

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1830 Session of
2001

INTRODUCED BY HERSHEY, RUBLEY, SURRA, PETRONE, R. MILLER,
HARPER, FEESE, R. STEVENSON, J. EVANS, ROSS, STERN, CAPPELLI,
PICKETT, FLEAGLE, ARGALL, CREIGHTON, BARD, CLARK, MCGILL,
SEMMELE, ZUG, SCHRODER, VITALI, PALLONE, MELIO, SANTONI,
TRELLO, MCGEEHAN, ALLEN, DeLUCA AND LEWIS, JUNE 22, 2001

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 22, 2001

AN ACT

1 Amending the act of November 18, 1968 (P.L.1052, No.322),
2 entitled, as amended, "An act providing for the certification
3 of sewage treatment plant and waterworks operators; creating
4 the State Board for Certification of Sewage Treatment Plant
5 and Waterworks Operators and prescribing its powers and
6 duties; conferring powers and duties upon the Department of
7 Environmental Resources; and providing penalties," amending
8 the title; further providing for definitions, for the State
9 Board for Certification of Sewage Treatment Plant and
10 Waterworks, for certification, for professional engineers,
11 for special certificates, for reciprocity, for suspension and
12 revocation, for administrative procedure and judicial review,
13 for fees, for operation of plants, for penalties and
14 enforcement, and for civil relief; establishing the
15 Certification Program Advisory Committee; providing for
16 continuing education and for interim program authorization;
17 and making editorial changes.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The title of the act of November 18, 1968
21 (P.L.1052, No.322), known as the Sewage Treatment Plant and
22 Waterworks Operators' Certification Act, amended December 22,
23 1989 (P.L.790, No.112), is amended to read:

AN ACT

Providing for the certification of [sewage treatment plant and waterworks] water and wastewater systems operators; creating the State Board for Certification of [Sewage Treatment Plant and Waterworks] Water and Wastewater Systems Operators and prescribing its powers and duties; conferring powers and duties upon the Department of Environmental [Resources] Protection, the Environmental Hearing Board and the Environmental Quality Board; providing for continuing education requirements; and providing for civil relief and penalties.

Section 2. Section 1 of the act is amended to read:

Section 1. Short Title.--This act shall be known, and may be cited, as the "[Sewage Treatment Plant and Waterworks] Water and Wastewater Systems Operators' Certification Act."

Section 3. Section 2 of the act, amended December 22, 1989 (P.L.790, No.112), is amended to read:

Section 2. Definitions.--The following words and phrases, when used in this act, shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

"Available operator" means a certified operator who is on-site or able to be contacted as needed to make process control decisions in a timely manner to protect the environment and public health.

[(1)] "Board" means the State Board for Certification of [Sewage Treatment Plant and Waterworks] Water and Wastewater Systems Operators.

"Certification" means the process by which an individual obtains a water or wastewater system operator's certificate in accordance with the requirements of this act and the rules and

1 regulations adopted thereunder.

2 [(2)] "Certified operator" means any operator who holds a
3 valid certificate in accordance with this act.

4 "Continuing education" means approved activities to include
5 training, outreach programs, contact hours, meetings,
6 presentations and/or other activities designed to increase the
7 knowledge, abilities and skills of system operators.

8 [(3)] "Department" means the Department of Environmental
9 [Resources] Protection of the Commonwealth.

10 [(4)] "Distribution system" means a system, not including a
11 treatment plant, comprising structures which, operating alone or
12 with other structures, result in the derivation, conveyance or
13 distribution of water for potable purposes to the public.]

14 "Environmental Hearing Board" means the board established
15 pursuant to the act of July 13, 1988 (P.L.530, No.94), known as
16 the "Environmental Hearing Board Act."

17 "Environmental Quality Board" means the board established
18 pursuant to section 1920-A of the act of April 9, 1929 (P.L.177,
19 No.175), known as "The Administrative Code of 1929," for the
20 purposes set forth in that section.

21 "Grandparenting" means the temporary exemption for an
22 existing operator of an existing system, as of the effective
23 date of this act, from the initial educational and examination
24 requirements for certification where a system was not required
25 by prior law to have a certified operator. A grandparented
26 operator may be an operator in responsible charge.

27 "Industrial wastewater treatment facility" means any facility
28 that treats industrial waste or pollution, but not sewage, as
29 those terms are defined in the act of June 22, 1937 (P.L.1987,
30 No.394), known as "The Clean Streams Law."

1 [(5)] "Operator" means [the] an individual who [has the
2 direct responsibility for the operation of a treatment plant or
3 distribution system.] works with water or wastewater system
4 processes or portions thereof. The term includes, but is not
5 limited to, an individual who may be gaining experience to
6 obtain certification in appropriate subclassifications within
7 classifications of certification. These individuals shall have a
8 working knowledge of system operation. Nothing in this act shall
9 be construed to require operators of industrial wastewater
10 treatment facilities to obtain an operator's certificate.
11 However, operators of industrial wastewater treatment facilities
12 may voluntarily obtain a wastewater system operator's
13 certificate consistent with the provisions of this act and the
14 rules and regulations adopted thereunder.

15 "Operator in responsible charge" means an individual
16 designated by the owner to be the certified operator who makes
17 the process control decisions that directly impact the quality
18 and/or quantity of water.

19 [(6)] "Owner" means a person [owning or operating a
20 treatment plant or distribution] who owns or is the holder of an
21 applicable permit for the operation of a water or wastewater
22 system.

