification that has been revoked in accordance with 32 M.R.S. §4175-A and this chapter is no longer valid and the person is no longer certified. To become recertified at any classification, a person must apply for reinstatement pursuant to sections 7 and 8 of this chapter.
- 10. Continuing Education.**
- A. An operator must complete continuing education during each two-year certification period before the operator's certification may be renewed for the next two-year period.

- 1) Biological Grades 1-5, P/C-1, P/C-2, and SITS-2 operators must complete at least eighteen TCHs of Department-approved continuing education. No more than a total of six TCHs of safety training or management training may be applied towards this requirement.
  - 2) SITS-1 operators must complete at least six TCHs of Department-approved continuing education. Safety training and/or management training TCHs may not be applied towards this requirement.
- B.** Continuing education must satisfy the following criteria in order to be approved by the Department for TCHs:
- 1) The training must be relevant to the operation, management, or supervision of a wastewater treatment plant, collection system, or laboratory, or
  - 2) The training must be relevant to the safety of plant personnel operating a wastewater treatment plant, collection system, or laboratory.
- C.** An operator can only use TCHs for the renewal period in which the hours were received, except when an operator is completing missing training from a previous renewal period. Excess TCHs cannot be carried over from one renewal period to the next period.
- D.** The Department may require an operator to attend additional specified wastewater laboratory or operations training if the Department determines that the operator has exhibited deficiency in any aspect of the operation and maintenance of their plant that could negatively affect water quality.
- 11. Failure to Renew.** An operator certification becomes inactive when an operator fails to properly renew by the biennial renewal deadline, including payment of all fees and completion of continuing education requirements. No person, firm or corporation, either municipal or private, may rely on an inactive certification to satisfy the requirements of 32 M.R.S. §4181.
- A.** An inactive certification may be changed to active status within six months following the renewal deadline if the continuing education requirements are completed and all fee obligations, including an administration fee, are met.
  - B.** An operator with inactive status who has failed to renew their certification for greater than six months but less than two years following the renewal deadline must pay applicable fees and retake the certification examination to regain active status. The Department may, in its discretion, waive the examination requirement if it finds that the holder of the certification has performed their duties satisfactorily and in a manner that demonstrates that an examination is not necessary.
  - C.** An operator whose certification has been inactive for two years following the renewal deadline will lose their certification and be removed from the master list of certified operators maintained by the Department. A person whose name has been so deleted must submit a new application and retake the examination in order to regain certification.
  - D.** An operator with a provisional license who has failed to renew their active certification for greater than six months will lose their provisional certification.
- 12. Enforcement.** Any operator, ORC, or other person, firm, or corporation, either municipal or private, that violates any provision of this rule is subject to enforcement pursuant to 38 M.R.S. §347-A and penalties pursuant to 38 M.R.S. §349.



**13. Revocation or Suspension.**

- A. Authority.** Notwithstanding Title 5, section 10051, after written notice and opportunity for a hearing pursuant to Title 5, chapter 375, subchapter 4, the Commissioner may revoke or suspend a certification whenever the Commissioner finds that any of the criteria set forth in section 14 of this chapter has been met.
- B. Action Initiated by Commissioner.** If the Commissioner decides to initiate proceedings to revoke or suspend a certification, the Commissioner shall provide the certified operator with written notice and opportunity for a hearing. The written notice shall state which of the criteria listed in section 14 of this chapter is being invoked and the factual basis for the Commissioner's decision to initiate proceedings.
- C. Hearing.** The certified operator must request a hearing within 15 days of the Commissioner's written notice of opportunity for a hearing. If the certified operator requests a hearing, it shall be held within 45 days of the request for a hearing unless the Commissioner and the certified operator agree to another time.
- D. Conduct of Hearings.** Hearings shall be held in accordance with the *Maine Administrative Procedure Act*, Title 5, chapter 375, subchapter 4, and the Department's rules governing adjudicatory hearings.
- E. Commissioner's Decision.** Based on the administrative record, including evidence developed during any hearing, the Commissioner may decide that no action is warranted, or may make findings of fact that one or more of the criteria listed in section 14 has been met and revoke or suspend the certification. The Commissioner's decision to revoke or suspend a certification may include provisions requiring the owner or operator of the affected facility or facilities to take action necessary to protect human health or the environment.
- F. Decision Discretionary.** A decision by the Commissioner to dismiss a proceeding to revoke or suspend a certification, or take no action at the conclusion of the hearing is within the Commissioner's sole discretion and is not subject to judicial review. For appeals of the Commissioner's decisions to revoke or suspend a certification see section 15 of this chapter.

**14. Criteria for Revocation or Suspension.** The Department may revoke or suspend a certification if the Commissioner, pursuant to section 13 of this chapter, finds that a certified operator:

- A.** Practiced fraud or deception;
- B.** Failed to use reasonable care or judgment or to apply the requisite knowledge, ability or ethical standards in the performance of the certified operator's required duties;
- C.** Failed to manage or supervise a wastewater treatment plant in a manner that would ensure that the wastewater treatment plant is operated in compliance with state law, rules and licenses;
- D.** Violated any applicable state law, rule licenses, or ethical standard as set forth in Department rules, including compliance with the "Operator Code of Professional Conduct" set forth in section 16;

- E. Lost the competency required for certification or did not possess the competency required at the time of certification; or
- F. Is unable to properly perform the operator's required duties.

**15. Judicial Review of a Department Decision.**

- A. A person whose certification has been suspended or revoked may seek judicial review of a final Commissioner decision by filing a petition in Superior Court in accordance with 5 M.R.S. §11001, *et seq.* and M.R. Civ. P. 80C, except where otherwise provided by law. The filing of an appeal to the Board is not a prerequisite for a judicial appeal.
- B. The filing of a petition for review shall not operate as a stay of the final agency action pending judicial review. Application for a stay of an agency decision shall ordinarily be made first to the agency, which may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for such relief may be made to the Superior Court pursuant to 5 M.R.S. §11004.
- C. All final decisions to revoke or suspend a certification by the Commissioner, that are subject to this rule may be appealed to the Board by persons who have standing as aggrieved persons pursuant to the Department's *Rule Concerning the Process of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2.

**16. Operator Code of Professional Conduct.** In order to safeguard the life, health, and welfare of the public and the environment, and to establish and maintain a high standard of integrity in the certified operator profession, standards of professional conduct apply to persons certified in accordance with this chapter. A certified operator shall:

- A. Use reasonable care and judgment in the performance of operational duties.
- B. Protect the health and safety of the public, treatment system infrastructure, and the environment while performing operational duties. If a certified operator's judgment is overruled by an employer under circumstances that endanger the safety, health, and welfare of the public or the environment, the certified operator should inform the employer of the possible consequences.
- C. Follow and comply with state and applicable federal rules and regulations. Follow all procedures and guidelines designed to prevent pollution from occurring.
- D. Properly and accurately complete required records. Be truthful and complete in applications, reports, statements, and testimony provided to the Department.
- E. Be objective and truthful in data collection and reporting.
  - 1) Ensure the integrity of the samples that the operator collects, prepares, or analyzes so that results will be a true representation of water quality.
  - 2) Acknowledge data collection and reporting errors and do not distort or alter the facts.
- F. Be familiar with all details of the permit requirements that apply to their facilities and understand the consequences of violations caused by inaction or negligence.

## STATUTORY AUTHORITY:

32 MRS §4179

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