

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our file #517

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 4/13/79 Temporary Rule _____

Resubmitted and Received 4/27

DUE DATE 5/3/79

a. Returned to Agency w/o filing w/Secy of State 5/1
b. Approved 4/30 Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable [redacted] ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence _____
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable ✓
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable N.A.

Our File: 517

WILLIAM G. MILLER
Special Assistant
Attorney General

April 30, 1979

Lee E. Sheehy

In the Matter of Proposed Amendments to Rules Relating to Water and Wastewater Facility Classification and Operator Certification.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: April 26, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Amendments to Rules Relating to Water and Wastewater Facility Clarification and Operator Certification

Pursuant to our correspondence, I have attached three copies of the following rules, incorporating the changes and corrections we discussed:

6 MCAR §§ 5.001A(3) and 5.001B(6).

Please contact me with any questions or comments.

WGM:rlb
Attachment

Lee,
I note also
5.001B(3).

RECEIVED
APR 27 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File No. 517

ATTORNEY GENERAL

WILLIAM G. MILLER
Special Assistant
Attorney General

May 1, 1979

LEE E. SHEEHY
Special Assistant
Attorney General

296-1288

In the Matter of the Proposed Adoption/Amendment of Rules Relating to Water and Wastewater Operator Certification.

The rules proposed for adoption in the above-captioned matter have NOT been approved by this office or filed with the Secretary of State for reasons set forth below.

After agency consideration of these reasons and appropriate action, if any, the rules may be resubmitted to this office for approval and filing with the Secretary of State. At that time, please be sure that the original of the Order Adopting and the Rules as adopted are resubmitted as they are necessary for filing with the Secretary of State.

The above-captioned rules have not been approved for the following reasons:

1. Hearing Examiner Finding No. 10 which was adopted and incorporated by reference as the Agency's Findings of Fact and Conclusions requires the word "regulation" contained in Section 5.001 A. 3. to be changed to "rules". This change has not been done in the rules submitted to this office for adoption.

2. Inclusion of the year "1976" in the statutory citations throughout the rule without the subsequent clause "as amended" creates certain problems. While these problems generally do not go to matters of form and legality, a serious problem does arise in the above-captioned rules. Specifically, the definition contained in 6 MCAR Section 5.001 B. 6. of water supply system refers to the definition contained in Minnesota Statutes, Section 115.76 (1976). However, that definition was amended in 1977. See Laws of Minnesota 1977, Chapter 66, Section 9. As such, the definition the department adopted relating to water supply system is not the same definition as presently found in Minn. Stat. § 115.71 (1978). The department should consider this problem and determine if a change in the rule proposed for adoption should be made.

If you have any questions, do not hesitate to call me.

LES/bw
cc: Duane Harves, Chief Hearing Examiner
Marshall Whitlock, Executive Director
Legislative Committee to Review Agency Rules

RULE AS PROPOSED

ERRATA

Page	Rule	
966	6MCAR §5.002 A.1.c(2)(e):	Disinfection, should read "5" rather than "3" points
966	6MCAR §5.002 B.1.a(2):	should read: "Design flow, average day, or peak month's flow, average day, whichever is larger."
970	6MCAR §5.003 F:	2nd line, substitute "director" for "secretary".

Water and Wastewater Operator Council of Certification

Rules as Proposed

~~WWOB 1:~~ ~~The following rules, procedures, and fee schedule are hereby adopted and established for the classification of water supply and wastewater treatment facilities, issuance of operator certificates and payment of fees.~~

~~(a) PURPOSE: This regulation is intended to: (1) serve as a vehicle by which persons desiring to demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency; (2) implement the requirements of Laws of 1971, Chapter 828 (codified as Minnesota Statutes, Section 115.71 et seq.), that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Board in a class equal to or higher than the class of his system or facility; and (3) promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these regulations to obtain proper certification. Such personnel will not only be urged to qualify for certificates for the positions they hold, but also for higher grades. Persons, firms, and corporations, either municipal or private, will be urged to employ certified operators.~~

~~(b) DEFINITIONS: Terms and abbreviations used in this regulation shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minnesota Statues 1971, Chapters 115 and 116, the context, and professional usage.~~

~~(1) Agency means the Minnesota Pollution Control Agency.~~

~~(2) Board means the board of certification established by Minnesota Statutes 1971, Section 115.74.~~

~~(3) Department means the Minnesota Department of Health.~~

(4) Direct responsibility or direct responsible charge means complete supervision of the day to day operation of a water supply system or wastewater treatment facility. A city manager, superintendent of public works or other administrative officials shall not be deemed to have direct responsible charge of a system or facility unless their duties include the day to day operation of the system or facility.

(5) Director means the director of the Minnesota Pollution Control Agency.

(6) Population equivalent is a means of expressing the strength of pollutional material in wastewater. For the purpose of this regulation the population equivalent shall be determined by dividing a daily pound load of 5 day, 20 degree centigrade Biochemical Oxygen Demand (BOD) of the raw waste by 0.17.

(7) Secretary means the secretary and executive officer of the State Board of Health.

(8) Wastewater certificate means a certificate of competency issued by the director stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.

(9) Wastewater treatment facility means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in Minnesota Statutes, Section 115.01, Subdivision 2, which is actually used or intended for use by the public or by any considerable number of persons.

(10) Wastewater treatment facility operator means a person who has direct responsibility for the operation of a wastewater treatment facility.

(11) Water certificate means a certificate of competency issued by the secretary stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.

(12) Water supply system means the facilities, including the source, for the collection, conditioning, purification and distribution of water for use by the public or for the use of any considerable number of persons.

(13) Water supply system operator means a person who has direct responsibility for the operation of a water supply system or such parts of the system as would affect the quality and safety of the water.

(14) Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(e) SEVERABILITY. If any provision of this regulation or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of the regulation or application of any other part of this regulation which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections or subdivisions herein and the various applications thereof are declared to be severable.

(d) CLASSIFICATION OF WATER SUPPLY SYSTEMS. In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 1, the secretary hereby establishes the basis for classification of all water supply systems actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of plant and the population affected as follows:

(1) Water supply system classification shall be based on the following accumulative rating values:

	Rating Value
(aa) Water Supply Source	
(aa-1) Ground Water	3
(aa-2) Surface Water	15
(bb) Quality of Water Supply	
(bb-1) Less than 1.0 Coliform per 100 ml (milliliters)	2
(bb-2) 1.0 to 100 Coliform per 100 ml	4
(bb-3) 100 to 1,000 Coliform per 100 ml	6
(bb-4) 1,000 to 5,000 Coliform per 100 ml	8
(bb-5) 5,000 to 20,000 Coliform per 100 ml	10
(bb-6) More than 20,000 Coliform per 100 ml	12
(cc) Unit Treatment Processes	
(cc-1) Aeration	2
(cc-2) Coagulation (Surface Water Only)	10

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

(ee-3) Sedimentation	5
(ee-4) Filtration	10
(ee-5) Disinfection	5
(ee-6) Ion Exchange	5
(ee-7) Chemical Oxidation	2
(ee-8) Chemical Precipitation (Softening)	6
(ee-9) Stabilization	2
(ee-10) Fluoridation	5
(ee-11) Ammoniation	5
(ee-12) Taste and Odor Control	2
(dd) Distribution Storage Capacity	
(dd-1) 0 to 5,000 gallons	1
(dd-2) 5,001 to 50,000 gallons	2
(dd-3) 50,001 to 500,000 gallons	3
(dd-4) 500,001 to 5 MG (million gallons)	4
(dd-5) Over 5 MG	5
(ee) Number of wells	
(ee-1) 1 to 3	2
(ee-2) 4 to 7	4
(ee-3) 8 to 15	6
(ee-4) Over 15	8
(ff) Population Affected	
(ff-1) 0 to 1,000 persons	2
(ff-2) 1,001 to 5,000 persons	5
(ff-3) 5,001 to 10,000 persons	11
(ff-4) 10,001 to 20,000 persons	20
(ff-5) 20,001 to 50,000 persons	32
(ff-6) 50,001 to 100,000 persons	47
(ff-7) 100,001 persons and over	70

(2) Class of Water Supply System	Accumulated Rating Value
(aa) Class A	76 or more
(bb) Class B	51-75
(cc) Class C	26-50
(dd) Class D	1-25

(3) Where unusual factors may affect the degree of hazard to public health or type and loading of plant or the population affected; or where the accumulated rating value necessitates a change in the class of a water supply system, the secretary may modify the classification of a water supply system.

(c) CLASSIFICATION OF WASTEWATER TREATMENT FACILITIES: In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 2, the director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage handled, as follows:

(1) CLASS A TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve more than 50,000 population equivalent and located upstream of an intake for a water supply system, and which may affect such system; or

(bb) Designed to serve 15,000 to 50,000 or greater population equivalent employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or any other specific elements or materials is provided.

(2) CLASS B TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve greater than 15,000 population equivalent employing primary treatment with disinfection but not designated as Class A treatment facilities; or

(bb) Designed to serve 5,000 to 15,000 population equivalent and located upstream from and with a direct continuous effluent discharge to a lake or continuous flowing stream classified for contact recreation; or

(cc) Designed to serve 5,000 to 15,000 population equivalent, employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus, or any other specific elements or materials is provided.

(3) CLASS C TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve 5,000 to 15,000 population equivalent but not designated as Class B treatment facilities; or

(bb) Designed to serve less than 5,000 population equivalent, employing secondary treatment and disinfection, or the equivalent, except non-aerated stabilization ponds, with or without treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or other specific elements or materials; or

(cc) Designed to serve less than 5,000 population equivalent and employing secondary treatment with disinfection and on-land disposal of the treated effluent.

(4) CLASS D TREATMENT FACILITIES shall mean treatment facilities which are not designated as Class A, B, C, or S treatment facilities.

(5) CLASS S TREATMENT FACILITIES shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from the wastewater treatment facilities which treat, stabilize or dispose of the sewage collected, pumped or conveyed therein. Where such conveyance facilities are not so distinctly separate they are considered to be part of the treatment facilities for which the designated operator is responsible. Class S treatment facilities shall be subclassified as follows:

(aa) Class S-A. Serving a population equivalent of 50,000 or more.

(bb) Class S-B. Serving a population equivalent of 15,000 or more but less than 50,000.

(cc) Class S-C. Serving a population equivalent of less than 15,000 with pumping facilities.

(dd) Class S-D. Serving a population equivalent of less than 15,000 without pumping facilities.

(6) Where unusual factors may affect the degree of hazard to public health, type and loading of the treatment facility, the population served or the average population equivalent of the sewage handled, the director may modify the classification of a wastewater treatment facility.

(f) WATER SUPPLY SYSTEM AND WASTEWATER TREATMENT FACILITIES OPERATOR QUALIFICATIONS:

(1) In addition to the requirements listed in this section for specific classes, every operator shall pass an examination pursuant to Section (g) and shall be in satisfactory health and physically capable of performing the work required. The certification of an operator is based on the skill, knowledge, experience, education and character that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state.

(2) CLASS A OPERATOR

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering, or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least three years of responsible experience in the operation and management of a Class A or a Class B water supply system, wastewater treatment facility or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of seven years responsible experience in the operation and management of a Class A or B water supply system, wastewater treatment facility, or a similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(3) CLASS B OPERATOR.

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least two years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(4) CLASS C OPERATOR.

(aa) Each applicant shall:

(aa-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, or D water supply system, wastewater treatment facility, or similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

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(5) CLASS D OPERATOR.

(aa) Each applicant shall:

(aa-1) Be an elementary school graduate possessing not less than one year of acceptable experience for the work required; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(6) CLASS S OPERATOR.

(aa) Sub-Class S-A Operator. Each applicant shall:

(aa-1) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, S-A or S-B treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(bb) Sub-Class S-B Operator. Each applicant shall:

(bb-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, S-A, S-B or S-C treatment facility, and have completed special courses of training acceptable to the Board; or

(bb-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(cc) Sub-Class S-C Operator. Each applicant shall:

(cc-1) Be a high school graduate with a minimum of two years responsible experience in the operation and management of a Class A, B, C, D, S-A, S-B, S-C, or S-D treatment facility, and have completed special courses of training acceptable to the Board; or

(cc-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(dd) Sub-Class S-D Operator. Each applicant shall:

(dd-1) Be an elementary school graduate possessing not less than one year of acceptable experience for the work required; or

(dd-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(7) The experience required above to qualify as an operator may be reduced by up to six months by the Board for the successful completion of each academic year beyond high school with engineering relating to water supply systems and wastewater treatment or course work in the chemical or biological sciences, or a technical school, or for the successful completion of 50 classroom hours of courses relating to water supply systems or wastewater treatment. In no event shall such education reduce the experience requirements stated above to less than one year.

(8) One year of operating experience may be considered as equivalent to one year high school. Experience applied to education cannot also be applied to the experience requirements.

(g) APPLICATIONS, EXAMINATIONS AND ISSUANCE OF CERTIFICATES:

(1) Application for Examination

(aa) Application shall be made in writing to the secretary or director at least 30 days prior to the date on which the examination will be given, on a form prescribed and furnished by the secretary or director or others designated by the secretary or director. Applicants found to have submitted incorrect information may be rejected for certification at the discretion of the Board.

(bb) No applicant shall be administered the examination who does not possess the qualifications required by Section (f) except under unusual circumstances, as determined by the secretary, director, or Board, or except as provided in Section (g) (1) (ee).

(cc) In unusual circumstances the Board may permit an applicant upon adequate justification to take an examination as a water supply system or wastewater treatment facility operator where the applicant does not comply with the education or experience qualifications for a particular class as set forth in Section (f) for the purpose of becoming certified as an operator in training.

(dd) The secretary and director or others designated by the secretary or director shall assemble and review all information and documents needed to determine the eligibility of the applicant for examination, and notify him of his status.

(ee) All necessary fees as set forth in Section (i) shall accompany the completed application form.

(ff) A copy of the school or college diploma, equivalency certificate, or other proof of school or college attendance and/or graduation may be required to be submitted by the applicant.

(2) EXAMINATIONS.

(aa) The Board shall prepare written examinations to be used in determining the knowledge, ability, and judgment of operators.