23 [(7)] "Person" means any individual, [municipal or private]
24 company, corporation, municipality [authority], municipal
25 authority, partnership, firm, association, trust, estate, public
26 or private institution, or [political subdivision.] any agency
27 of Federal or State government. The term also includes the
28 officers, directors, employes and agents of any partnership,
29 firm, association, company, corporation, municipality, municipal
30 authority, public or private institution or any agency of

1 Federal or State government.

2 [(8) "Purveyor" means a person owning or operating a water
3 treatment plant or distribution system.]

4 "Political subdivision" means any county, city, borough,
5 town, township, school district, institution or any authority
6 created by any one or more of the foregoing.

7 "Process control decision" means a decision which maintains
8 or changes the water quality or quantity of a water system or
9 wastewater system in a manner that may affect the public health
10 or environment.

11 "Recertification" means the process by which an individual's
12 water or wastewater system operator certificate, previously
13 certified under this act, obtains a new certificate following
14 expiration, suspension or revocation of the previous
15 certificate.

16 "Renewal of certification" means the process by which an
17 individual extends for another period of time an existing, valid
18 water system or wastewater system operator's certificate under
19 this act.

20 "Secretary" means the Secretary of Environmental Protection
21 of the Commonwealth.

22 [(9) "Sewage treatment plant" means any structure or
23 structures designed to treat sewage]

24 "Wastewater" means a substance that contains the waste
25 products or excrement or other discharge from the bodies of
26 human beings or animals and noxious or deleterious substances
27 being harmful or inimical to the public health, or to animal or
28 aquatic life, or to the use of water for domestic water supply
29 or for recreation, or which constitutes pollution under the act
30 of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams

1 Law."

2 "Wastewater system" means any structure designed to collect,
3 convey or treat wastewater and from which effluent in excess of
4 two thousand gallons per day is discharged into waters of the
5 Commonwealth.

6 [(10) "Water treatment plant" means any structure or
7 structures by which water prior to discharge into a distribution
8 system is subjected to the addition or removal of a substance or
9 substances in order to enhance the safety or suitability of the
10 water.]

11 "Water system" means a community water system or a
12 nontransient noncommunity water system, as those terms are
13 defined in the act of May 1, 1984 (P.L.206, No.43), known as the
14 "Pennsylvania Safe Drinking Water Act."

15 Section 4. Section 3 of the act, reenacted and amended
16 December 22, 1989 (P.L.790, No.112), is amended to read:

17 Section 3. State Board for Certification of [Sewage
18 Treatment Plant and Waterworks] Water and Wastewater Systems
19 Operators.--(a)(1) There is hereby created within the
20 [Department of Environmental Resources] department, a State
21 Board for Certification of [Sewage Treatment Plant and
22 Waterworks] Water and Wastewater Systems Operators. The board
23 shall consist of the [Secretary of Environmental Resources of
24 the Commonwealth of Pennsylvania] secretary, or his
25 representative, and [five] six additional members to be
26 appointed by the Governor.

27 (2) One member shall be an employe of a [municipality or
28 municipality authority which operates a sewage treatment plant,
29 water treatment plant or water distribution system or a
30 representative of a State association of municipalities or

1 municipality authorities.] political subdivision who is
2 certified to operate a water or wastewater system or a certified
3 operator who represents a State association of political
4 subdivisions.

5 (3) One member shall be an individual [qualified] certified
6 under this act to operate [any] a water [treatment plant]
7 system.

8 (3.1) One member shall be an individual certified under this
9 act to operate a wastewater system.

10 (4) One member shall be a certified operator who is the
11 owner or official of a privately owned [waterworks] water or
12 wastewater system.

13 [(5) One member shall be an individual qualified under this
14 act to operate any sewage treatment plant.]

15 (6) One member shall be on the teaching staff of the civil,
16 environmental or sanitary engineering department of an
17 accredited Pennsylvania university or college.

18 (7) One member shall be a member of the general public who
19 is knowledgeable in water systems or wastewater systems.

20 (b) The original appointed members of the board, in the
21 order listed above, shall hold office for one, two, three,
22 three, four and four years respectfully. Thereafter, each
23 appointment shall be for a period of four years duration. The
24 Governor may reappoint board members for successive terms.
25 Members of the board shall remain in office until a successor is
26 appointed and qualified. If vacancies occur prior to completion
27 of a term the Governor shall appoint another member in
28 accordance with this section to fill the unexpired term.

29 (c) [The Secretary of Environmental Resources, or his
30 representative, shall call the first meeting of the board at

1 which time a chairman and secretary of the board shall be
2 elected. Thereafter the] A chairman and secretary shall be
3 elected annually. Four members of the board shall constitute a
4 quorum. Meetings may be called by the chairman as needed to
5 conduct the business of the board.

6 (d) The members of the board shall receive no compensation
7 for their service but shall be reimbursed for actual and
8 necessary expenses incurred in the performance of their duties.

9 Section 5. Section 4 of the act is amended to read:

10 Section 4. Powers and Duties.--(a) The board shall have the
11 power and its duty shall be to:

12 (1) Review and [pass] act upon applications for
13 certification, recertification and renewal of certification of
14 [sewage treatment plant and waterworks operators.] water and
15 wastewater systems operators. The board's decision shall be
16 considered an action of the department and shall be appealable
17 to the Environmental Hearing Board.

18 (2) [Prepare and hold] Administer such examinations prepared
19 by the department as may be deemed necessary to determine the
20 [fitness of candidates] competency of applicants for
21 certification and recertification. At least one examination
22 shall be held each year at a time and place designated by the
23 board.

