

## CHAPTER 62

### WASTEWATER TREATMENT PLANT OPERATORS

#### §4171. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [PL 2021, c. 173, §3 (AMD).]

**1. Board.** "Board" means the Board of Environmental Protection.  
[PL 2021, c. 173, §3 (AMD).]

**2. Certificate.** "Certificate" means a certificate of competency issued by the department stating that an applicant has met the requirements for the specified operator classification.  
[PL 2021, c. 173, §3 (AMD).]

**2-A. Commissioner.**  
[PL 2021, c. 173, §3 (RP).]

**2-B. Department.** "Department" means the Department of Environmental Protection.  
[PL 2021, c. 173, §3 (NEW).]

**3. 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 a wastewater treatment plant is operated in accordance with state law, rules and licenses. Other employees under the supervision or management of an operator in responsible charge may but need not be certified.  
[PL 2021, c. 173, §3 (AMD).]

**3-A. Operator in responsible charge.** "Operator in responsible charge" means an operator certified by the department, with a certificate in good standing, at or above the classification for the wastewater treatment plant in which the operator 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 law, rules and licenses.  
[PL 2021, c. 173, §3 (NEW).]

**4. Wastewater treatment plant.** "Wastewater treatment plant" means the facility or group of units provided for the treatment of wastewater to meet the requirements of a state pollutant discharge elimination system permit or a waste discharge license under Title 38, section 413.  
[PL 2021, c. 173, §3 (AMD).]

#### SECTION HISTORY

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 431, §9 (AMD). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1977, c. 696, §249 (AMD). PL 2017, c. 137, Pt. A, §1 (AMD). PL 2021, c. 173, §3 (AMD).

#### §4172. Classification

The department shall establish the classifications for all wastewater treatment plants with due regard to the size, type, character of wastewater to be treated and other physical conditions affecting those treatment plants and shall specify whether each classification requires the employment of an operator and the qualifications the operator must have to successfully manage and supervise the operation of those facilities so as to protect the public health or prevent nuisance conditions or unlawful conditions. A wastewater treatment plant required by its classification to employ an operator may

employ more than one operator but must designate one operator as the operator in responsible charge for the facility. [PL 2021, c. 173, §4 (AMD).]

#### SECTION HISTORY

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1989, c. 890, Pt. A, §4 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 2021, c. 173, §4 (AMD).

#### **§4173. Certification**

The department shall certify persons as to their competency to successfully manage and supervise the operation of wastewater treatment plants of each classification established pursuant to section 4172. All operators and operators in responsible charge must be certified, except that a certification is not required for an operator or operator in responsible charge who is a licensed professional engineer in good standing. [PL 2021, c. 173, §5 (AMD).]

#### SECTION HISTORY

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1989, c. 890, Pt. A, §4 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 2021, c. 173, §5 (AMD).

#### **§4173-A. Educational program**

**1. Training.** The department shall administer an educational program for people engaged in water pollution control activities. This program must provide training in the supervision, management and operation of sewage collection and wastewater treatment systems. [PL 2021, c. 173, §7 (AMD).]

**2. Funds.** The department may accept funds, public and private, for the purposes of this section. [PL 1983, c. 832, §1 (NEW).]

**3. Self supporting.** This program must be self-supporting from fees, grants or other sources of revenue. [PL 2021, c. 173, §8 (AMD).]

#### SECTION HISTORY

PL 1983, c. 832, §1 (NEW). PL 1985, c. 204 (AMD). PL 1987, c. 510 (AMD). PL 2021, c. 173, §§6-8 (AMD).

#### **§4174. Examination; criteria; standards**

The department shall provide for at least one examination each year for the purpose of examining candidates for certification pursuant to section 4173 at a time and place designated by the department. [PL 2021, c. 173, §9 (AMD).]

The department shall establish the criteria and conditions for the classification of wastewater treatment plants. [PL 2021, c. 173, §9 (AMD).]

The department shall establish the qualifications, conditions and licensing standards and procedures for the certification of individuals to act as operators or operators in responsible charge. [PL 2021, c. 173, §9 (AMD).]

#### SECTION HISTORY

PL 1969, c. 237 (NEW). PL 1971, c. 618, §12 (AMD). PL 1989, c. 890, Pt. A, §4 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 2011, c. 206, §2 (AMD). PL 2017, c. 137, Pt. A, §2 (AMD). PL 2019, c. 315, §1 (AMD). PL 2021, c. 173, §9 (AMD).

#### **§4175. Certificates**

The department shall issue certificates attesting to the competency of individuals to act as operators or operators in responsible charge. The certificate must indicate the classification level of the wastewater treatment plants for the operation of which the individual is qualified to act as an operator or an operator in responsible charge. [PL 2021, c. 173, §10 (AMD).]

Certificates expire after a term established by the department. The department shall establish the qualifications, conditions and licensing standards and procedures for renewal of certificates. [PL 2021, c. 173, §10 (AMD).]

This chapter may not be construed to affect or prevent the practice of any other legally recognized profession. [PL 2021, c. 173, §10 (AMD).]

## SECTION HISTORY

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1977, c. 694, §635 (AMD). PL 1989, c. 890, Pt. A, §5 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 1999, c. 547, §§B69,78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2021, c. 173, §10 (AMD).