(bb) Separate examinations will be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems.

(cc) The Board shall cause at least one examination to be held each year according to procedures prescribed by the Board for the purpose of examining candidates for certification at a time and place designated by the Board.

(dd) Applicants who fail to receive a passing grade may not repeat that examination for a period of six months.

(ee) A written examination grade of 70 percent shall be considered passing, except in the case of Class A certificates, for which an oral interview also may be required.

(ff) Unless otherwise determined by the Board, all examinations shall be written. All examinations will be graded by the secretary and director, or by others designated by the secretary and director, and the applicant notified directly of the results. Papers will not be returned to the applicant, but upon request within 60 days of notification of the result, the applicant may be allowed to review the examination and grading.

(3) ISSUANCE OF WATER AND WASTEWATER CERTIFICATES.

(aa) Upon satisfactory fulfillment of the requirements provided herein and recommendation of the Board, the secretary or director shall issue a suitable certificate designating the applicant's competency. This certificate will indicate the class of system and/or facility which the applicant is qualified to operate.

(bb) Certificates in appropriate classifications shall be issued to operators who, on the effective date of these regulations, hold certificates of competency attained by examination under the voluntary certification program previously administered by the Department and the Agency.

(cc) An applicant under Section (g) (1) (cc) may be issued a certificate of operator-in-training by the secretary or director based upon the successful passing of an examination and the recommendations of the Board. Such a certificate shall apply only to the class of system and/or facility which the applicant is operating as an operator-in-training at the time of application.

(dd) Certificates of proper classification may be issued upon application and without examination to the person or persons certified by the governing body of owner to have been in direct responsible charge of the water supply system or wastewater treatment facility on July 1, 1972. A certificate so issued shall be valid only for that particular water supply system or wastewater treatment facility and subject to the requirements of Section (h) (1).

(ee) Certificates of operators who terminate their employment at a water supply system or wastewater treatment facility shall remain valid for the unexpired term of the certificate. Operators whose certificates expire under this Section (g) (3) (ee) may upon application to the secretary or director, be issued new certificates of a like classification provided appropriate proof of competency is presented to the Board. Successful completion of an examination may be required at the discretion of the Board.

(ff) Certificates shall be prominently displayed in the office of the operator or other appropriate place on the premises of the water supply system or wastewater treatment facility.

(h) RENEWAL, RECIPROCITY, AND REVOCATION OF OPERATOR CERTIFICATES.

(1) All certificates shall be renewed after a period of three years upon application to the secretary or director, if the applicant has been in attendance at acceptable water and wastewater training schools or other educational activities during the three-year period for at least the number of hours specified in the following schedule: Class A - 32 hours, Class B - 24 hours, Class C - 16 hours, Class D - 8 hours, Class S-A - 16 hours, Class S-B - 16 hours, Class S-C - 8 hours, Class S-D - 8 hours.

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(2) The Board shall annually prepare and make available to the public and certified operators a list of training schools and educational activities acceptable to the Board for the purposes of Section (h) (1).

(3) The secretary or director, upon application therefor, and upon recommendation of the Board, may issue a certificate of an equal or lower class without examination to a person who holds a certificate in any state, territory, or possession of the United States of America, or any other country, provided the requirements for certification of operators under which the performance certificate was issued do not conflict with provisions of these regulations, that reciprocal privileges are granted to Minnesota operators and that the applicant lives in Minnesota or has a need for certification for employment in Minnesota.

(4) The secretary and the director may revoke the certificate of any operator under their respective jurisdictions following a hearing before the secretary or director or his designated representative, when it is found: that the operator has practiced fraud or deception; that the operator was guilty of gross negligence or misconduct in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties. No revocation shall be effective until it has received the concurrence of the Board.

(5) Where the secretary or director reclassifies a water supply system or wastewater treatment facility to a class higher than its previous classification, the governing body or owner and operator of said system or facility shall be notified of such reclassification by the secretary or director, as the case may be. The operator may, prior to a date twelve months after such notification, apply for reclassification to an operator classification equivalent to the system or facility as reclassified. The governing body or owner of the water supply system or wastewater treatment facility operated by said operator shall obtain an operator of the proper classification prior to the expiration of said twelve-month period, unless the previous operator has obtained a water supply system or wastewater treatment facility operator's certificate of the appropriate classification.

(i) SCHEDULE OF FEES:

(1) Fees for certification shall be as follows:

Application for examination	$15.00
Issuance of certificate	$15.00
Re-examination resulting from failure to pass an examination	$15.00
Renewal of certificate	$15.00
Replacement certificate	$ 5.00
Reinstatement or reciprocity certificate	$20.00

(2) Fees from applicants who are rejected for examination will be returned to them.

Fees from those failing to pass an examination will not be returned.

(3) Where fees are paid by check or money order they shall be made payable to the State Treasurer, State of Minnesota, and submitted to the Department in the case of the water supply system operators or the Agency in the case of wastewater treatment facility operators.

(j) TERMINATION OF VOLUNTARY CERTIFICATION PROGRAM:

(1) The voluntary certification program previously administered by the Department and the Agency shall be automatically terminated upon filing of these rules and regulations with the Secretary of State and Commissioner of Administration.

(k) VIOLATIONS. The following acts shall be subject to the remedies provided by law:

(1) Failure to comply with these regulations.

(2) Having direct responsible charge of a water supply system or wastewater treatment facility without an operator's certificate.

(3) Having direct responsible charge of a water supply system or wastewater treatment facility of a class higher than is permitted by the terms of an otherwise lawful operator certificate.

(4) Failure to provide an operator in direct responsible charge of a water supply system or wastewater treatment facility who is a holder of a valid operator certificate of the proper classification which has been issued by the Board.

(l) APPEALS:

(1) Persons aggrieved by actions of the secretary or director pursuant to this regulation may appeal such action to the Board within thirty days of written notice of such action.

(2) Persons aggrieved by actions of the Board pursuant to this regulation may appeal such action to the district court within thirty days of written notice of such action.

6 MCAR § 5.001 This rule states the purpose for and the definitions which are to apply in the interpretation of 6 MCAR §§ 5.001, .002, and .003.

A. These rules are intended to:

1. serve as a vehicle by which persons desiring to

demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency;

2. implement the requirements of Laws of 1971, ch. 828, as amended, (Minn. Stat. §§ 115.71 *et seq.*), that persons in direct responsible charge of a water supply system or wastewater treatmgent facility must obtain a certificate of competency from the Council in a class equal to or higher than the class of his or her system or facility; and

3. promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these regulations to obtain proper certification.

B. DEFINITIONS: Terms and abbreviations used in these rules shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minn. Stat. ch. 115 and 116 (1976), the context, and professional usage.

1. "Agency" means the Minnesota Pollution Control Agency;

2. "Department" means the Minnesota Department of Health;

3. "Facility" means wastewater treatment facility as defined in Minn. Stat. § 115.71 (1976);

4. "Population equivalent" is a means of expressing the strength of pollutional material in wastewater. For the purpose of these rules the population equivalent shall be determined by dividing a daily pound load of 5 day, 20 degree centigrade biochemical oxygen demand (BOD) of the raw waste by 0.17;

5. "Responsible experience" means

a. where shift operation is not required, permanent accountability for and performance of active daily on-site operation;

b. where shift operation is required,

(1) permanent accountability for active daily on-site technical and administrative supervision, and

(2) permanent, active, daily, on-site charge of an operating shift, or a major segment of a system or facility.

A city manager, superintendent of public works, or other administrative officials shall not be deemed to have direct responsibility of a system or facility unless their duties include the day-to-day operation of the system or facility;

6. "System" means water supply system as defined in Minn. Stat. § 115.71 (1976).

6 MCAR § 5.002 Classification of systems and facilities.

A. Classification of water supply systems. The commissioner hereby establishes the basis for classification of all public water supply systems based on the degree of hazard to the public health, together with the type and loading of plant and the population affected.

1. Water supply system classification shall be based on the following rating values:

Item	Points
a. Water Supply Source	
(1) Ground Water	3
(2) Surface Water	15
b. Quality of Water Supply	
(1) Less than 1.0 Coliform per 100 ml (milliliters;	2
(2) 1.0 to 100 Coliform per 100 ml	4
(3) 100 to 1,000 Coliform per 100 ml	6
(4) 1,000 to 5,000 Coliform per 100 ml	8
(5) 5,000 to 20,000 Coliform per 100 ml	10
(6) More than 20,000 Coliform per 100 ml	12
c. Unit Treatment Process	
(1) Ground Water Source	
(a) Aeration	2
(b) Chemical Precipitation (Softening)	16
(c) Filtration other than after softening process	10

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

(d) Ion Exchange	5
(e) Disinfection	5
(f) Chemical Oxidation	2
(g) Stabilization	2
(h) Fluoridation	5
(i) Ammoniation	5
(j) Taste and Odor Control	2

(2) Surface Water Source

(a) Aeration	2
(b) Coagulation	10
(c) Sedimentation	5
Filtration	10
(e) Disinfection	3
(f) Ion Exchange	5
(g) Chemical Oxidation	2
(h) Stabilization	2
(i) Fluoridation	5
(j) Ammoniation	5
(k) Taste and Odor Control	2

d. Distribution Storage Capacity

(1) 0 to 5,000 gallons	1
(2) 5,001 to 50,000 gallons	2
(3) 50,001 to 500,000 gallons	3
(4) 500,001 to 5 MG (million gallons)	4
(5) Over 5 MG	5

e. Number of Wells

(1) 1 to 3	2
(2) 4 to 7	4
(3) 8 to 15	6
(4) Over 15	8

f. Population Affected

(1) 0 to 1,000 persons	2
(2) 1,001 to 5,000 persons	5
(3) 5,001 to 10,000 persons	11
(4) 10,001 to 20,000 persons	20
(5) 20,001 to 50,000 persons	32
(6) 50,001 to 100,000 persons	47
(7) 100,001 persons and over	70

2. Class of Water Supply System	Accumulated Point Value
a. Class A	76 or more
b. Class B	56 to 75
c. Class C	31 to 55
d. Class D	30 or less

B. Classification of wastewater treatment facilities. The director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage handled.

1. Wastewater treatment facility classification shall be based on the following rating values:

ITEM	POINTS
a. Size	
(1) Maximum population equivalent (P.E.) served	1 per 10,000 P.E. or part thereof
(2) Design flow average day or peak months' flow	1 per million gallons daily or part thereof
b. Effluent Discharge:	
(1) Receiving stream sensitivity based on general standards applicable to all intra- and interstate waters, as prescribed in WPC 14(d)* and WPC 15(d)*	
(a) Domestic consumption	
(i) Class B	6
(ii) Class C	5
(iii) Class D	4
(b) Fisheries and recreation	
(i) Class A	5
(ii) Class B	3
(iii) Class C	2
(2) Dechlorination	5
(3) Land disposal — evaporation	2
(4) Subsurface disposal	4
c. Variation in Raw Wastes	
(1) 1-5% industrial flow contributed to facility	1
(2) 6-10% industrial flow contributed to facility	2
(3) 11-25% industrial flow contributed to facility	3
(4) 26-50% industrial flow contributed to facility	4

(5) 51% or more industrial flow contributed to facility	5
(6) For special treatment of industrial wastes at the wastewater treatment facility	1
d. Pretreatment	
(1) Screening, comminution	3
(2) Grit removal	3
(3) Plant pumping of main flow	3
(4) Preaeration with less than 2 hours' detention time	3
(5) Hydro sieve	4
e. Primary Treatment	
(1) Primary clarifiers	5
(2) Combined sedimentation and digestion	5
(3) Chemical addition, except chlorine and enzymes	4

*adopted in 1973

f. Secondary Treatment	
(1) Trickling filter	5
(2) Activated sludge including pure oxygen activated sludge	10
(3) Stabilization ponds, designed for more than 180 days' detention time	5
(4) Aerated ponds designed for more than 2 hours' detention time	8
(5) Rotating biological surface	5
(6) any number of secondary clarifiers	5
(7) On-site generation of oxygen	5
g. Advanced Waste Treatment	
(1) Aerated polishing ponds designed for less than 180 days' detention time	5
(2) Polishing ponds without aeration	2
(3) Chemical and physical	15
(4) Biological treatment for nitrogen removal	8
(5) Chemical addition for phosphorous and/or solids removal	8
(6) Multi-media filters and/or activated carbon beds	8
(7) Ion exchange	10
(8) Reverse osmosis, electrodialysis	15
(9) Chemical recovery, carbon regeneration	4
(10) Micro-strainers	4
h. Solids Handling	
(1) Thickening including chemical treatment	5
(2) Anaerobic digestion	10
(3) Aerobic digestion	6
(4) Evaporative sludge drying	2
(5) Mechanical dewatering	8
(6) Solids reduction, such as incineration, wet oxidation	12
(7) On-land disposal	5
i. Disinfection	
(1) Chlorination or comparable	5
(2) On-site generation of disinfectant	5
j. Laboratory Monitoring	
(1)Minimum required tests (pH, Cl_2, residual D.O., settleable solids, B.O.D. and T.S.S.)	2
(2) Bacteriology (fecal coliform, total coliform, fecal streptococcal, etc.)	3
(3) Activated sludge process control	3
(4) Nutrients	1
(5) Ground water monitoring	1

2. Class of wastewater treatment facility.

	Accumulated Point Value
a. Class A	76 or more points
b. Class B	56-75 points
c. Class C	31-55 points
d. Class D	30 and less

3. Type S Treatment Facility shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from a wastewater treatment facility which treats, stabilizes or disposes of the sewage collected, pumped or conveyed therein. Where such a conveyance facility is not so distinctly separate, it is considered to be part of the treatment facility for which the designated operator is responsible. A type S treatment facility shall be subclassified as follows:

a. Class S-A. Serving a population of 50,000 or more;

b. Class S-B. Serving a population of 15,000 or more but less than 50,000;

c. Class S-C. Serving a population of 1500 or more but less than 15,000;

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d. Class S-D. Serving a population of less than 1500.

C. Reclassification. When the accumulated point value necessitates a change in the classification of a system or facility, or when unusual factors may affect the degree of hazard to the public health, the type and loading of the system or facility, or the average population served or population equivalent of the sewage handled, the commissioner or director may modify the classification of a system or facility.