24 (3) Revoke, suspend, modify or reinstate certificates[.]
25 upon petition of the department. Upon receipt of such petition,
26 the board shall promptly schedule a hearing and give due notice
27 to the certificate holder of the time and place of such hearing.
28 The board shall hold administrative hearings and issue
29 adjudications in accordance with the provisions of the act of
30 April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act

1 Repealer Act." The board's decision shall be considered an
2 action of the department and shall be appealable to the
3 Environmental Hearing Board. The board may revoke, suspend or
4 modify a certificate for misconduct, including, but not limited
5 to, negligence in the operation of a water or wastewater system,
6 fraud, falsification of application, falsification of operating
7 records, incompetence or failure to use reasonable care or
8 judgment in performance of duties as specified in this act or
9 other applicable laws administered by the department.

10 (4) Receive and act upon complaints arising under its powers
11 and duties.

12 (5) [Compel attendance of witnesses and the production of
13 books or records.] Subpoena witnesses, records and other
14 physical evidence. The board may enforce its subpoenas in
15 Commonwealth Court.

16 (6) [Formulate, adopt, promulgate and repeal such rules and
17 regulations as are deemed necessary to implement the provisions
18 of this act.] Review, provide written comments and make
19 recommendations to the department on such rules and regulations
20 as are deemed necessary to implement this act prior to
21 submission to the Environmental Quality Board under subsection
22 (c). These comments and recommendations of the Certification
23 Board, with appropriate response and comment from the
24 department, will be presented as part of the department
25 rulemaking package to the Environmental Quality Board.

26 (7) Issue [such] written orders, or modifications thereof,
27 as may be necessary in connection with proceedings under this
28 act.

29 (8) Adopt bylaws as needed to properly direct and carry out
30 the activities of the board.

1 (9) Collect fees for examinations and applications for
2 certification, recertification and renewal of certification.

3 (10) Upon request, approve or disapprove department
4 decisions regarding training for certification and continuing
5 education for recertification and renewal of certification. Upon
6 disapproval, suspension or revocation by the department, the
7 board may approve training for certification and continuing
8 education for recertification and renewal of certification.

9 (11) Authorize the one-time reissuance of certificates by
10 the department to all existing certified operators at the time
11 revised regulations adopted by the Environmental Quality Board
12 under subsection (c) take effect. The special certificate will
13 reflect the revised operator certification classifications and
14 subclassifications contained in the amendatory act and the
15 revised regulations. There shall be no examination required for
16 this one-time reissuance of operator certificates.

17 (b) The department shall have the power and its duty shall
18 be to:

19 (1) Initiate proceedings before the board by petition, as
20 may be necessary and appropriate to modify, suspend, revoke or
21 reinstate certificates, receive and process applications,
22 [administer] prepare and validate examinations, make
23 recommendations, issue certificates to applicants approved by
24 the board, and establish and implement such procedures as are
25 necessary and desirable to carry out the provisions of this act
26 [and the rules, regulations], rules and regulations promulgated
27 under it, and orders of the board.

28 (1.1) Issue written orders as necessary to owners or
29 operators to comply with sections 5, 6 or 13, or to correct
30 violations of the act.

1 (2) Determine the number and class of [sewage treatment
2 plants, water treatment plants and distribution] water and
3 wastewater systems which may be supervised by a single certified
4 operator and issue orders requiring owners to employ the
5 services of additional certified operators and such orders shall
6 be made in accordance with this act and with the rules and
7 regulations [of the board] promulgated under it.

8 (3) Compile and keep current a register showing the names
9 and addresses of certified operators[, which register shall be
10 published at least once every two years]. Copies of this
11 register shall be furnished on request upon payment of such
12 reasonable fee as the department shall establish.

13 (4) Enter into agreements, contracts or cooperative
14 arrangements to carry out the purposes of this act, under such
15 terms and conditions as may be deemed appropriate, with other
16 Federal or State agencies, political subdivisions, public or
17 private agencies or other persons, including agreements to give
18 or receive financial and technical assistance. The department
19 may delegate one or more of its powers and duties, including
20 enforcement of the act, to local health departments under such
21 terms and conditions as may be deemed appropriate;
22 notwithstanding the grant of this power, in any case where
23 administration and enforcement of this act by a local health
24 department conflicts with the administration and enforcement by
25 the department, the department shall notify the local health
26 department of the conflict and administration and enforcement by
27 the department shall take precedence over administration and
28 enforcement by a local health department.

29 (5) With available funding, may reimburse water and
30 wastewater system operators or owners for the costs of training

1 and continuing education and certification as may be
2 appropriate.

3 (6) Approve, disapprove, suspend, revoke approval for and
4 offer training for certification and continuing education for
5 recertification and renewal of certification. The department may
6 accredit sponsors providing training or continuing education on
7 either a program basis or an individual activity basis. The
8 department may approve the course content, instructor's
9 qualifications and appropriate credit hours or continuing
10 education units to be assigned, in accordance with such
11 specifications or guidelines the department may develop in
12 consultation with the board and the Certification Program
13 Advisory Committee. The department may audit, examine, inspect
14 and review the operations of sponsors, including instructors,
15 classes, curricula, teaching materials, facilities and other
16 matters pertaining to the provision of training or continuing
17 education in accordance with the department's guidelines. The
18 department may establish and collect such fees for attendance at
19 department-sponsored training and continuing education which may
20 include the cost of manuals and other training materials and
21 services, and for approval of training and continuing education
22 conducted by others, as may be reasonable and appropriate to
23 recover the cost of providing such services. Department-approved
24 training and continuing education, whether department-sponsored
25 or not, shall satisfy the requirements of section 10(j) of the
26 act of March 1, 1988 (P.L.82, No.16), known as the "Pennsylvania
27 Infrastructure Investment Authority Act."