### §4175-A. Compliance and enforcement

Notwithstanding Title 5, section 10051, after written notice and opportunity for a hearing pursuant to Title 5, chapter 375, subchapter 4, the department may revoke or suspend the certificate of an operator or operator in responsible charge when it finds that the person has: [PL 2021, c. 173, §11 (NEW).]

**1. Practiced fraud or deception.** Practiced fraud or deception;  
[PL 2021, c. 173, §11 (NEW).]

**2. Failed to use reasonable care or judgment or properly apply knowledge.** Failed to use reasonable care or judgment or to apply the requisite knowledge, ability or ethical standards in the performance of the person's required duties;  
[PL 2021, c. 173, §11 (NEW).]

**3. Failed to operate in compliance.** Failed to manage or supervise a wastewater treatment plant in a manner that ensures that the wastewater treatment plant is operated in compliance with state law, rules and licenses;  
[PL 2021, c. 173, §11 (NEW).]

**4. Violated law, rules, licenses or standards.** Violated state law, rules or licenses or ethical standards as set forth in department rules;  
[PL 2021, c. 173, §11 (NEW).]

**5. Lost or did not possess competency.** Lost the competency required for certification or did not possess the competency required at the time of certification; or  
[PL 2021, c. 173, §11 (NEW).]

**6. Unable to properly perform.** Demonstrated that the person is unable to properly perform the person's required duties.  
[PL 2021, c. 173, §11 (NEW).]

An operator or operator in responsible charge whose certificate is revoked under this section may apply for reinstatement of a certification of a like classification if appropriate proof of competency is presented to the department. The department may establish a more stringent proof of competency and procedures for the reinstatement of certification for an operator or operator in responsible charge whose certificate has been revoked. [PL 2021, c. 173, §11 (NEW).]

## SECTION HISTORY

PL 2021, c. 173, §11 (NEW).

**§4175-B. Department contracting**

The department may contract for or otherwise employ or retain services to fulfill the department's duties under this chapter, including for the administration of an educational program pursuant to section 4173-A, the provision of examinations pursuant to section 4174 and the issuance of certificates pursuant to section 4175. [PL 2021, c. 173, §12 (NEW).]

**SECTION HISTORY**

PL 2021, c. 173, §12 (NEW).

**§4176. Without examination, other states**

The department, upon application therefor, may issue a certificate, without examination, in a comparable classification, to any person who holds a certificate in any state, territory or possession of the United States or any country if the requirements for certification of operators under which the person's certificate was issued do not conflict with this chapter and are of a standard not lower than that specified by rules adopted under this chapter. The issuance of a certificate without examination does not exempt a person from any other requirement of an operator or an operator in responsible charge aside from the examination requirement. A person so certified is subject to disciplinary action under section 4175-A. [PL 2021, c. 173, §13 (AMD).]

**SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1989, c. 890, Pt. A, §6 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 2021, c. 173, §13 (AMD).

**§4177. Without examination, other owners****(REPEALED)****SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1973, c. 625, §223 (AMD). PL 2021, c. 173, §14 (RP).

**§4178. Application**

This chapter applies to all operators and operators in responsible charge and any wastewater treatment plant that is used to meet the requirements of a state pollutant discharge elimination system permit or waste discharge license under Title 38, section 413. [PL 2021, c. 173, §15 (AMD).]

**SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 2021, c. 173, §15 (AMD).

**§4179. Rules**

The department shall adopt rules to administer this chapter that include, but are not limited to, provisions establishing the basis for classification of wastewater treatment plants in accordance with section 4172 and provisions establishing requirements for examinations, qualifications and ethical standards required of candidates to obtain certification. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 173, §16 (AMD).]

**SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §8 (RPR). PL 1989, c. 890, Pt. A, §7 (AMD). PL 1989, c. 890,

Pt. A, §40 (AFF). PL 2017, c. 137, Pt. A, §3 (AMD). PL 2019, c. 315, §2 (AMD). PL 2021, c. 173, §16 (AMD).

#### **§4180. Fees**

**(REPEALED)**

#### **SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1973, c. 712, §4 (RP).

#### **§4181. Penalty**

It is unlawful for any person, firm or corporation, either municipal or private, to operate a wastewater treatment plant unless the competency of the operator or operator in responsible charge is certified to by the department under this chapter. It is unlawful for any person to perform the duties of an operator or operator in responsible charge without being duly certified under this chapter. The department may further grant a waiver for a period not exceeding one year for the operation of a wastewater treatment plant serving not more than 500 services in the event the wastewater treatment plant can demonstrate, to the department's satisfaction, that the certification requirements cannot be met. [PL 2021, c. 173, §17 (AMD).]

#### **SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 1971, c. 76 (AMD). PL 1971, c. 618, §12 (AMD). PL 1973, c. 625, §224 (AMD). PL 1989, c. 890, Pt. A, §8 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 2021, c. 173, §17 (AMD).

#### **§4182. Violation of law or rules and regulations**

Any person, firm or corporation, either municipal or private, violating any provision of this chapter or the rules adopted pursuant to this chapter is guilty of a Class E crime and may also be subject to civil enforcement actions under Title 38, section 347-A and civil monetary penalties as established under Title 38, section 349. Each day of operation in violation of this chapter or any rules adopted pursuant to this chapter constitutes a separate offense. [PL 2021, c. 173, §18 (AMD).]

#### **SECTION HISTORY**

PL 1969, c. 237 (NEW). PL 1969, c. 282 (NEW). PL 1969, c. 590, §64 (RP). PL 2021, c. 173, §18 (AMD).

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