6 MCAR § 5.003 Certification.

A. Qualifications for certification of water supply system and wastewater treatment facility operators.

1. General. In order to be certified, an applicant must

a. demonstrate that he or she possesses the skill, knowledge, experience and education that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state, and

b. have passed a written examination taken pursuant to this rule.

2. In addition, before applying to take an examination, a person who seeks certification in a particular class must meet the qualifications for that class as specified below:

a. Class A Certificate: An applicant shall

(1) have been certified as a Class B operator for two years, and

(2) have a

(a) bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least four years of responsible experience in the operation and management of a Class A or B system or facility or a similar industrial facility, or

(b) high school diploma and at least eight years of responsible experience in the operation and management of a Class A or B system or facility, or a similar industrial facility, and

(3) take and pass an oral examination;

b. Class B Certificate: An applicant shall

(1) possess a bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least two years of experience in the operation of a Class A, B, or C system or facility, or similar industrial facility, or

(2) be a high school graduate with at least six years of experience in the operation of a Class A, B, or C system or facility, or a similar industrial facility;

c. Class C Certificate: An applicant shall be a high school graduate with a minimum of three years of experience in the operation of a water supply system, wastewater treatment facility, or similar industrial facility;

d. Class D Certificate: An applicant shall be a high school graduate

(1) who has a minimum of one year of experience in a water supply system, wastewater treatment facility or in a related field, or

(2) who has satisfactorily completed an approved, post-secondary program of courses in water and wastewater technology at an accredited institution.

e. An applicant for a type S wastewater treatment certificate shall possess the same educational and experiential qualifications as are required of one who applies for a regular wastewater certificate in the same class, with the following exceptions:

(1) experience shall have been gained in a regular wastewater or type S facility, and

(2) when one applies for an S-A or S-B type certificate, he or she shall already possess the appropriate class of type S certificate.

3. Substitutions:

A. When a person applies for certification to operate a (1) wastewater treatment facility, experience gained in a water supply system or a type S wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of facility for which the applicant seeks the certificate.

(2) water supply system, experience gained in a wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of system for which the applicant seeks the certificate. Experience gained in a type S wastewater treatment facility may not be substituted when one applies for a water supply system certificate.

b. Persons who apply for a Class A, S-A, B, S-B, C or S-C certificate may substitute education for experience according to the following formulae:

(1) Except as noted below, the Council may reduce the experience required in subsection A.2 above by up to six months for the successful completion of:

(a) each academic year beyond high school in which the applicant took courses relating to water supply and wastewater treatment, or in an appropriate branch of engineering, or in the chemical or biological sciences, or

(b) one hundred contact hours of courses relating to water supply or wastewater treatment.

(2) In no event shall such education be substituted for experience so as to reduce the experience requirement to less than one year.

(3) An applicant may be given credit for taking the same course more than once only upon approval of the Council.

c. One year of experience in the operation of a water supply system or wastewater treatment facility may be considered as equivalent to one year of high school. Experience which is substituted for education cannot also be used to satisfy the experience requirements.

B. Examination procedure.

1. Application for examination.

a. Application for examination shall be made in writing to the commissioner or director on a prescribed form, and should be submitted at least 15 days prior to the date on which the examination will be given.

b. The examination fee shall accompany the application.

c. The appropriate reviewing authority shall review all information and documents needed to determine the eligibility for examination and notify the applicant of his or her status.

d. The applicant may be required to submit a copy of the school or college diploma, equivalency certificate or other proof of school or college attendance and/or graduation.

2. Examinations:

a. The council shall authorize the preparation of written and oral examinations to be used in determining the knowledge, ability and judgment of operators.

b. Separate written examinations shall be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems. The written examination shall test the applicant's knowledge in any one or more of the following areas, as they relate to either water or wastewater treatment: basic science, mathematics, operating procedures, treatment processes, equipment and its maintenance and applicable law and rules.

c. The oral examination for an A certificate will include questions concerning the scope of the applicant's experience, supervisory and managerial responsibilities, and operational capabilities. Such an examination may be conducted by a subcommittee of the council.

d. All examinations shall be closed-book.

e. For the written examination, a grade of 70% shall be considered a passing grade. For the oral examination, the grade shall be either PASS or FAIL.

f. The applicant shall be notified of the results. Papers shall not be returned to the applicant, but upon request within 60 days' notification of the results, the applicant may be allowed to review the written examination.

g. An applicant who fails to pass may not retake the same examination for a period of three months.

C. Restricted certificate.

1. The operator of a system or facility which is reclassified to a higher class pursuant to 6 MCAR § 5.002 C. is eligible for a restricted certificate in the higher class, except as noted in 6 MCAR § 5.003 C.2. A restricted certificate shall be issued upon receipt of the certificate fee and shall be effective for three years from the date of issue. A

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restricted certificate may be renewed in the same manner as an unrestricted certificate. A restricted certificate shall specify that the operator named therein is certified to operate only the reclassified system or facility for which the restricted certificate is issued.

2. No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the operation of which would require considerably more training, knowledge or experience than that possessed by the current operator.

D. Issuance of certificates. Certificates shall be issued by the commissioner or director when all the conditions prescribed in these rules have been satisfied.

E. Renewal.

1. A certificate in any given classification must be renewed within 30 days of its expiration date. Except as provided in 6 MCAR § 5.003 E.2. a renewal certificate will be issued upon receipt of the application, renewal fee and evidence of the fact that the operator has, during the preceding three years, obtained credit for attending approved water and wastewater training courses, or participated in substantially similar educational activities, for the number of hours specified in the following schedule:

Class A and S-A, 32 contact hours;

Class B and S-B, 24 contact hours;

Class C and S-C, 16 contact hours;

Class D and S-D, 8 contact hours.

2. A person who has obtained a Class D or S-D certificate pursuant to 6 MCAR § 5.003 A.2.d.(2) and who has not worked as an operator for at least one year during the time the certificate was in effect shall not be eligible to renew such a certificate.

3. The council shall annually prepare and make available to operators and the public a list of accredited training courses and approved educational activities for which credit may be obtained.

F. Reinstatement. A person whose certificate has expired may apply to the commissioner or secretary for reinstatement of the certificate in the same classification. Before a certificate will be issued, such person must submit the following:

1. the application for reinstatement,

2. the fee for a reinstatement certificate, which fee is non re-fundable, and

3. evidence of the fact that he or she had complied with the continuing education requirements imposed in 6 MCAR § 5.003 E.1. during the entire time since the expired certificate was last issued or renewed.

4. A person who is denied reinstatement will be required to follow the procedure imposed for a new applicant. In such case the reinstatement fee already paid shall be credited towards the fees for examination and a new certificate.

G. Fees.

1. Fees for certification shall be as follows:

a. Application for examination	$15.00
b. Issuance of certificate	$15.00
c. Re-examination resulting from failure to pass an examination	$15.00
d. Renewal of certificate	$15.00
e. Replacement certificate	$ 5.00
f. Reinstatement or reciprocity certificate	$20.00

2. Only fees from persons who are rejected for examination will be returned to them.

Livestock Sanitary Board

Proposed Amendment to Rules Governing Importation of Swine, Eradication of Swine Brucellosis in Minnesota, and Control of Mycoplasma in Poultry, and Promulgation of Rule Governing Control of Pseudorabies

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. ¼ 15.0412, subd. 4 (1976), in Conference Room at 500 Rice Street (one half block north of University Avenue) St. Paul, Minnesota, commencing at 10:00 a.m., or as soon thereafter as possible, Thursday December 7, 1978, and

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General
Dept. of Administration

DATE: April 11, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Proposed Amendments to Rules Relating to Water and Wastewater Facility Classification and Operator Certification

I have enclosed for your review, pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), the record and accompanying documents for the above referenced set of rules. You will note that, while a joint hearing was held for these rules and those relating to the water-well code, only the above rules are submitted for approval at this time. This may explain the overlap of some of the documents in this package.

Please contact me with any questions or comments on this rules package.

WGM:ejb

Enclosure

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Water and Wastewater Facility Classification and Operator Certification *

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE-MAKING PROCEDURES

I, Special Assistant Attorney General William C. Miller, do hereby declare that I have examined the above-referenced rules and all related documents thereto, and that, based upon them and my personal familiarity with the applicable procedures, the Manual of Rule-Making Procedures and the provisions of the Administrative Procedures Act related thereto have been followed.

Dated: 4-10-79

WILLIAM G. MILLER
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Water and Wastewater Facility Classification and Operator Certification *

ADDITIONAL CHANGES TO RULE REVISIONS AS PROPOSED AND JUSTIFICATION FOR CHANGE

At the hearing on the above captioned rules, held on December 12, 1978, the Council of Water and Wastewater Operator Certification, hereafter Council, proposed additional changes to the rule revisions which had been proposed and published at 3 S.R. 958 (Nov. 6, 1978). The four changes which the Council proposed are stated below, along with the justification for each proposed change. An additional, stylistic change is also being made.

6 MCAR §5.003 A.2.e.(2) (3 S.R. 968) should read as follows:

> "When one applies for an S-A certificate, he or she shall have been certified as an S-B operator for 2 years."

Under the rule as proposed, one applying for an S-B certificate would have had to possess an S-C certificate. However, no such requirement is imposed in the proposed rule for one applying for a B certificate. For the purpose of consistency with requirements for regular certificates and because there was no demonstrable need for which possession of an S-C certificate might be required, the Council felt that this requirement should be eliminated for one applying for an S-B certificate. One who applies for an S-B certificate must still possess the required amount of experience and this experience is by far the more important component in determining whether a person qualifies for the S-B certificate. Elimination of this requirement should not inconvenience or burden anyone. Since the requirement as originally proposed serves little purpose in the evaluation process, its elimination is reasonable.

6 MCAR §5.003 A.3.b.(3) (3 S.R. 969) should read as follows:

"An applicant may be given credit for taking the same course more than once <u>if there is a substantial difference in course content,</u> only upon approval of the Council."

New language is being added here because the Council wishes to make clear that it will give credit for taking the same course a second time only when the applicant can show that the content is indeed different upon taking it the second time. The new language puts the applicant on notice by stating the criterion by which the Council will decide. Because the additional language clarifies the Council's procedure when considering a request for approval, it is reasonable.

6 MCAR §5.003 B.1.a. should read as follows:

"Application for examination shall be made in writing to the commissioner or director on a prescribed form, and shall be submitted at least 15 days prior to the date on which the examination will be given."

The second "shall" replaces the word "should" which was used in the proposed rule. The Council feels that in order to properly evaluate an applicant, it must have sufficient time in which to do so. The permissive word "should" would have allowed candidates to submit their applications immediately prior to taking the exam. This would obviously affect the quality of the Council's review of an application. Having all applications in 15 days before an exam is given will help assure that all applicants can be evaluated under similar conditions. For these reasons, the proposed change is reasonable.

6 MCAR §5.003 C.2. (3 S.R. 970) should read as follows:

"No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the

operation of which would require considerably more knowledge or experience than that required by the system or facility as it was formerly classified."

The proposed change requires a re-evaluation of the system or facility which is independent of the qualifications of the current operator. The Council is of the opinion that this will provide a more fair and accurate basis for determining whether or not a restricted certificate should be issued, than if they were to examine the qualifications of the operator. The change is not one of major significance and because it allows for a more impartial means for assessing the amount of experience required for successful and safe operation of the system or facility, it is reasonable.

6 MCAR §5.002 C. shall read as follows:

"Reclassification. When the accumulated point value necessitates a change in the classification of a system or facility, or when unusual factors may affect the degree of hazard to the public health, the type and loading of the system or facility, or the average population served or population equivalent of the wastewater handled, the commissioner or director may modify the classification of a system or facility."

The word "wastewater"is being substituted for the word "sewage" in order to maintain internal consistency. The word "sewage" is not used anywhere else in the proposed rules and since it is synonymous with wastewater,the Council prefers to use the term "wastewater."

* * * * *

Since the proposed rule as published at 3 S.R. 964 contained numerous typographical errors and omissions, the proposed rules will be re-published in their entirety, in correct form, along with the changes noted above upon their adoption and approval as required by the Administrative Procedures Act (Minn. Stats. §15.0412 (1976) as amended by Laws 1977, Ch. 443 §2).

Minnesota Water and
Wastewater Operators
Certification Council

Date: Dec. 19, 1978

PAUL B. JOHNSON, Secretary

Adopted Rules

WATER AND WASTEWATER
OPERATOR COUNCIL OF CERTIFICATION

6 MCAR §5.001 This rule states the purpose for and the definitions which are to apply in the interpretation of 6MCAR §5.001, 5.002, and 5.003.

A. These rules are intended to:

1. serve as a vehicle by which persons desiring to demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency;
2. implement the requirements of Laws, 1971, Chapter 828, as amended, (Minn. Stats. Section 115.71 et seq.), that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Council in a class equal to or higher than the class of his or her system or facility; and
3. promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these rules to obtain proper certification.

B. DEFINITIONS: Terms and abbreviations used in these rules shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minnesota Statutes 1976, Chapters 115 and 116, the context, and professional usage.

1. "Agency" means the Minnesota Pollution Control Agency;
2. "Department" means the Minnesota Department of Health;
3. "Facility" means wastewater treatment facility as defined in Minn. Stat. § 115.71;
4. "Population equivalent" is a means of expressing the strength of pollutional material in wastewater. For the purpose of these rules the population equivalent shall be determined by dividing a daily pound load of 5-day, 20 degree centigrade

biochemical oxygen demand (BOD) of the raw waste by 0.17;

5. "Responsible experience" means

   a. where shift operation is not required, permanent accountability for and performance of active daily on-site operation;

   b. where shift operation is required,

      (1) permanent accountability for active daily on-site technical and administrative supervision, and

      (2) permanent, active, daily, on-site charge of an operating shift, or a major segment of a system or facility.

   A city manager, superintendent of public works, or other administrative officials shall not be deemed to have direct responsibility of a system or facility unless their duties include the day-to-day operation of the system or facility;

6. "System" means water supply system as defined in Minn. Stat. § 115.71;

6 MCAR §5.002 Classification of Systems and Facilities:

A. CLASSIFICATION OF WATER SUPPLY SYSTEMS:

The commissioner hereby establishes the basis for classification of all public water supply systems based on the degree of hazard to the public health, together with the type and loading of plant and the population affected.