28 (7) PROVIDE TO ALL CERTIFIED OPERATORS IN RESPONSIBLE CHARGE <—
29 A COPY OF ALL CURRENT WATER OR WASTEWATER PERMIT REQUIREMENTS
30 AND ANY OTHER PERTINENT DOCUMENTATION THAT IS NEEDED TO MAKE

1 PROCESS CONTROL DECISIONS.

2 (c) The Environmental Quality Board shall have the power and
3 its duty shall be to adopt such rules and regulations of the
4 department as it deems necessary for the implementation of the
5 provisions of this act, including, but not limited to, the
6 following:

7 (1) Set standards in regulation for certification,
8 recertification and renewal of certification of water and
9 wastewater systems operators, including minimum education,
10 experience, training and continuing education requirements.
11 Standards for operators shall take into account the size and
12 complexity of the system. Standards for certification,
13 recertification and renewal of certification shall be designed
14 to meet the requirements of any applicable Federal or State law.
15 The standards for certification, recertification and renewal of
16 certification shall include training related to the security of
17 water and wastewater systems. The standards heretofore
18 prescribed by regulation shall continue in full force and effect
19 until superseded and repealed by the rules and regulations
20 promulgated pursuant to this subsection.

21 (2) Establish appropriate periods, not to exceed three
22 years, for renewal of certification in lieu of annual renewals.
23 Annual renewals of certificates shall continue in full force and
24 effect upon payment of the renewal fees heretofore prescribed by
25 law until superseded and repealed by rules and regulations
26 promulgated pursuant to this subsection.

27 (3) Establish fees for examinations and applications for
28 certification, recertification and renewal of certification as
29 may be reasonable and appropriate to recover the cost of
30 providing such services. When fees are set by regulation, the

1 fees heretofore prescribed by law shall be deemed repealed.

2 (4) Establish subclassifications within classifications for
3 the certification of water and wastewater operators. When
4 establishing subclassifications within classifications for
5 certification, the size and complexity of the water and
6 wastewater systems and the quality of source water or water
7 systems shall be taken into consideration. A special site-
8 specific certificate for operators of community water systems
9 serving less than 150 connections or 500 persons, operators of
10 nontransient noncommunity water systems and the operators of
11 collection system facilities associated with wastewater systems
12 may be established. The site-specific certificate is not
13 transferable to any other system. An "Operator in Training"
14 certificate for individuals who have passed the appropriate
15 certification examination, but need the required experience may
16 be established.

17 Section 6. The act is amended by adding a section to read:

18 Section 4.1. Certification Program Advisory Committee.--(a)
19 The Certification Program Advisory Committee is hereby
20 established. Within 30 days of the effective date of this
21 section, the secretary shall appoint members to the
22 Certification Program Advisory Committee as follows:

23 (1) This committee shall consist of not more than fifteen <—
24 SEVENTEEN members. <—

25 (2) The secretary shall specify the term of service for each
26 member.

27 (b) The committee shall comprise:

28 (1) One member appointed from each certification
29 classification established under sections 5 and 6.

30 (2) One member from the teaching staff of the civil,

1 environmental or sanitary engineering department of an
2 accredited Pennsylvania university or college with a water
3 system or wastewater treatment curriculum.

4 (3) ~~Two~~ FOUR members who represent owners of water and <—
5 wastewater systems, TWO OF WHOM SHALL BE OWNERS OF A <—
6 MANUFACTURED HOUSING COMMUNITY THAT HAVE WATER/WASTEWATER
7 SYSTEMS.

8 (4) An engineer registered under the act of May 23, 1945
9 (P.L.913, No.367), known as the "Engineer, Land Surveyor and
10 Geologist Registration Law," and who is a certified operator.

11 (5) One member from the general public.

12 (c) The secretary may appoint additional persons to the
13 committee beyond fifteen members on a temporary basis to address
14 specific issues at his discretion or at the board's request.

15 (d) The committee shall be provided with an opportunity to
16 provide written comments and recommendations to the board and
17 the department on regulatory proposals and department guidance.
18 The committee may provide written comments and recommendations
19 related to operator certification issues at the board's or the
20 department's request. A representative of the committee may
21 request that an issue be considered and that appropriate
22 assignments be made to the committee for consideration.

23 (e) The committee members shall elect a chairman annually by
24 majority vote and shall serve without compensation other than
25 reimbursement for actual and necessary expenses incurred in the
26 performance of their duties, in accordance with Commonwealth
27 policy or regulations. The committee shall hold its first
28 meeting within sixty days of the effective date of this section.
29 It shall meet quarterly unless the secretary determines that a
30 more or less frequent meeting schedule is in the best interest

1 of the department or the board.

2 Section 7. Sections 5 and 6 of the act are amended to read:

3 Section 5. [Sewage Treatment Plant] Wastewater System

4 Operator Certificates.--(a) [Classification.] A certificate

5 approved by the board and issued by the department shall

6 authorize the [person] individual to whom it is issued to

7 operate [sewage treatment plants] a wastewater system in

8 accordance with the following classification:

9 "Class A certificate." [Treatment plants of all types and

10 capacities.] Wastewater systems of unlimited permitted discharge

11 flow.