1. Water supply system classification shall be based on the following rating values:

ITEM	POINTS
a. Water Supply Source	
(1) Ground Water	3
(2) Surface Water	15
b. Quality of Water Supply	
(1) Less than 1.0 Coliform per 100 ml (milliliters)	2
(2) 1.0 to 100 Coliform per 100 ml	4
(3) 100 to 1,000 Coliform per 100 ml	6

(4)	1,000 to 5,000 Coliform per 100 ml	8
(5)	5,000 to 20,000 Coliform per 100 ml	10
(6)	More than 20,000 Coliform per 100 ml	12

c. Unit Treatment Processes

(1)	Ground Water Source	
	(a) Aeration	2
	(b) Chemical Precipitation (Softening)	16
	(c) Filtration other than after softening process	10
	(d) Ion Exchange	5
	(e) Disinfection	5
	(f) Chemical Oxidation	2
	(g) Stabilization	2
	(h) Fluoridation	5
	(i) Ammoniation	5
	(j) Taste and Odor Control	2
(2)	Surface Water Source	
	(a) Aeration	2
	(b) Coagulation	10
	(c) Sedimentation	5
	(d) Filtration	10
	(e) Disinfection	5
	(f) Ion Exchange	5
	(g) Chemical Oxidation	2
	(h) Stabilization	2
	(i) Fluoridation	5
	(j) Ammoniation	5
	(k) Taste and Odor Control	2

d. Distribution Storage Capacity

(1)	0 to 5,000 gallons	1
(2)	5,001 to 50,000 gallons	2
(3)	50,001 to 500,000 gallons	3
(4)	500,001 to 5 MG (million gallons)	4
(5)	Over 5 MG	5

e. Number of Wells

(1)	1 to 3	2
(2)	4 to 7	4
(3)	8 to 15	6
(4)	Over 15	8

f. Population Affected

(1)	0 to 1,000 persons	2
(2)	1,001 to 5,000 persons	5
(3)	5,001 to 10,000 persons	11
(4)	10,001 to 20,000 persons	20
(5)	20,001 to 50,000 persons	32
(6)	50,001 to 100,000 persons	47
(7)	100,001 persons and over	70

2. Class of Water Supply System — Accumulated Point Value

a.	Class A	76 or more
b.	Class B	56 to 75
c.	Class C	31 to 55
d.	Class D	30 or less

B. CLASSIFICATION OF WASTEWATER TREATMENT FACILITIES:

The director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of the facilities and the population served or the average population equivalent of the wastewater handled.

1. Wastewater treatment facility classification shall be based on the following rating values:

	ITEM	POINTS
a.	Size	
(1)	Maximum population equivalent (P.E.) served	1 per 10,000 P.E. or part thereof
(2)	Design flow average day or peak months' flow, average day, whichever is greater	1 per million gallons daily or part thereof
b.	Effluent Discharge:	
(1)	Receiving stream sensitivity based on general standards applicable to all intra- and inter-state waters, as prescribed	

in WPC 14(d)* and WPC 15(d)*

(a)	Domestic consumption	
	(i) Class B	6
	(ii) Class C	5
	(iii) Class D	4
(b)	Fisheries and recreation	
	(i) Class A	5
	(ii) Class B	3
	(iii) Class C	2
(2)	Dechlorination	5
(3)	Land disposal - evaporation	2
(4)	Subsurface disposal	4

c. Variation in Raw Wastes

(1)	1-5% industrial flow contributed to facility	1
(2)	6-10% industrial flow contributed to facility	2
(3)	11-25% industrial flow contributed to facility	3
(4)	26-50% industrial flow contributed to facility	4
(5)	51% or more industrial flow contributed to facility	5
(6)	For special treatment of industrial wastes at the wastewater treatment facility	1

d. Pretreatment

(1)	Screening, comminution	3
(2)	Grit removal	3
(3)	Plant pumping of main flow	3
(4)	Preaeration with less than 2 hours' detention time	3
(5)	Hydro sieve	4

e. Primary Treatment

(1)	Primary clarifiers	5
(2)	Combined sedimentation and digestion	5
(3)	Chemical addition, except chlorine and enzymes	4

* adopted in 1973

f.	Secondary Treatment	
	(1) Trickling filter	5
	(2) Activated sludge including pure oxygen activated sludge	10
	(3) Stabilization ponds, designed for more than 180 days' detention time	5
	(4) Aerated ponds designed for more than 2 hours' detention time	8
	(5) Rotating biological surface	5
	(6) Any number of secondary clarifiers	5
	(7) On-site generation of oxygen	5
g.	Advanced Waste Treatment	
	(1) Aerated polishing ponds designed for less than 180 days' detention time	5
	(2) Polishing ponds without aeration	2
	(3) Chemical and physical	15
	(4) Biological treatment for nitrogen removal	8
	(5) Chemical addition for phosphorous and/or solids removal	8
	(6) Multi-media filters and/or activated carbon beds	8
	(7) Ion exchange	10
	(8) Reverse osmosis, electrodialysis	15
	(9) Chemical recovery, carbon regeneration	4
	(10) Micro-strainers	4
h.	Solids Handling	
	(1) Thickening including chemical treatment	5
	(2) Anaerobic digestion	10
	(3) Aerobic digestion	6
	(4) Evaporative sludge drying	2
	(5) Mechanical dewatering	8
	(6) Solids reduction, such as incineration, wet oxidation	12
	(7) On-land disposal	5

i. Disinfection

(1)	Chlorination or comparable	5
(2)	On-site generation of disinfectant	5

j. Laboratory Monitoring

(1)	Minimum required tests (pH, Cl_2, residual D.O., settleable solids, B.O.D. and T.S.S.)	2
(2)	Bacteriology (fecal coliform, total coliform, fecal streptococcal, etc.)	3
(3)	Activated sludge process control	3
(4)	Nutrients	1
(5)	Ground water monitoring	1

2. Class of Wastewater Treatment Facility

	Accumulated Point Value
a. Class A	76 or more points
b. Class B	56-75 points
c. Class C	31-55 points
d. Class D	30 and less

3. TYPE S TREATMENT FACILITY shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from a wastewater treatment facility which treats, stabilizes or disposes of the wastewater collected, pumped or conveyed therein. Where such a conveyance facility is not so distinctly separate, it is considered to be part of the treatment facility for which the designated operator is responsible. A type S treatment facility shall be subclassified as follows:

a. Class S-A. Serving a population of 50,000 or more;

b. Class S-B. Serving a population of 15,000 or more but less than 50,000;

c. Class S-C. Serving a population of 1500 or more but less than 15,000;

d. Class S-D. Serving a population of less than 1500.

C. RECLASSIFICATION:

When the accumulated point value necessitates a change in the classification of a system or facility, or when unusual factors may affect the degree of hazard to the public health, the type and loading of the system or facility, or the average population served or population equivalent of the wastewater handled, the commissioner or director may modify the classification of a system or facility.

MCAR §5.003. Certification.

A. QUALIFICATIONS FOR CERTIFICATION OF WATER SUPPLY SYSTEM AND WASTEWATER TREATMENT FACILITY OPERATORS.

1. General: In order to be certified, an applicant must
   a. demonstrate that he or she possesses the skill, knowledge, experience and education that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state, and
   b. have passed a written examination taken pursuant to this rule.
2. In addition, before applying to take an examination, a person who seeks certification in a particular class must meet the qualifications for that class as specified below:
   a. Class A Certificate: An applicant shall
      (1) have been certified as a Class B operator for two years, and
      (2) (a) possess a bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least four years of responsible experience in the operation and management of a Class A or B system or facility or a similar industrial facility, or
      (b) be a high school graduate with at least eight years of responsible experience in the operation and management of a Class A or B system or facility, or a similar industrial facility, and

(3) take and pass an oral examination;

b. Class B Certificate: An applicant shall

(1) possess a bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least two years of experience in the operation of a Class A, B, or C system or facility, or similar industrial facility, or

(2) be a high school graduate with at least six years of experience in the operation of a Class A, B, or C system or facility, or a similar industrial facility;

c. Class C Certificate: An applicant shall be a high school graduate with a minimum of three years of experience in the operation of a water supply system, wastewater treatment facility, or similar industrial facility;

d. Class D Certificate: An applicant shall be a high school graduate

(1) who has a minimum of one year of experience in a water supply system, wastewater treatment facility or in a related field, or

(2) who has satisfactorily completed an approved, post-secondary program of courses in water and wastewater technology at an accredited institution.

e. An applicant for a type S wastewater treatment certificate shall possess the same educational and experiential qualifications as are required of one who applies for a regular wastewater certificate in the same class, with the following exceptions:

(1) experience shall have been gained in a regular wastewater or type S facility, and

(2) when one applies for an S-A certificate, he or she shall have been certified as an S-B operator for two years.

3. Substitutions:

a. When a person applies for certification to operate

(1) a wastewater treatment facility, experience gained in a water supply system or a type S wastewater treatment

facility may be given up to 50% credit towards meeting the experience requirement for that class of facility for which the applicant seeks the certificate, or

(2) a water supply system, experience gained in a wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of system for which the applicant seeks the certificate. Experience gained in a type S wastewater treatment facility may not be substituted when one applies for a water supply system certificate.

b. Persons who apply for a Class A, S-A, B, S-B, C or S-C certificate may substitute education for experience according to the following formulae:

(1) Except as noted below, the Council may reduce the experience required in subsection A.2 above by up to six months for the successful completion of:

(a) each academic year beyond high school in which the applicant took courses relating to water supply and wastewater treatment, or in an appropriate branch of engineering, or in the chemical or biological sciences, or

(b) one hundred contact hours of courses relating to water supply or wastewater treatment.

(2) In no event shall such education be substituted for experience so as to reduce the experience requirement to less than one year.

(3) An applicant may be given credit for taking the same course more than once if there is a substantial difference in course content and only upon approval of the Council.

c. One year of experience in the operation of a water supply system or wastewater treatment facility may be considered as equivalent to one year of high school. Experience which is substituted for education cannot also be used to satisfy the experience requirements.

B. EXAMINATION PROCEDURE:

1. Application for examination:

a. Application for examination shall be made in writing to the commissioner or director on a prescribed form, and

shall be submitted at least 15 days prior to the date on which the examination will be given.

b. The examination fee shall accompany the application.

c. The appropriate reviewing authority shall review all information and documents needed to determine the eligibility for examination and notify the applicant of his or her status.

d. The applicant may be required to submit a copy of the school or college diploma, equivalency certificate or other proof of school or college attendance and/or graduation.

2. Examinations:

a. The council shall authorize the preparation of written and oral examinations to be used in determining the knowledge, ability and judgment of operators.

b. Separate written examinations shall be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems. The written examination shall test the applicant's knowledge in any one or more of the following areas, as they relate to either water or wastewater treatment: basic science, mathematics, operating procedures, treatment processes, equipment and its maintenance and applicable law and rules.

c. The oral examination for an A certificate will include questions concerning the scope of the applicant's experience, supervisory and managerial responsibilities, and operational capabilities. Such an examination may be conducted by a subcommittee of the council.

d. All examinations shall be closed-book.

e. For the written examination, a grade of 70% shall be considered a passing grade. For the oral examination, the grade shall be either PASS or FAIL.

f. The applicant shall be notified of the results. Papers shall not be returned to the applicant, but upon request within 60 days' notification of the results, the applicant may be allowed to review the written examination.

g. An applicant who fails to pass may not retake the same examination for a period of three months.

C. RESTRICTED CERTIFICATE:

1. The operator of a system or facility which is reclassified to a higher class pursuant to 6MCAR §5.002C is eligible for a restricted certificate in the higher class, except as noted in 6 MCAR §5.003 C.2 A retricted certificate shall be issued upon receipt of the certificate fee and shall be effective for three years from the date of issue. A restricted certificate may be renewed in the same manner as an unrestricted certificate. A restricted certificate shall specify that the operator named therein is certified to operate only the reclassified system or facility for which the restricted certificate is issued.

2. No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the operation of which would require considerably more training, knowledge or experience than that required by the system or facility as it was formerly classified.

D. ISSUANCE OF CERTIFICATES:

Certificates shall be issued by the commissioner or director when all the conditions prescribed in these rules have been satisfied.

E. RENEWAL:

1. A certificate in any given classification must be renewed within 30 days of its expiration date. Except as provided in 6 MCAR §5.003 E.2, a renewal certificate will be issued upon receipt of the application, renewal fee and evidence of the fact that the operator has, during the preceding three years, obtained credit for attending approved water and wastewater training courses, or participated in substantially similar educational activities, for the number of hours specified in the following schedule:

   Class A and S-A, 32 contact hours;

   Class B and S-B, 24 contact hours;

   Class C and S-C, 16 contact hours;

   Class D and S-D, 8 contact hours.

2. A person who has obtained a Class D or S-D certificate pursuant to 6 MCAR §5.003 A.2.d(2) and who has not worked as an operator for at least one year during the time the certificate was in effect shall not be eligible to renew such a certificate.

3. The council shall annually prepare and make available to operators and the public a list of accredited training courses and approved educational activities for which credit may be obtained.

F. REINSTATEMENT:

A person whose certificate has expired may apply to the commissioner or director for reinstatement of the certificate in the same classification. Before a certificate will be issued, such person must submit the following:

1. the application for reinstatement,
2. the fee for a reinstatement certificate, which fee is non re-fundable, and
3. evidence of the fact that he or she had complied with the continuing education requirements imposed in 6 MCAR §5.003 E.1 during the entire time since the expired certificate was last issued or renewed.
4. A person who is denied reinstatement will be required to follow the procedure imposed for a new applicant. In such case the reinstatement fee already paid shall be credited towards the fees for examination and a new certificate.