12 "Class B certificate." [Treatment plants whose operation

13 depends substantially upon the use of an activated sludge or

14 chemical precipitation process and which have a design capacity

15 of not more than twenty million gallons per day or all other

16 treatment plants.] Wastewater systems with a permitted average

17 daily discharge flow equal to or less than five million gallons.

18 "Class C certificate." [Treatment plants whose operation

19 depends substantially upon the use of an activated sludge or

20 chemical precipitation process and which have a design capacity

21 of not more than seven and one-half million gallons per day or

22 other treatment plants which have a design capacity of not more

23 than twenty million gallons per day.] Wastewater systems with a

24 permitted average daily discharge flow equal to or less than one

25 million gallons.

26 "Class D certificate." [Treatment plants whose operation

27 depends substantially upon the use of an activated sludge or

28 chemical precipitation process and which have a design capacity

29 of not more than one and one-half million gallons per day or

30 other treatment plants which have a design capacity of not more

1 than seven and one-half million gallons per day.] Wastewater
2 systems with a permitted average daily discharge flow equal to
3 or less than one hundred thousand gallons.

4 "Class E certificate." [Treatment plants whose operation
5 depends substantially upon the use of an activated sludge or
6 chemical precipitation process and which have a design capacity
7 of not more than two hundred thousand gallons per day or other
8 treatment plants which have a design capacity of not more than
9 one and one-half million gallons per day.

10 "Class F certificate." Treatment plants whose operation
11 depends substantially upon the use of an activated sludge or
12 chemical precipitation process and which have a design capacity
13 of not more than twenty thousand gallons per day or other
14 treatment plants which have a design capacity of not more than
15 two hundred thousand gallons per day.] Wastewater systems
16 consisting only of collection facilities and pumping stations
17 which discharge untreated wastewater into another system.

18 (b) [Requirements for Certification.--]In order to be
19 eligible for certification, an applicant shall have had
20 sufficient experience acceptable to the board in the operation
21 of [treatment plants. The minimum experience which the board may
22 accept shall be two years for a Class A certificate, one year
23 for a Class B certificate, and six months for a Class C or Class
24 D certificate.] wastewater systems. In determining whether
25 minimum experience requirements are met, the board may make
26 reasonable allowance for education and training in the field of
27 [sewage treatment] wastewater system operation and for training
28 and experience in allied fields. [Minimum experience
29 requirements shall not be applicable to the holder of a special
30 certificate under section 8 of this act who applies for a

1 certificate of the same or next higher classification.]

2 (c) In order to be eligible for renewal of certification, in
3 addition to submitting an application and the appropriate fee,
4 an applicant:

5 (1) shall be in compliance with the conditions of his or her
6 current certificate, the act and the rules and regulations
7 adopted thereunder, and any orders of the board or the
8 department relative to certification; and

9 (2) shall have completed the minimum continuing education
10 requirements as specified in the rules and regulations adopted
11 under this act.

12 (d) No operator shall make any process control decisions
13 unless the individual is in possession of a valid certificate
14 for the applicable classification and subclassification assigned
15 to the wastewater system.

16 Section 6. [Waterworks] Water System Operator
17 Certificates.--(a) [Classification.] A certificate approved by
18 the board and issued by the department shall authorize the
19 [person] individual to whom it is issued to operate [any
20 distribution] a water system [and to operate treatment plants]
21 in accordance with the following classifications:

22 "Class A certificate." [Treatment plants] Water systems of
23 all types and capacities.

24 "Class B certificate." [Treatment plants utilizing filtration
25 and] Water systems serving an average of not more than five
26 million gallons per day. [or treatment plants not utilizing
27 filtration and serving an average of not more than ten million
28 gallons per day.]

29 "Class C certificate." [Treatment plants utilizing filtration
30 and] Water systems serving an average of not more than one

1 million gallons per day. [or treatment plants not utilizing
2 filtration and serving an average of not more than five million
3 gallons per day.]

4 "Class D certificate." Water systems serving an average of
5 not more than one hundred thousand gallons per day.

6 "Class E certificate." This certificate covers the
7 distribution portion of water systems only.

8 (b) [Requirements for Certification.--]In order to be
9 eligible for certification, an applicant shall have had
10 sufficient experience acceptable to the board in the operation
11 of [treatment plants. Except as herein provided the minimum
12 experience which the board may accept shall be eight years for a
13 Class A certificate, six years for a Class B certificate, four
14 years for a Class C certificate, and two years for a Class D
15 certificate, provided that these minimum experience requirements
16 may be reduced to not less than two years for a Class B
17 certificate, one year for a Class C certificate, and eliminated
18 completely for a Class D certificate when the board finds that
19 the applicant is qualified to operate a distribution system. The
20 board may make allowance for experience for the following
21 reasons:

22 (1) For successful completion of each grade of school or
23 high school above the sixth grade the experience required may be
24 reduced by six months.

25 (2) For the successful completion of each waterworks short
26 course of at least twenty-four hours' duration or equivalent
27 which is acceptable to the board the experience required may be
28 reduced by six months.

29 (3) For the successful completion of each correspondence
30 course in sanitary engineering or water supply treatment which

1 is acceptable to the board the experience required may be
2 reduced by one year.

3 (4) For the successful completion of each academic year with
4 major work in engineering, chemistry, or other scientific
5 subjects closely allied to the field of water treatment, the
6 experience required may be reduced by one year. Appropriate
7 credit may be given for completed semesters or other normal
8 portions of an academic year.

9 (5) For each graduate degree in engineering, chemistry, or
10 other scientific subjects closely allied to the field of water
11 treatment, the experience required may be reduced by one year.

12 (6) For each year's experience as a sanitary engineer in the
13 field of water treatment the experience required may be reduced
14 by one year.

15 (7) Experience in the design, construction, or operation of
16 water, sewage or industrial waste treatment plants or allied
17 fields may be evaluated by the board and applied to reduce the
18 minimum experience requirements set forth above.] water systems.
19 In determining whether minimum experience requirements are met,
20 the board may make reasonable allowance for education and
21 training in the field of water system operation and for training
22 and experience in allied fields.

23 (c) In order to be eligible for renewal of certification, in
24 addition to submitting an application and the appropriate fee,
25 an applicant:

26 (1) shall be in compliance with the conditions of his or her
27 current certificate, the act and the rules and regulations
28 adopted thereunder, and any orders of the board or the
29 department relative to certification; and

30 (2) shall have completed the minimum continuing education

1 requirements as specified in the rules and regulations adopted
2 under this act.

3 (d) No operator shall make any process control decisions
4 unless he or she is in possession of a valid certificate for the
5 applicable classification and subclassification assigned to the
6 water system.

7 Section 8. The act is amended by adding a section to read:

8 Section 6.1. Interim Program Authorization.--(a)
9 Notwithstanding any provision to the contrary, the department
10 shall implement an interim certification program to meet the
11 requirements of section 1419 of the Safe Drinking Water Act
12 (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and
13 300f et seq.) in a timely manner. The interim program shall
14 expire after the Environmental Quality Board adopts regulations
15 under section 4(c).

16 (b) The program shall meet the requirements of the final
17 Guidelines for the Certification and Recertification of the
18 Operators of Community and Nontransient Noncommunity Public
19 Water Systems published in the Federal Register under the
20 requirements of section 1419 of the Safe Drinking Water Act
21 (Public Law 93-523, U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f
22 et seq.). The program may include comparable requirements for
23 wastewater treatment operators including continuing education
24 requirements.

25 (c) The department may develop, after notice and opportunity
26 for comments, guidelines to implement an interim program
27 authorized under this section.

28 Section 9. Section 7 of the act, amended June 17, 1973
29 (P.L.87, No.37), is amended to read:

30 Section 7. Professional Engineers.--[(a) Anyone] An

1 engineer registered under the ["Professional Engineers
2 Registration Law," approved] act of May 23, 1945 (P.L.913[]),
3 No.367), known as the "Engineer, Land Surveyor and Geologist
4 Registration Law," after the effective date of this amendment,
5 who has been examined in civil [or sanitary engineering or
6 otherwise proves he is proficient shall be granted a certificate
7 upon application to the board.], environmental or sanitary
8 engineering and is otherwise qualified consistent with the act
9 and the rules and regulations adopted under it shall be granted
10 a certificate upon application to the board after successfully
11 passing a certification examination for the appropriate
12 classification and subclassification and payment of the
13 appropriate fee. The requirements related to recertification,
14 renewal of certification and continuing education shall also
15 apply to engineers. To the extent authorized by Federal
16 requirements, the board shall allow a registered professional
17 engineer to rely upon the examination testing under the
18 "Engineer, Land Surveyor and Geologist Registration Law" related
19 to civil, environmental or sanitary engineers to demonstrate
20 that the registered professional engineer has the necessary
21 skills, knowledge, ability and judgment for classifications and
22 subclassifications, as appropriate, and to meet all or a portion
23 of the certification examination requirement in this section. To
24 the extent authorized by Federal requirements the board may
25 allow a registered professional engineer to rely upon
26 examination testing associated with board-approved college or
27 university courses or curriculum to demonstrate that the
28 registered professional has the necessary skills, knowledge,
29 ability and judgment for classifications and subclassifications,
30 as appropriate, and to meet all or a portion of the

1 certification examination requirements in this section. For
2 purposes of this section, the requirements for wastewater system
3 certificates shall be deemed the same as water system operation
4 certificates.

5 [(b) Subsection (a) of this section or any other provision
6 of this act shall not be construed to require certification and
7 registration for operation of any class of treatment plant or
8 distribution system by a professional engineer registered under
9 the "Professional Engineers Registration Law" who is competent
10 to perform professional civil or sanitary engineering services.]

11 Section 10. Sections 8 and 9 of the act are amended to read:

12 [Section 8. Special Certificates.--The board shall issue a
13 certificate to any person who at the time of the passage of this
14 act has the direct responsibility for the operation of a sewage
15 treatment plant, water treatment plant or distribution system.
16 Such special certificate shall permit the holder to operate only
17 the type of plants or distribution systems for which
18 certificated. This certificate shall be issued without
19 examination upon submission of an application and payment of the
20 required fee as set forth in section 12.]

21 Section 9. Reciprocity.--The board may [issue] authorize the
22 issuance of certificates without examination to applicants who
23 hold valid certificates issued under laws of any other state,
24 territory, [or] the District of Columbia, or any board-approved
25 reciprocity register provided the out-of-state certificate was
26 issued as a result of the successful passing of an examination
27 equivalent to the examination given by the board for the same
28 [grade] classification and subclassification. Experience and
29 training requirements of applicants for certification as
30 operators set forth in [sections 5 and 6] the rules and

1 regulations promulgated under this act shall apply to all such
2 applicants. The requirements relating to recertification and
3 renewal of certification shall apply to operators who receive
4 their certificate under this section.