G. FEES:

1. Fees for certification shall be as follows:

a. Application for examination	$15.00
b. Issuance of certificate	$15.00
c. Re-examination resulting from failure to pass an examination	$15.00
d. Renewal of certificate	$15.00
e. Replacement certificate	$ 5.00
f. Reinstatement or reciprocity certificate	$20.00

2. Only fees from persons who are rejected for examination will be returned to them.

* * * * *

RULE AS ADOPTED

Water and Wastewater Operator Council of Certification

~~WWOB 1:~~ ~~The following rules, procedures, and fee schedule are hereby adopted and established for the classification of water supply and wastewater treatment facilities, issuance of operator certificates and payment of fees.~~

~~(a) PURPOSE: This regulation is intended to: (1) serve as a vehicle by which persons desiring to demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency; (2) implement the requirements of Laws of 1971, Chapter 828 (codified as Minnesota Statutes, Section 115.71 et seq.), that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Board in a class equal to or higher than the class of his system or facility; and (3) promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these regulations to obtain proper certification. Such personnel will not only be urged to qualify for certificates for the positions they hold, but also for higher grades. Persons, firms, and corporations, either municipal or private, will be urged to employ certified operators.~~

~~(b) DEFINITIONS: Terms and abbreviations used in this regulation shall have the meanings specified in this section. Terms and abbreviations used herein which are not specifically defined shall be construed in conformance with Minnesota Statutes 1971, Chapters 115 and 116, the context, and professional usage.~~

~~(1) Agency means the Minnesota Pollution Control Agency.~~

~~(2) Board means the board of certification established by Minnesota Statutes 1971, Section 115.71.~~

~~(3)~~ Department means the Minnesota Department of Health.

~~(4) Direct responsibility or direct responsible charge means complete supervision of the day to day operation of a water supply system or wastewater treatment facility. A city manager, superintendent of public works or other administrative officials shall not be deemed to have direct responsible charge of a system or facility unless their duties include the day to day operation of the system or facility.~~

~~(5) Director means the director of the Minnesota Pollution Control Agency.~~

~~(6) Population equivalent is a means of expressing the strength of pollutional material in wastewater. For the purpose of this regulation the population equivalent shall be determined by dividing a daily pound load of 5 day, 20 degree centigrade Biochemical Oxygen Demand (BOD) of the raw waste by 0.17.~~

~~(7) Secretary means the secretary and executive officer of the State Board of Health.~~

~~(8) Wastewater certificate means a certificate of competency issued by the director stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.~~

~~(9) Wastewater treatment facility means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in Minnesota Statutes, Section 115.01, Subdivision 2, which is actually used or intended for use by the public or by any considerable number of persons.~~

~~(10) Wastewater treatment facility operator means a person who has direct responsibility for the operation of a wastewater treatment facility.~~

~~(11) Water certificate means a certificate of competency issued by the secretary stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.~~

~~(12) Water supply system means the facilities, including the source, for the collection, conditioning, purification and distribution of water for use by the public or for the use of any considerable number of persons.~~

~~(13) Water supply system operator means a person who has direct responsibility for the operation of a water supply system or such parts of the system as would affect the quality and safety of the water.~~

~~(14) Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.~~

~~(c) SEVERABILITY. If any provision of this regulation or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of the regulation or application of any other part of this regulation which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections or subdivisions herein and the various applications thereof are declared to be severable.~~

~~(d) CLASSIFICATION OF WATER SUPPLY SYSTEMS. In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 1, the secretary hereby establishes the basis for classification of all water supply systems actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of plant and the population affected as follows:~~

~~(1) Water supply system classification shall be based on the following accumulative rating values:~~

~~(aa) Water Supply Source~~	~~Rating Value~~
~~(aa-1) Ground Water~~	~~3~~
~~(aa-2) Surface Water~~	~~15~~
~~(bb) Quality of Water Supply~~	
~~(bb-1) Less than 1.0 Coliform per 100 ml (milliliters)~~	~~2~~
~~(bb-2) 1.0 to 100 Coliform per 100 ml~~	~~4~~
~~(bb-3) 100 to 1,000 Coliform per 100 ml~~	~~6~~
~~(bb-4) 1,000 to 5,000 Coliform per 100 ml~~	~~8~~
~~(bb-5) 5,000 to 20,000 Coliform per 100 ml~~	~~10~~
~~(bb-6) More than 20,000 Coliform per 100 ml~~	~~12~~
~~(cc) Unit Treatment Processes~~	
~~(cc-1) Aeration~~	~~2~~
~~(cc-2) Coagulation (Surface Water Only)~~	~~10~~

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

(ee-3) Sedimentation	5
(ee-4) Filtration	10
(ee-5) Disinfection	5
(ee-6) Ion Exchange	5
(ee-7) Chemical Oxidation	2
(ee-8) Chemical Precipitation (Softening)	6
(ee-9) Stabilization	2
(ee-10) Fluoridation	5
(ee-11) Ammoniation	5
(ee-12) Taste and Odor Control	2
(dd) Distribution Storage Capacity	
(dd-1) 0 to 5,000 gallons	1
(dd-2) 5,001 to 50,000 gallons	2
(dd-3) 50,001 to 500,000 gallons	3
(dd-4) 500,001 to 5 MG (million gallons)	4
(dd-5) Over 5 MG	5
(ee) Number of wells	
(ee-1) 1 to 3	2
(ee-2) 4 to 7	4
(ee-3) 8 to 15	6
(ee-4) Over 15	8
(ff) Population Affected	
(ff-1) 0 to 1,000 persons	2
(ff-2) 1,001 to 5,000 persons	5
(ff-3) 5,001 to 10,000 persons	11
(ff-4) 10,001 to 20,000 persons	20
(ff-5) 20,001 to 50,000 persons	32
(ff-6) 50,001 to 100,000 persons	47
(ff-7) 100,001 persons and over	70

(2) Class of Water Supply System	Accumulated Rating Value
(aa) Class A	76 or more
(bb) Class B	51-75
(cc) Class C	26-50
(dd) Class D	1-25

(3) Where unusual factors may affect the degree of hazard to public health or type and loading of plant or the population affected, or where the accumulated rating value necessitates a change in the class of a water supply system, the secretary may modify the classification of a water supply system.

(c) CLASSIFICATION OF WASTEWATER TREATMENT FACILITIES: In accordance with Minnesota Statutes 1971, Section 115.72, Subdivision 2, the director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage handled, as follows:

(1) CLASS A TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve more than 50,000 population equivalent and located upstream of an intake for a water supply system, and which may affect such system; or

(bb) Designed to serve 15,000 to 50,000 or greater population equivalent employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or any other specific elements or materials is provided.

(2) CLASS B TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve greater than 15,000 population equivalent employing primary treatment with disinfection but not designated as Class A treatment facilities, or

(bb) Designed to serve 5,000 to 15,000 population equivalent and located upstream from and with a direct continuous effluent discharge to a lake or continuous flowing stream classified for contact recreation, or

(cc) Designed to serve 5,000 to 15,000 population equivalent, employing primary and secondary treatment and disinfection, or their equivalent, with separate sludge disposal, including, but not limited to, digestion, incineration or land disposal. Facilities otherwise complying with this section shall qualify whether or not treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus, or any other specific elements or materials is provided.

(3) CLASS C TREATMENT FACILITIES shall mean treatment facilities:

(aa) Designed to serve 5,000 to 15,000 population equivalent but not designated as Class B treatment facilities; or

(bb) Designed to serve less than 5,000 population equivalent, employing secondary treatment and disinfection, or the equivalent, except non-aerated stabilization ponds, with or without treatment beyond secondary treatment for removal of additional BOD, suspended solids, phosphorus or other specific elements or materials; or

(cc) Designed to serve less than 5,000 population equivalent and employing secondary treatment with disinfection and on-land disposal of the treated effluent.

(4) CLASS D TREATMENT FACILITIES shall mean treatment facilities which are not designated as Class A, B, C, or S treatment facilities.

(5) CLASS S TREATMENT FACILITIES shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from the wastewater treatment facilities which treat, stabilize or dispose of the sewage collected, pumped or conveyed therein. Where such conveyance facilities are not so distinctly separate they are considered to be part of the treatment facilities for which the designated operator is responsible. Class S treatment facilities shall be subclassified as follows:

(aa) Class S-A: Serving a population equivalent of 50,000 or more.

(bb) Class S-B: Serving a population equivalent of 15,000 or more but less than 50,000.

(cc) Class S-C: Serving a population equivalent of less than 15,000 with pumping facilities.

(dd) Class S-D: Serving a population equivalent of less than 15,000 without pumping facilities.

(6) Where unusual factors may affect the degree of hazard to public health, type and loading of the treatment facility, the population served or the average population equivalent of the sewage handled, the director may modify the classification of a wastewater treatment facility.

(f) WATER SUPPLY SYSTEM AND WASTEWATER TREATMENT FACILITIES OPERATOR QUALIFICATIONS:

(1) In addition to the requirements listed in this section for specific classes, every operator shall pass an examination pursuant to Section (g) and shall be in satisfactory health and physically capable of performing the work required. The certification of an operator is based on the skill, knowledge, experience, education and character that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state.

(2) CLASS A OPERATOR

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering, or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least three years of responsible experience in the operation and management of a Class A or a Class B water supply system, wastewater treatment facility or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of seven years responsible experience in the operation and management of a Class A or B water supply system, wastewater treatment facility, or a similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(3) CLASS B OPERATOR.

(aa) Each applicant shall:

(aa-1) Possess a bachelor's degree in chemical, civil, mechanical or other appropriate branch of engineering or possess a bachelor's degree with a major in chemistry or the physical or biological sciences, and submit satisfactory evidence of at least two years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, or a similar industrial facility; or

(aa-2) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, or C water supply system, wastewater treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-3) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(4) CLASS C OPERATOR.

(aa) Each applicant shall:

(aa-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, or D water supply system, wastewater treatment facility, or similar industrial facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

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(5) CLASS D OPERATOR.

(aa) Each applicant shall:

(aa-1) Be an elementary school graduate possessing not less than one year of acceptable experience for the work required; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(6) CLASS S OPERATOR.

(aa) Sub-Class S-A Operator. Each applicant shall:

(aa-1) Be a high school graduate with a minimum of five years responsible experience in the operation and management of a Class A, B, S-A or S-B treatment facility, and have completed special courses of training acceptable to the Board; or

(aa-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(bb) Sub-Class S-B Operator. Each applicant shall:

(bb-1) Be a high school graduate with a minimum of three years responsible experience in the operation and management of a Class A, B, C, S-A, S-B or S-C treatment facility, and have completed special courses of training acceptable to the Board; or

(bb-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(cc) Sub-Class S-C Operator. Each applicant shall:

(cc-1) Be a high school graduate with a minimum of two years responsible experience in the operation and management of a Class A, B, C, D, S-A, S-B, S-C, or S-D treatment facility, and have completed special courses of training acceptable to the Board; or

(cc-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(dd) Sub-Class S-D Operator. Each applicant shall:

(dd-1) Be an elementary school graduate possessing not less than one year of acceptable experience for the work required; or

(dd-2) Have a combination of education, training and experience which, in the opinion of the Board, is the equivalent of the above qualifications.

(7) The experience required above to qualify as an operator may be reduced by up to six months by the Board for the successful completion of each academic year beyond high school with engineering relating to water supply systems and wastewater treatment or course work in the chemical or biological sciences, or a technical school, or for the successful completion of 50 classroom hours of courses relating to water supply systems or wastewater treatment. In no event shall such education reduce the experience requirements stated above to less than one year.

(8) One year of operating experience may be considered as equivalent to one year high school. Experience applied to education cannot also be applied to the experience requirements.

(g) APPLICATIONS, EXAMINATIONS AND ISSUANCE OF CERTIFICATES.

(1) Application for Examination

(aa) Application shall be made in writing to the secretary or director at least 30 days prior to the date on which the examination will be given, on a form prescribed and furnished by the secretary or director or others designated by the secretary or director. Applicants found to have submitted incorrect information may be rejected for certification at the discretion of the Board.

(bb) No applicant shall be administered the examination who does not possess the qualifications required by Section (f) except under unusual circumstances, as determined by the secretary, director, or Board, or except as provided in Section (g) (1) (cc).

(cc) In unusual circumstances the Board may permit an applicant upon adequate justification to take an examination as a water supply system or wastewater treatment facility operator where the applicant does not comply with the education or experience qualifications for a particular class as set forth in Section (f) for the purpose of becoming certified as an operator in training.

(dd) The secretary and director or others designated by the secretary or director shall assemble and review all information and documents needed to determine the eligibility of the applicant for examination, and notify him of his status.

(ee) All necessary fees as set forth in Section (i) shall accompany the completed application form.

(ff) A copy of the school or college diploma, equivalency certificate, or other proof of school or college attendance and/or graduation may be required to be submitted by the applicant.

(2) EXAMINATIONS.

(aa) The Board shall prepare written examinations to be used in determining the knowledge, ability, and judgment of operators.

(bb) Separate examinations will be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems.

(cc) The Board shall cause at least one examination to be held each year according to procedures prescribed by the Board for the purpose of examining candidates for certification at a time and place designated by the Board.

(dd) Applicants who fail to receive a passing grade may not repeat that examination for a period of six months.

(ee) A written examination grade of 70 percent shall be considered passing, except in the case of Class A certificates, for which an oral interview also may be required.

(ff) Unless otherwise determined by the Board, all examinations shall be written. All examinations will be graded by the secretary and director, or by others designated by the secretary and director, and the applicant notified directly of the results. Papers will not be returned to the applicant, but upon request within 60 days of notification of the result, the applicant may be allowed to review the examination and grading.

(3) ISSUANCE OF WATER AND WASTEWATER CERTIFICATES.

(aa) Upon satisfactory fulfillment of the requirements provided herein and recommendation of the Board, the secretary or director shall issue a suitable certificate designating the applicant's competency. This certificate will indicate the class of system and/or facility which the applicant is qualified to operate.

(bb) Certificates in appropriate classifications shall be issued to operators who, on the effective date of these regulations, hold certificates of competency attained by examination under the voluntary certification program previously administered by the Department and the Agency.

(cc) An applicant under Section (g) (1) (cc) may be issued a certificate of operator-in-training by the secretary or director based upon the successful passing of an examination and the recommendations of the Board. Such a certificate shall apply only to the class of system and/or facility which the applicant is operating as an operator-in-training at the time of application.

(dd) Certificates of proper classification may be issued upon application and without examination to the person or persons certified by the governing body or owner to have been in direct responsible charge of the water supply system or wastewater treatment facility on July 1, 1972. A certificate so issued shall be valid only for that particular water supply system or wastewater treatment facility and subject to the requirements of Section (h) (1).

(ee) Certificates of operators who terminate their employment at a water supply system or wastewater treatment facility shall remain valid for the unexpired term of the certificate. Operators whose certificates expire under this Section (g) (3) (ee) may upon application to the secretary or director, be issued new certificates of a like classification provided appropriate proof of competency is presented to the Board. Successful completion of an examination may be required at the discretion of the Board.

(ff) Certificates shall be prominently displayed in the office of the operator or other appropriate place on the premises of the water supply system or wastewater treatment facility.

(h) RENEWAL, RECIPROCITY, AND REVOCATION OF OPERATOR CERTIFICATES.

(1) All certificates shall be renewed after a period of three years upon application to the secretary or director, if the applicant has been in attendance at acceptable water and wastewater training schools or other educational activities during the three-year period for at least the number of hours specified in the following schedule: Class A - 32 hours, Class B - 24 hours, Class C - 16 hours, Class D - 8 hours, Class S-A - 16 hours, Class S-B - 16 hours, Class S-C - 8 hours, Class S-D - 8 hours.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

(2) The Board shall annually prepare and make available to the public and certified operators a list of training schools and educational activities acceptable to the Board for the purposes of Section (h) (1).

(3) The secretary or director, upon application therefor, and upon recommendation of the Board, may issue a certificate of an equal or lower class without examination to a person who holds a certificate in any state, territory, or possession of the United States of America, or any other country, provided the requirements for certification of operators under which the performance certificate was issued do not conflict with provisions of these regulations, that reciprocal privileges are granted to Minnesota operators and that the applicant lives in Minnesota or has a need for certification for employment in Minnesota.

(4) The secretary and the director may revoke the certificate of any operator under their respective jurisdictions following a hearing before the secretary or director or his designated representative, when it is found: that the operator has practiced fraud or deception; that the operator was guilty of gross negligence or misconduct in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties. No revocation shall be effective until it has received the concurrence of the Board.

(5) Where the secretary or director reclassifies a water supply system or wastewater treatment facility to a class higher than its previous classification, the governing body or owner and operator of said system or facility shall be notified of such reclassification by the secretary or director, as the case may be. The operator may, prior to a date twelve months after such notification, apply for reclassification to an operator classification equivalent to the system or facility as reclassified. The governing body or owner of the water supply system or wastewater treatment facility operated by said operator shall obtain an operator of the proper classification prior to the expiration of said twelve-month period, unless the previous operator has obtained a water supply system or wastewater treatment facility operator's certificate of the appropriate classification.

(i) SCHEDULE OF FEES:

(1) Fees for certification shall be as follows:

Application for examination	$15.00
Issuance of certificate	$15.00
Re-examination resulting from failure to pass an examination	$15.00
Renewal of certificate	$15.00
Replacement certificate	$ 5.00
Reinstatement or reciprocity certificate	$20.00

(2) Fees from applicants who are rejected for examination will be returned to them.

Fees from those failing to pass an examination will not be returned.

(3) Where fees are paid by check or money order they shall be made payable to the State Treasurer, State of Minnesota, and submitted to the Department in the case of the water supply system operators or the Agency in the case of wastewater treatment facility operators.

(j) TERMINATION OF VOLUNTARY CERTIFICATION PROGRAM:

(1) The voluntary certification program previously administered by the Department and the Agency shall be automatically terminated upon filing of these rules and regulations with the Secretary of State and Commissioner of Administration.

(k) VIOLATIONS. The following acts shall be subject to the remedies provided by law:

(1) Failure to comply with these regulations.

(2) Having direct responsible charge of a water supply system or wastewater treatment facility without an operator's certificate.

(3) Having direct responsible charge of a water supply system or wastewater treatment facility of a class higher than is permitted by the terms of an otherwise lawful operator certificate.

(4) Failure to provide an operator in direct responsible charge of a water supply system or wastewater treatment facility who is a holder of a valid operator certificate of the proper classification which has been issued by the Board.

(l) APPEALS:

(1) Persons aggrieved by actions of the secretary or director pursuant to this regulation may appeal such action to the Board within thirty days of written notice of such action.

(2) Persons aggrieved by actions of the Board pursuant to this regulation may appeal such action to the district court within thirty days of written notice of such action.

APPROVED AS TO FORM AND LEGALITY

APR 30 1979 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY Lee F. Sheehy

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 30 1979
Joan Anderson Growe
Secretary of State
1:30 PM

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE WATER AND
WASTEWATER OPERATORS
CERTIFICATION COUNCIL

In the Matter of Amendments *
to Rules Relating to Water *
and Wastewater Facility *
Classification and Operator *
Certification *

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Water and Wastewater Operators Certification Council, hereafter Council, on December 12, 1978, at 12:30 p.m. in the Minnesota Department of Health Building after proper notice as required by Minn. Stats. §15.0412(1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements of arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and upon the report of the Hearing Examiner, the Council does adopt as its own the Findings and Conclusions submitted to the Council by the Hearing Examiner.

Water and Wastewater Operators
Certification Council

Date: March 2, 1979

Paul B. Johnson

PAUL B. JOHNSON, Secretary

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF HEALTH AND
THE WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Amendments to Rules Relating to Construction of Wells and to Water and Wastewater Facility Classification and Operator Certification.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before State Hearing Examiner George A. Beck on December 12, 1978, at 12:30 p.m. in Room 15 of the Minnesota Department of Health Building at 717 Delaware Street Southeast, City of Minneapolis, County of Hennepin, State of Minnesota.

This Report is a part of a rule hearing proceeding pursuant to Minn. Stat. Sec. 15.0411 to Sec. 15.0417 and Sec. 15.052, to determine whether the proposed rules should be adopted and given the force of law. A copy of this Report may be obtained from the Office of Hearing Examiners for the cost of reproduction.

Members of the agency panel appearing at the hearing included: Pauline Bouchard, Staff Attorney, Department of Health; Verne Carlson, Chairman, Water and Wastewater Operators Certification Council; William Lloyd, member, Water and Wastewater Operators Certification Council; Paul Johnson, Engineering Consultant to the Department of Health; and Edwin H. Ross, Supervisor, Groundwater Quality Control Unit, Minnesota Department of Health.

Seven public witnesses appeared and spoke at the hearing. The Department and the Council submitted 20 written exhibits. Twelve written comments were received from the public subsequent to the publication of the Notice of Hearing through the end of the 20 calendar day period for written comments following the hearing.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On October 18, 1978, the Department and the Council filed the following documents with the Chief Hearing Examiner:

(a) Copies of the proposed rules.
(b) A proposed Order for Hearing.
(c) A proposed Notice of Hearing.
(d) A Statement of number of persons expected to attend and length of hearing.
(e) A Certificate of Resolution by the Council.

2. On November 6, 1978, a Notice of Hearing and copies of the proposed rules were published at 3 State Register 934.

3. On November 9, 1978, the Department and Council mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State to receive such notice and to all members of the Minnesota Legislature.

4. On November 16, 1978, the Department and the Council filed the following documents with the Hearing Examiner:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Notice of Hearing and proposed rules as published in the State Register.
(d) Affidavit of Receipt of the Secretary of State's list.
(e) Certificate of the Secretary of State.
(f) Affidavit of Mailing of the Notice of Hearing.
(g) Statement of Agency Testimony.
(h) Statement of Need and Reasonableness.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through January 2, 1979, for the receipt of written comments and statements.

6. The Water and Wastewater Treatment Operators Certification Council cites Minn. Stat. Sec. 115.79 as authority for promulgation of the proposed rules. That section reads as follows:

> The council, with the advice and approval of the state department of health and the Minnesota pollution control agency, and in accordance with any other appropriate state laws shall make such rules and regulations as are necessary to carry out the intent of sections 115.71 to 115.82. The rules and regulations shall include but are not limited to, provisions establishing the bases for classification of water supply systems and wastewater treatment facilities in accordance with section 115.72 and provisions establishing qualifications of applicants and procedures for examination of candidates and such other provisions as are necessary for the administration of sections 115.71 to 115.82.

7. The Department of Health states that its authority to amend the rules relating to construction of wells is contained in Minn. Stat. Ch. 156A. Minn. Stat. Sec. 156A.03, subd. 1 provides that:

> The state board of health shall regulate and license the drilling and constructing of all water wells within the state, examine and license water well contractors and, after consultation with the commissioner of natural resources and the pollution control agency establish standards for the design, location and construction of water wells within the state.

Minn. Stat. Sec. 156A.05, subd. 2 reads as follows:

> Subd. 2. The board of health shall by December 31, 1971, in the manner prescribed by Minnesota Statutes, Chapter 15, hold a public hearing and promulgate rules and regulations necessary to carry out the purposes of sections 156A.01 to 156A.08 including, but not limited to:
>
> (a) Issuance of licenses for qualified water well contractors.
>
> (b) Establishment of conditions for examination and review of applications for license.
>
> (c) Establishment of conditions for revocation and suspension of license.
>
> (d) Establishment of minimum standards for design, location and construction of wells to effectuate the purpose and intent of sections 156A.01 to 156A.08.
>
> (e) Establishment of a system for reporting on wells drilled by licensed water well contractors.

8. At the hearing, the agency submitted written exhibits documenting the approval of the rules offered by the Council by the Executive Director of the Pollution Control Agency and by the Commissioner of Health, pursuant to Minn. Stat. Sec. 115.72, subd. 2 and Sec. 115.79. (Exs. 12, 13) In regard to the amendments proposed by the Department of Health, a Certificate of Consultation was entered into the record signed by the Commissioner of the Department of Natural Resources indicating compliance with Minn. Stat. Sec. 156A.03, subd. 1. The record does not contain a Certificate of Consultation from the Pollution Control Agency in regard to the well code amendments as required by Minn. Stat. Sec. 156A.03, subd. 1.

Rules Relating to Water and Wastewater Facility Classification and Operator Certification

9. The Water and Wastewater Certification Council proposes to repeal its existing rule 6 MCAR Sec. 5.001 and adopt three new rules which incorporate a good deal of the repealed rule. The revision of the old rule is primarily due to a need to particularize the classification and rating system for wastewater treatment plants and to clarify the qualifications of persons who could be certified to operate different classes of systems or facilities.

10. 6 MCAR Sec. 5.001 sets out the purpose of the proposed rules and supplies certain definitions. This proposed rule drew no public comment. The need and reasonableness were demonstrated in the Statement of Need and Reasonableness. (Ex. 3, p. 24-27) The word "regulations" contained in Sec. 5.001 A.3. should be changed to "rules".

11. 6 MCAR Sec. 5.002 specifies the criteria by which systems and facilities will be classified. This proposed rule drew no public comment. The agency's written submission adequately demonstrates the need for and reasonableness of the proposed rule. (Ex. 3, p. 27-28) At the hearing, the Council indicated that Sec. 5.002 B.1.a.(2) should read "design flow, average day, or peak month's flow, average day, whichever is larger". The Council also proposed, in regard to Sec. 5.002 C., that the word "sewage" contained in that subsection be changed to the word "wastewater" since the two words are synonymous and the word "sewage" is not used elsewhere in the proposed rules. (Ex. 19, p. 3) Neither of these changes would appear to be substantial.

12. 6 MCAR Sec. 5.003 sets out the qualifications for certification, the examination procedure, the renewal procedure and repeats the fees which were set in the repealed rule. Two general comments were received in regard to this proposed rule. In regard to Sec. 5.003 A., Bruce A. Nelson, Executive Director of the Alexandria Lake Area Sanitary District, stated he believed that the proposed rules would result in lengthening of the experience requirements in order to obtain certification. His concern is that individuals who come into the field with a strong educational background may be discouraged by the the experience requirement. (Ex. I) The Council stated that the proposed rule does slightly increase the experience requirement for an A Certificate because in the past, many applicants with only two years experience did not possess a sufficiently wide variety of skills to enable them to assume control

of an A system or facility. The Council noted that the qualifications for B and C Certificates are unchanged in regard to experience and the requirement is lessened in regard to a D Certificate. (Ex. 3, p. 29) Donald O. Blood, Public Works Superintendent for the City of Brooklyn Park, commented in regard to Sec. 5.003 B., that different lists should be developed for operators of distribution systems and operators of treatment plants and that if a person passing one test seeks to be employed in the other area further training or retesting should be required. (Ex. J, p. 1; Ex. F) The rule, as proposed, would seem to permit this and the Council may consider these comments as a matter of policy. In regard to Sec. 5.003 E., dealing with certification renewal, Mr. Blood commented that he supported the concept of training courses and would like to see a variety of courses offered from year to year. (Ex. J, p. 2)

13. The Council proposed several amendments to Sec. 5.003 at the hearing. It was suggested that Sec. 5.003 A.2.e.(2) be amended to read as follows:

> When one applies for an S-A certificate, he or she shall have been certified as an S-B operator for two years.

The amendment deletes the requirement that an applicant possess an S-C certificate when applying for an S-B certificate. It was suggested that 6 MCAR Sec. 5.003 A.3.b.(3) be amended to read as follows:

> An applicant may be given credit for taking the same course more than once if there is a substantial difference in course content, only upon approval of the council.

The amendment is offered to make it clear that credit will be given for taking the same course the second time only if there is a difference in course content. In regard to Sec. 5.003 B.1.a., the word "should" in the rule is suggested to be changed to "shall" making submission of an application for examination 15 days prior to the date of the examination mandatory. The Council also suggested that Sec. 5.003 C.2. be amended to read as follows:

> No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the operation of which would require considerably more knowledge or experience than that required by the system or facility as it was formerly classified.

This amendment was proposed to require a reevaluation of this system or facility which is independent of the qualifications of the current operator. (Ex. 19, p. 1-3) It was also suggested at the hearing that the word "secretary" in Sec. 5.003 F. be changed to the word "director" to conform to the rest of the rule. None of these changes appear to be substantial.

14. The record adequately demonstrates the need for and reasonableness of 6 MCAR Sec. 5.003. See, Exhibit 3, p. 28-32. It should be noted that there is a numbering-lettering problem in the rule as printed in the State Register at Sec. 5.003 A.3.a.(1).