5 Section 11. Section 10 of the act is repealed.

6 Section 12. Section 11 of the act is amended to read:

7 Section 11. Administrative Procedure and Judicial Review.--

8 The board shall be subject to the provisions of the act of April
9 28, 1978 (P.L.202, No.53), known as the ["Administrative Agency
10 Law," approved June 4, 1945 (P.L.1388), and its amendments.]
11 "Judiciary Repealer Act."

12 Section 13. Section 12 of the act is repealed.

13 Section 14. Sections 13 and 14 of the act are amended to
14 read:

15 Section 13. Operation of [Treatment Plants] Water or
16 Wastewater Systems.--(a) After [two years from the effective
17 date of this act] January 1, 1971, and, except as provided in
18 the following [paragraph] paragraphs, each owner [and each
19 purveyor] shall employ the services of a certified operator of
20 the required classification and subclassification who shall have
21 the direct responsibility for the operation of the [treatment
22 plant or distribution] water or wastewater system and shall
23 employ the services of such additional certified operators as
24 are required pursuant to the provisions of this act and rules
25 and regulations promulgated under it. The name of [such
26 individual] operators in responsible charge must be on file at
27 all times with the department.

28 [(b) In the event of an emergency or unforeseeable
29 circumstance which results in a treatment plant or distribution
30 system being temporarily without the services of a certified

1 operator of the required classification, the services of a
2 certified operator must be engaged within thirty days. In such a
3 case, the department may issue a temporary certificate to an
4 operator holding a certificate not more than one grade lower
5 than that required for the plant involved, and, in the case of a
6 sewage treatment plant requiring an operator with a Class F
7 certificate, or in the case of a water treatment plant or
8 distribution system requiring an operator with a Class D
9 certificate, to any person selected by the owner who is deemed
10 by the department to be capable of operating the plant or
11 system. Any temporary certificate issued by the department shall
12 specify the period of time for which said certificate shall be
13 in effect.]

14 (b) On or before three years from the effective date of this
15 amendatory act, each owner must place the direct supervision of
16 their water or wastewater system under the responsible charge of
17 available operators who hold a valid certificate of the
18 applicable classification and subclassification to operate their
19 system. Each owner shall employ the services of available
20 operators of the required classification and subclassification
21 who shall make process control decisions for the operation of
22 the water or wastewater system during all periods of operation.
23 All process control decisions must be made by a certified
24 operator. Such decisions may be made onsite, from a remote
25 location and communicated to operators onsite, or by means of an
26 approved standard operating procedure as provided by the rules
27 and regulations adopted under this act.

28 (c) An individual who holds a valid certificate issued
29 pursuant to the rules and regulations adopted under this act
30 which were in effect before the effective date of this act, may

1 continue to operate under the terms and conditions of that
2 certification as long as he or she is in compliance with the act
3 and the rules and regulations adopted thereunder, and any orders
4 of the board or the department relative to certification. Annual
5 renewals of certificates shall continue in full force and effect
6 upon application and payment of the renewal fees heretofore
7 prescribed by law until such fees are superseded and repealed by
8 the rules and regulations adopted under this act. Such
9 certification shall expire and the operator shall apply for
10 renewal of certification within such time as may be set by the
11 revised rules and regulations adopted under this act and upon
12 the receipt of notice from the board that such operator shall
13 apply for and obtain certification in accordance with the
14 revised rules and regulations.

15 (d) An owner of a nontransient noncommunity water system or
16 a wastewater collection system who has not employed a certified
17 operator prior to the effective date of this act, and is
18 required to comply with the provisions of the act, may continue
19 to employ such operator as was associated with the system on the
20 effective date of this act on an interim basis provided that the
21 owner applies for the grandparenting of such operator or
22 operators within sixty days of notification by the department,
23 but in any case no later than two years after the effective date
24 of this act. Certification for such grandparented operators
25 shall be temporary, site specific and nontransferable to other
26 systems. The grandparenting of such operator shall expire and
27 the operator must apply for and be granted certification or
28 renewal of certification on or before a date specified in the
29 rules and regulations adopted under this act.

30 (e) It shall be the duty of all certified operators to

comply with the applicable Federal and State laws, and rules and regulations associated with a water or wastewater system including, but not limited to:

(1) Meeting all the requirements for recertification or renewal of certification including any continuing education requirements.

(2) Reporting to the system owner any known violations or system conditions that may be or are causing violations of any department regulation or permit conditions or requirements.

(3) Providing for the suitable operation and maintenance of a water or wastewater system utilizing available resources needed to comply with all applicable laws, rules and regulations and permit conditions or requirements.

(4) Reporting to the system owner any action necessary to prevent or eliminate a violation of applicable water or wastewater system laws, rules and regulations and permit conditions and requirements.

(5) Making or implementing appropriate process control decisions, or taking or directing actions related to process control decisions for specific water or wastewater systems.

(f) It shall be the duty of all owners to comply with the applicable Federal and State laws, and rules and regulations associated with a water or wastewater system, including, but not limited to:

(1) Employing, identifying and reporting to the department the names of available operators and other information required by the department.

(2) Requiring, supervising and directing certified operators to take such action so that the water and wastewater system is in compliance with all applicable laws, rules, regulations and

1 permits.