Amendments to Rules Relating to the Construction of Wells

15. Several amendments were suggested to 7 MCAR Sec. 1.210 which contains definitions and policies. At the hearing, the Department suggested changes

An installer may not insert the drill stem inside the plastic casing when drilling any kind of well.

The Department stated that it was withdrawing the first proposal since it was unclear while maintaining the prohibition against the insertion of the drill stem since this can cause considerable damage to plastic casing once it is in place. (Ex. 18, p. 8-9) So amended, the proposed language is needed and reasonable.

45. All of the subsections proposed for amendment contained within the above cited rules which have not been specifically addressed are found to be shown be needed and reasonable by an affirmative presentation of facts through the Agency's Statement of Need and its oral presentation at the hearing.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department of Health and the Water and Wastewater Operators Certification Council gave proper notice of the promulgation of the proposed rules and rule amendments.

2. That the Department and Council have statutory authority to promulgate the proposed rules and rule amendments.

3. That the Department and Council have fulfilled all relevant substantive and procedural requirements of law or rule, except as indicated at Finding of Fact No. 8.

4. That the Department and Council have demonstrated the need for and the reasonableness of the proposed rules and rule amendments by an affirmative presentation of facts in the record, except as noted at Findings of Fact No. 27 and 29.

5. That a finding of need or reasonableness by the Hearing Examiner does not and should not preclude or discourage the Department or the Council from modifying the language of a rule subsection based upon a further examination of the public comments provided that no substantial change is made and provided that the final rule is based upon facts appearing in the record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is recommended that the proposed rules and rule amendments be adopted by the Department and the Council with consideration given to the Findings of Fact herein.

Dated: January 19, 1979.



GEORGE A. BECK
Hearing Examiner

N O T I C E

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

Thereafter, the Commissioner of Health and the Water and Wastewater Operators Certification Council shall, if they proposed to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Commissioner and the Council on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Commissioner and the Council will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH
AND THE WATER AND WASTEWATER
OPERATORS CERTIFICATION
COUNCIL

In the Matter of Amendments *
to Rules Relating to *
Construction of Wells and *
to Water and Wastewater *
Facility Classification and *
Operator Certification *

ORDER FOR HEARING

In order to effectively implement certain statutory provisions, the commissioner of health deems it necessary to consider adoption of the proposed amendments to the water well construction code (MHD 210-225), pursuant to authority vested in him by Minn. Stat. §156A.05 Subd. 2(1976).

The Water and Wastewater Operators Certification Council proposes to amend and revise WWOB-1 pursuant to authority vested in it by Minn. Stat. §115.79(1976).

NOW, THEREFORE, IT IS ORDERED this 16th day of October, 1978 that a public hearing on the proposed rules captioned above be held in Room 115, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota on December 12, 1978, commencing at 12:30 p.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
WATER AND WASTEWATER OPERATORS
CERTIFICATION COUNCIL

PAUL B. JOHNSON
Secretary

STATE OF MINNESOTA

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
WATER AND WASTEWATER
OPERATORS CERTIFICATION
COUNCIL

In the Matter of Proposed *
Amendments to Rules Relating *
to Certification of Water *
and Wastewater Treatment *
Plant Operators *

CERTIFICATE OF RESOLUTION

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

I, Paul B. Johnson, Secretary of the Minnesota Water and Wastewater Operators Certification Council, hereafter the Council, first being duly sworn on oath, hereby certify that the following resolution was passed by unanimous vote of the Council at its duly constituted meeting of September 7, 1978, at which a quorm was present:

> RESOLVED, that Paul B. Johnson, Secretary of the Water and Wastewater Operator's Council be and he hereby is granted the authority and directed to call a hearing for the purpose of amending the rules of the council as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as requesting the appointment of a hearing examiner for all hearings.

STATE OF MINNESOTA
WATER AND WASTEWATER
OPERATORS CERTIFICATION
COUNCIL

Paul B. Johnson

PAUL B. JOHNSON
Secretary

Subscribed and sworn to
before me this 13th day of
October, 1978

Christine Grinsteinner

CHRISTINE GRINSTEINNER
Notary Public, Dakota Co., Minn.
My Commission Expires
Dec. 5, 1982

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Amendments to Rules Relating to Construction of Wells and to Water and Wastewater Facility Classification and Operator Certification *

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. §15.0412 Subd. 4 (1976), in Room 115, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota on December 12, 1978 commencing at 12:30 p.m.

All interested or affected persons will have an opportunity to participate concerning the amendments to the rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statement or material may be submitted by mail to George Beck, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone 612/296-8103, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together

where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the amendments proposed by the commissioner* of health would result in changes to the water well construction code (MHD 210-225) primarily in the following areas: Definitions, information required for a variance, protection for observation wells, additional requirements for community wells, abandonment, isolation distances from existing wells, size of casing and drill hole, grouting, rock wells, dug or bored wells, suction lines and water sampling procedures. Only housekeeping changes are being proposed in the provisions which govern the licensing of water well contractors. The authority of the commissioner to make such revisions is contained in Minn. Stat. §156A.05 Subd. 2 (1976).

If adopted, the amendments proposed by the Water and Wastewater Operators Certification Council (hereafter council) would revise existing rule WWOB-1 by separating it into three new rules WWOC-1, 2, and 3, by establishing a points system for classification of wastewater treatment facilities, by making minor revisions to the system for classification of water treatment systems, and by making minor revisions to the operator qualifications required for certification in a particular class. The authority of the council to promulgate such revisions to its rules is contained in Minn. Stat. §115.79 (1976).

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, Division of Environmental Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Minnesota Department of Health, at the Minnesota

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*Laws 1977, Chapter 305 §39, transfers to the commissioner of health all of the rulemaking authority formerly held by the board of health.

Pollution Control Agency, and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the department, and the council at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commissioner and the council may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, §11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612)296-5615.

STATE OF MINNESOTA

/s/ Paul B. Johnson
PAUL B. JOHNSON, SECRETARY
Water and Wastewater Operators
Certification Council

STATE OF MINNESOTA

/s/ Warren R. Lawson, M.D.
WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of Amendments
to Rules Relating to
Construction of Wells and
to Water and Wastewater
Facility Classification and
Operator Certification

CERTIFICATE

I hereby certify that the 581 general labels, the 12 page list for the Minnesota Pollution Control Agency, and the 9 page list for the Minnesota State Department of Health, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 8:15 o'clock A.m., this 8th day of Nov, 1978, have requested pursuant to Minn. Stat. §15.0412 subd. 4 (1976), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules and amendments thereto on the subject captioned above.

SECRETARY OF STATE

JOAN ANDERSON GROWE

By Joan Anderson Growe
Verna Reed

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of Amendments
to Rules Relating to
Construction of Wells and
to Water and Wastewater
Facility Classification and
Operator Certification

AFFIDAVIT OF MAILING

Nancy Lee A. Whited, being first duly sworn, deposes and says:

That on the 9 day of November, 1978, at the City of Roseville, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Roseville, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, as well as to all members of the Minnesota Legislature as of the date of mailing.

Nancy Lee A Whited

Subscribed and sworn to before me
this 9 day of November, 1978.

Lila Holmdahl

LILA HOLMDAHL
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 1, 1983

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Amendments
to Rules Relating to
Construction of Wells and
to Water and Wastewater
Facility Classification and
Operator Certification

AFFIDAVIT OF RECEIPT
OF THE
SECRETARY OF STATE'S LIST

Linda Bruemmer, being duly sworn upon oath, deposes and says:

1. That she is an employee of the Minnesota Department of Health.

2. That on the 6th day of November, 1978, she called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976).

3. That on the 8th day of November, 1978, in response to the above request, the Secretary of State provided her with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Linda Bruemmer
LINDA BRUEMMER

Subscribed and sworn to before me
this 8 day of November, 1978.

Louise K. Kanuck

LOUISE K. KANUK
NOTARY PUBLIC-MINNESOTA
My Comm. Expires Feb. 22, 1981

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH
AND THE WATER AND WASTEWATER
OPERATORS CERTIFICATION
COUNCIL

In the Matter of Amendments *
to Rules Relating to *
Construction of Wells and *
to Water and Wastewater *
Facility Classification and *
Operator Certification *

STATEMENT OF NEED

AND REASONABLENESS

cf p. 24

The existing well code was adopted in 1974, pursuant to legislation authorizing the commissioner of health to adopt rules regarding the construction of water wells to assure safe drinking water and protection of the aquifer. Minn. Stat. Chap. 156A (1976). The rules have been enforced by the Minnesota Department of Health since their adoption. Numerous problems have arisen regarding the meaning, applicability and scope of certain provisions. Because of these problems, it was felt the time had come to make certain revisions which would clarify the meaning and hopefully help to increase assurance that drinking water produced from wells is indeed safe and that ground water sources are being protected to the extent reasonably feasible within the limits prescribed by law. The fundamental principle underlying the water well construction code is that the method of construction should assure that the aquifer from which the well draws will remain free of contamination from surface materials. Every change proposed here is intended to provide greater assurance that such protection will be maintained. Although this rationale will not be repeated in every instance where it is applicable in the discussion which follows, it does nevertheless serve as the basis for all of the proposed changes which deal with construction and location of wells.

The existing labels, adopted under the old system, are being changed to the MCAR outline format, for the purpose of complying with the policies of the Office of the State Register. The subject matter of any particular rule (number) is the same under the MCAR format as it was under the previous system.

The proposed changes will be discussed in the sequence in which they appear in the existing rule.

7 MCAR §1.210 B. 1. defines "commissioner" to allow for use of the single term throughout the code.

7 MCAR §1.210 B.9. adds an additional requirement to the amount of experience which an applicant must have before he can be licensed. Under the existing rule an applicant could conceivably have spent as little as a few hundred hours drilling shallow wells and such a person would be considered qualified. The 1,000 hours requirement is a much more meaningful measure of a person's experience than is the existing requirement of 5 wells. The addition of the provision regarding the drilling of fewer than 5 wells per year if these are very deep, large diameter wells is made in recognition of the fact that some drillers acquire a year's worth of experience working on a single well. At the hearing the agency will propose to define a "large diameter" well by adding a diameter measure to the proposed rule, to read as follows:

"Year of experience" means a year during which the applicant personally drilled five (5) water wells and was actively working in the trade for a period of 1,000 hours under the supervision of

a licensed water well contractor. An applicant drilling 1,000 hours per year and completing fewer than 5 wells per year may qualify, if the experience is gained in constructing one or more large diameter wells (casing outer diameter is 10 inches or more) which are more than 500 feet deep. An applicant who seeks to qualify under this provision shall have his license limited to construction of such deep and large diameter wells.

The type of experience gained in drilling such large wells is just as valuable and as deserving of credit as is that acquired in the drilling of several smaller wells. In recognition of the fact that this type of experience is not as broad as that obtained in working on numerous smaller wells, the license to be issued to such a driller will be limited to drilling deep, large-diameter wells.

7 MCAR §1.210 B.9.a. Some language allowing an applicant to offer alternative kinds of experience is being deleted because, in fact, supervision in a field setting such as this cannot be evaluated fairly and equally for all applicants. In addition, it does not really reflect experience as a driller. For these reasons, supervision will no longer be considered as qualifying for one applying for a driller's license.

7 MCAR §1.210 B.9.b. adds a requirement which must be met by persons who have gained most of their drilling experience outside of Minnesota. The reasons for this are the following: the geology of Minnesota is sufficiently

different from that of other states that it is necessary for one to have had supervised experience drilling in the state before such a person should be allowed to hold himself out to the public as a qualified driller. For the same reason, having worked under the supervision of a licensed driller will help insure that the outsider has learned about conditions in Minnesota from one familiar with these conditions and the Minnesota well code.

7 MCAR §1.210 B.11. would expand the responsibilities of one who acts as a contractor's representative to require that the representative actually be in charge and have control over the contractor's drilling operations to assure compliance with the well code. Hopefully this added language clarifies a situation which has caused numerous problems in the past, e.g., the representative was a mere figurehead who disclaimed any responsibility for certain of the day to day operations.

7 MCAR §1.210 C.2. would delete the phrase "by licensee" because this phrase seems to limit the population which is to be governed by the terms of the code. The law states that the construction standards apply to all wells drilled in the state without limitation as to who does the drilling. This strikeout merely eliminates any uncertainty which might have existed for persons who wondered whether the code applied to them or not.

7 MCAR §1.210 C.6.b.(cc) is being stricken altogether because the use of the term "liner pipe" implied that piping which did not have to comply with the specifications for casing pipe could be used as casing

7 MCAR §1.210 C.32. expands the defintion of suction line to include additional types of connections which might serve to introduce water into the well. The addition is being made to assure that all such connections comply with the requirements for suction lines and their installation as imposed in 7 MCAR §1.222 D., for the purpose of protecting the well water from possible sources of contamination.

7 MCAR §1.210 D.1. A new phrase is being added to the list of subjects governed by the code, i.e., maintenance of proper isolation distances from existing wells. The rationale for adding this phrase is addressed in detail in the discussion under 7 MCAR §1.217 C.5. below.

7 MCAR §1.210 D.3.b. This variance provision is being rewritten to eliminate problems which have arisen because of the way in which the rule is presently written. The proposed revision requires the signature of both licensee and owner on a variance request regarding new construction or modification of the well to assure that the owner is cognizant of the fact that a non-code installation is proposed. The type of information which must be presented by the applicants is specified so that an applicant knows the criteria upon which the decision will be based and also to help expedite processing of the request. At the hearing we will proposed to amend the proposed section. The section will read as follows:

7 MCAR §1.210 D.3.b. ~~(bb) The licensee shall state the specific exceptions requested plus explain in detail the reasons for such request.~~ Any request for modification shall be submitted to the

~~administrative-authority~~ commissioner in writing and shall be signed by both the owner and the licensee. ~~Request-for-modification of-the-isolation-distance-from-existing-wells-shall-be-submitted and-signed-by-the-owner.~~ In addition, any ~~experts or~~ persons involved in providing documentary evidence in support of the request shall sign the request submitted by the owner. Such request shall specify in detail the nature of the modification being sought, the reasons therefor, and the special precautions to be taken to avoid contamination of the well. The request shall also include: the proposed well depth, casing type and depth, method of construction and grouting, geological conditions likely to be encountered, and location of the well and of possible sources of contamination. Whether or not the requests are granted, the ~~Board~~ commissioner shall state in detail the reasons for ~~its~~ the decision.