2 ~~(3) Providing a copy to their certified operators of all~~ <—
3 ~~current water or wastewater permit requirements and any other~~
4 ~~pertinent documentation that is needed to make process control~~
5 ~~decisions.~~

6 Section 14. [Penalties] Enforcement.--[Any person] (a) An
7 owner who violates any applicable provision of section 13 and
8 any written order of the department issued under section 4(b)(2)
9 of this act[,] is guilty of a summary offense and shall, upon
10 conviction thereof, in a summary proceeding, be sentenced to pay
11 a fine or not less than fifty dollars (\$50) nor more than [one
12 hundred dollars (\$100)] one thousand dollars (\$1,000) and costs.
13 For the purpose of this section, each day that an offense
14 continues shall be construed to constitute a separate offense.
15 The department shall have the power and duty to initiate summary
16 proceedings in accordance with this section.

17 (b) An operator who violates any provision of subsection
18 5(d) or 6(d), and an order of the department issued under
19 section 4(b)(2) is guilty of a summary offense and shall, upon
20 conviction thereof, in a summary proceeding, be sentenced to pay
21 a fine of not less than fifty dollars (\$50) nor more than five
22 hundred dollars (\$500) and costs. For the purpose of this
23 section, each day that a violation continues shall be construed
24 to constitute a separate offense. The department shall have the
25 power and duty to initiate summary proceedings in accordance
26 with this section.

27 (c) In addition to a proceeding under any other remedy
28 available at law or in equity, the department may assess a civil
29 penalty upon any person who violates any applicable provision of
30 section 13 or any operator who violates section 5(d) or 6(d) and

1 any order issued by the department under section 4(b)(2). A
2 penalty may be assessed whether or not the violation was willful
3 or negligent. When the department assesses a civil penalty, it
4 shall inform the person of the amount of the penalty. The amount
5 must be commensurate with the type, severity and frequency of
6 the violation and its measurable impact on the environment or
7 public health. The owner or operator so assessed shall have
8 thirty days to pay the penalty in full or, if the person wishes
9 to contest either the amount of the penalty or the fact of the
10 violation, the person shall, within the thirty-day period, file
11 an appeal with the Environmental Hearing Board. Failure to
12 appeal within thirty days of the assessment shall result in a
13 waiver of all legal rights to contest the violation or the
14 amount of the penalty. The maximum civil penalty which may be
15 assessed is one thousand dollars (\$1,000) per day for each
16 violation. For the purpose of this section, each day that a
17 violation continues shall be construed to constitute a separate
18 violation.

19 (d) The civil penalty assessed in section 14(c) after
20 administrative hearing or after waiver of administrative hearing
21 shall be payable to the Commonwealth of Pennsylvania and shall
22 be collectable in any manner provided by law for the collection
23 of debts. If any person liable to pay any such penalty neglects
24 or refuses to pay the same after demand, the amount together
25 with interest and any costs that may accrue shall constitute a
26 judgment in favor of the Commonwealth upon the property of such
27 person from the date it has been entered and docketed on record
28 by the prothonotary of the county where such is situated. The
29 department may, at any time, transmit to the prothonotary's
30 office of the respective counties certified copies of all such

1 judgments and it shall be the duty of each prothonotary to enter
2 and docket them of record in his office and to index the same as
3 judgments are indexed.

4 Section 15. Section 15 of the act, amended December 22, 1989
5 (P.L.790, No.112), is amended to read:

6 Section 15. Civil Relief.--The [Secretary of Environmental
7 Resources] department may maintain an action in the name of the
8 Commonwealth for an injunction or other process against [any
9 person] an owner or operator to restrain or prevent such person
10 from violating the provisions of [this act] sections 5(d), 6(d)
11 or 13 or any order[, rules or regulation] of the [board issued
12 pursuant to the provisions of this act] department issued under
13 section 4(b)(2).

14 Section 16. (a) No employer may discharge, threaten or
15 otherwise discriminate or retaliate against an employee
16 regarding the employee's compensation, terms, conditions,
17 location or privileges of employment because the employee makes
18 a good faith report or is about to report, verbally or in
19 writing, to the owner or appropriate authority an instance of
20 wrongdoing.

21 (b) The remedies, penalties and enforcement procedures for
22 violations of this section shall be provided in the act of
23 December 12, 1986 (P.L.1559, No.169), known as the Whistleblower
24 Law.

25 (c) As used in this section, the following words and phrases
26 shall have the meanings given to them in this subsection:

27 "Appropriate authority." A Federal, State or local
28 government body, agency or organization having jurisdiction over
29 criminal law enforcement or regulatory violations; or a member,
30 officer, agent, representative or supervisory employee of the

1 body, agency or organization.

2 "Employee." A person who performs services for wages or
3 other remunerations under a contract for hire, written or oral,
4 express or implied at a water and wastewater system including
5 the operators of such systems.

6 "Employer." A person supervising employees at water and
7 wastewater systems including owners of such systems.

8 "Good faith report." A report of conduct defined in this
9 section as wrongdoing which is made without malice or
10 consideration of personal benefit and which the person making
11 the report has reasonable cause to believe is true.

12 "Wrongdoing." A violation which is not of a merely technical
13 or minimal nature of a Federal or State statute, regulation,
14 license, permit, certificate or order relating to the operation
15 of water and wastewater systems or relating to the preservation
16 of public health and safety in relation to such systems.

17 Section 17. All rules and regulations promulgated under this
18 act are continued in full force and effect until superseded by
19 the interim program authorized under section 6.1 or by rules or
20 regulations promulgated under it.

21 Section 18. This act shall take effect immediately.