The third sentence is being stricken because it belongs more appropriately in 7 MCAR §1.217 C.5. New language is being added in the fifth sentence, which reads thus: "and the special precautions to be taken to avoid contamination of the well." We proposed to amend the sixth sentence by adding the requirement that information regarding geological conditions must be submitted along with the request for modification. Both of these amendments are proposed for addition to this section because the information which is sought would be most valuable to the decision-maker who must judge whether or not the modifications requested would result in a safe installation.

7 MCAR §1.210 D.3.c. is a new provision. This is being proposed because in the past, numerous occasions have arisen where the well owners have questioned the applicability of the code to them once a well is constructed. Although the law states that the construction code applies to any individual (Minn. Stat. §156A.02 S. 3 (1976)), many have claimed that the code did not apply to them, especially in cases involving alterations or modifications. Problems arise when the owner of a well would be moving a possible source of contamination such as a septic tank, closer to a well than is permitted in 7 MCAR §1.217. Hopefully, this restatement of the scope of applicability of the statute will eliminate some of these problems.

7 MCAR §1.211 B.3.a. imposes a one year limit on the time within which a person who has passed the exam may apply for a license. This limit was found to be necessary because a number of examinees were delaying their application for license for years. This created record-keeping problems for those administering the program. In some cases those who had passed the exam but had not yet obtained a license were passing themselves off as licensed contractors. Hopefully the new one-year limit will eliminate these problems and help us locate these drillers in order to be able to respond more quickly to customer complaints.

7 MCAR §1.211 F.2., 3., and I.1. The deadline for license renewal has been changed from December 31 to January 31. This is being done at the recommendation of the Advisory Council to accomodate such a request from the industry. A number of drillers argued that since the

drilling season often extends into late fall, they do not have sufficient time in which to collect and submit all the relevant well logs and water samples before they have to complete their renewal application. The renewal application requires the licensee to include certain information on wells drilled during the previous year. The January 31 deadline will give drillers enough time to be able to obtain and submit all the required information. Since the change in deadline date would pose no administrative problems, we feel it is only reasonable to accomodate the industry's request in this matter.

7 MCAR §1.217 B. would have the words "or spring or buried reservoir" stricken from the rule because the law cannot provide for regulation of the placement of such naturally occuring bodies of water. The words were inadvertently inserted when the existing rule was adopted and are now being stricken for the record. The remaining changes in subpart 5 are definitional. "Municipal water supply" would be replaced with "community public water supply" because this more emcompassing phrase is the one currently being used to describe all water supplies which serve certain numbers of people, whether municipal or private, pursuant to the Safe Drinking Water Act of 1977. (Minn. Stat. §144.382, Subd. 4 (1977 Supp) and 7 MCAR §1.145 B.12.) Since the ultimate purpose of the well code is to insure the production of safe drinking water, it is appropriate that the code should address matters of concern for all community water supplies, regardless of type of ownership.

7 MCAR §1.217 C.1.d. would, by use of more general language, expand the possible types of contaminating sources from which a proposed well must be built at least 50 feet.

7 MCAR §1.217 C.1.e. adds language regarding the use of plastic sewer pipe, as permitted in the Minnesota Plumbing Code. The new language allows for use of the same isolation distance as that which is imposed for cast iron pipe, in recognition of the fact that the two prescribed materials have been judged to possess similar characteristics with regard to their safe use as sewer line. This subpart includes two new possible sources of contamination, ie., pit or unfilled space below ground surface, from which a well must be located at least 20 feet away. The exception regarding placement of a well near an approved basement is merely a clarification of what was contained in the original version.

7 MCAR §1.217 C.1.f. adds the words "with casings" because the determining factor in deciding whether a well is protected from the entry of contaminants is the depth of the casing rather than the depth of the well itself. The proposed addition reflects this difference.

7 MCAR §1.217 C.4. adds a new language relating to the need for protection of observation wells. While such wells may not be used to produce potable water, they nevertheless can act as conduits for surface contaminants if they are damaged near the surface. A distinction is made

between temporary and permanent observation wells, as to the degree of protection which must be afforded to each type. It seems reasonable that persons installing permanent observation wells should have to protect them by relatively permanent means, e.g., 4 steel posts set in concrete, whereas the warning device for a temporary well should be something which does give notice but which is also relatively easy to remove, once the well is abandoned.

7 MCAR §1.217 C.5. A slightly modified version of this part will be proposed at the hearing. The revised proposal will read as follows:

> 7 MCAR §1.217 C.5. The administrative authority may modify the isolation distances in this rule for individual well installations. ~~The modifications shall be made in writing to the owner, with a copy to the Board, either increasing or decreasing the minimum isolation distance and shall state the reason for the modification based on overburden, depth of well, character of aquifer, maximum pumping rate, or other facts affecting the movement of pollution.~~ A request for modification of the isolation distance from an existing well shall include information regarding the well depth, casing type and depth, method of construction and grouting, proposed location and design of the potential source of contamination and soil conditions.

Such request shall be signed by the owner and by those persons, such as soil scientists, hydrologists, sanitarians, disposal system designers, water well contractors and appropriate local officials involved in providing documentary evidence in support of the request. A copy of the request shall be sent to the commissioner.

The portion which is being stricken has been included in the general variance provision contained in 7 MCAR §1.210 D.3.b. The new language specifically addresses the matter of requests for changes from prescribed isolation distances when a well owner wishes to move a potential source of contamination after the well has been constructed.

A new provision is being added because of the fact that there seemed to be a gap in the rules particularly as they relate to the enforcement of isolation distances for the purpose of protecting aquifers which serve as sources of drinking water Heretofore, the rules applied only to new construction of wells while seeming to ignore the serious consequences which might result if an owner moves a source of contamination closer to a well. The same public health principles apply, regardless of whether a well was constructed before or after a potential source of contamination. In numerous instances since adoption of the well construction code, the Minnesota Department of Health has been called upon to decide whether or not a septic tank or drainfield could be moved closer to an existing well than would be permitted under 7 MCAR §1.217. Although departmental personnel recognized the need for being able to make such a determination, no one felt

that the existing rules permitted the exercise of such authority. The Minnesota Pollution Control Board and several county health and zoning officials have urged the commissioner of health to enforce the isolation distances with respect to existing wells. With adoption of the proposed rule, the agency is declaring publicly that it will exercise jurisdiction in these matters. Owners of existing wells will now be able to proceed more clearly, by availing themselves of the variance procedure under 7 MCAR §1.210 (or 7 MCAR §1.217 C.5.).

The new proposal requests all of the information which we feel would be necessary in order for the decision-maker to be able to make a reasoned judgment as to whether or not a potential source of contamination could be placed close to an existing well.

Minn. Stats. Chap. 156A (1976) authorizes the commissioner of health to regulate the construction and placement of wells. The legislative intent and purpose as stated in Minn. Stats. §156A.01, is to protect the health and general welfare by providing a means for the protection of underground water in a sanitary and reasonable manner. It seems reasonable that as the agency charged with enforcing the well code, we should also be examining those conditions or activities which, because of their proximity to existing wells, could detrimentally affect the quality of water in such wells. It is our position that it is more reasonable to infer from the stated legislative intent, that the commissioner of health is permitted to regulate in this area, than that there should be no public health agency involvement at all.

7 MCAR §1.217 E.4. adopts new requirements for community water supply wells which may have to be constructed in areas subject to flooding. Each of the provisions addresses a different condition, each of which could develop into a possible source of contamination. Because community wells serve large numbers of people who might become ill if the well should be contaminated, there is a need for greater protection of such wells. The protection provided for here allows the community to continue to use the well during the flood rather than to have to discontinue reliance on the well during floods.

7 MCAR §1.218 C. imposes new requirements regarding when and how a water well should be abandoned. The need for such requirements arises because the results of a study of ground water quality in southeastern Minnesota reveal that improperly abandoned wells are a major source of contamination of aquifers in that part of the state. A well owner is being made to sample a well before abandonment so that a decision can be made as to whether the well is safe to be capped or whether it should be disinfected or pumped out before capping. The last sentence of the section provides that the commissioner may order an owner to plug a well which may be a source of contamination. This provision is included to put everyone concerned on notice that this is one of those areas in which the commissioner will exercise authority pursuant to Minn. Stat. §156A.05, Subd. 1 (1976) which states. . . "The [commissioner] of health shall possess all powers reasonable and necessary to enable it to exercise effectively the authority granted to it by sections

156A.01 to 156A.08." The risks created by the existence of a well which is not being maintained or used are high enough that the authority to exercise that power which is "reasonable and necessary" should include the authority to issue orders for corrective action.

7 MCAR §1.218 C.1.a. requires that one who seeks to temporarily abandon a well must notify the commissioner. If the department of health knows of the location of these wells, it is in a better position to decide after inspection, whether the well could be a source of contamination to the aquifer and whether appropriate measures should be taken to eliminate this potential.

7 MCAR §1.218 C.2.g. specifies that a licensee who abandons a well for an owner must do so in accordance with this rule and also requires that such abandonment be reported. Such reporting will assist the agency in keeping its active well records current. In addition, once departmental inspectors know where these abandoned wells are located, they will be able to inspect them to see whether the wells have been properly abandoned, or whether additional work must be done to assure that the well is sealed off.

7 MCAR §1.219 C. The stricken phrase has been rewritten to allow for the use of protective anti-siphon devices which will prevent the flow of unsafe materials back into the well. This provision is written in recognition of the fact that in many instances well owners

connect, or allow the connection of their wells, to lines which contain unsafe materials. An outright prohibition of such cross-connections has not been effective in preventing their use. An example of such back siphonage occurred in Hayfield, Minnesota, in the summer of 1978 when a tank truck which contained a pesticide, was connected to a municipal water line. A negative pressure developed and the pesticide contaminated the entire municipal supply. Farmers use their irrigation system to feed fertilizers and pesticides on crops. Without appropriate back flow preventer devices these materials could flow back through the well and contaminate the aquifer. This threat increases with each new irrigation system. The Department of Health has compiled a list of devices which the commissioner has approved and these are very effective in preventing back siphonage. We hope that by requiring the use of such devices, the likelihood of back siphonage will be greatly reduced.

7 MCAR §1.220 A.7.a. Nothing in this part is new language and nothing should have been underlined as if it were new language.

7 MCAR §1.220 A.7.b. As rewritten, this subsection clarifies the issue regarding the size of the annular space, ie., there must be at least 2 inches around the casing (4 inches total). This distance applies around casing and casing couplings, when these are used. The purpose for requiring such a space is to assure that there is sufficient space to insert a grout pipe to the bottom of the casing. This grouting is necessary in order to provide a seal between the outer casing and the formation, and

between the outer casing and the inner casing, to prevent vertical flow of potentially contaminated water into an otherwise protected aquifer.

7 MCAR §1.220 A.7.c. The word "liner" is being replaced with "inner" as discussed earlier with reference to §210 C.6.b.

7 MCAR §1.220 A.10.a. and b. are merely being rewritten for clarity and do not include any substantive changes.

7 MCAR §1.220 C. clarifies the types of spaces which must be grouted. The last sentence regarding the request for permission to use other grouting materials is being deleted because there are, in fact, no other materials with equivalent sealing properties.

7 MCAR §1.220 D.1. The diameter of a hole which is to accomodate the casing for this type of well must be of a size which is larger than the outer diameter of the casing by 4 inches rather than 2 inches as was formerly permitted. The 2 inches was an error in the 1974 version. This requirement is being imposed because at least 2 inches of space is required to insert a grout pipe to the bottom of the casing to allow grouting to provide the necessary vertical seal. The requirement that the annular space be filled with grout under pressure from the bottom up is imposed to assure that the entire space will be grouted. Material dumped from the top bridges and does not completely fill the annular space, which is necessary. The grout provides additional casing protection from corrosive waters in some formations.

7 MCAR §1.220 G.1. eliminates what was essentially a permissive provision without changing the requirements for safe construction of wells in rock formations.

7 MCAR §1.220 G.2. merely rewords the existing language to clarify the point at which the 4 inches width is to be measured. In such formations it is important that there by a layer of grout which is at least 2 inches thick all around the casing to provide enough material to seal the rock off effectively.

7 MCAR §1.220 H.1. A new provision requires that a cavernous rock well not only be cased but that such a well must also be grouted to 10 feet below the pumping level. Such grouting is necessary because such formations contain fractured rock which can easily collapse once the well is pumped and the underground water pressure changes. Installation of casing and grouting to 10 feet below the pumping level helps to prevent such a collapse around the pump. The last sentence is being stricken because the matter of acceptability of a well as a potable water source is discussed in more general terms earlier in 7 MCAR §1.220 A.10.

7 MCAR §1.220 H.4. All of the language being stricken from this subsection is already contained in other subsections of the rule and is being eliminated to avoid repetition. The new sentence which would bar entry of water from more than one aquifer is necessary to help prevent

cross-contamination between aquifers. Because the probability of such cross-contamination is high in the case of wells drilled into cavernous formations, it is important that wells drilled into such formations be carefully cased and grouted to reduce the possibility of such cross-contamination.

7 MCAR §1.220 H.5. is being stricken altogether because the exception it created for non-drinking water wells was shown to be counter-productive. Under the existing rule, these wells could be constructed with less care than that which was required for wells to be used for domestic purposes. However, this less careful method of construction resulted in a number of collapsed wells which were then left idle, to serve as points of entry for surface contaminants. The primary purpose of the well code, ie., to protect ground waters, is clearly not being served as long as this unsafe mode of construction is permitted.

7 MCAR §1.220 O. is being completely rewritten. New construction requirements are being added to the existing ones because dug or bored wells which are not constructed with steel or plastic casing (as required in 7 MCAR §1.220 A.) are much more likely to become contaminated than are other types of wells. For this reason, we have found it necessary to impose more stringent grouting and maintenance requirements than those imposed for steel or plastic-cased wells. The same reason also justifies the requirement that the owner be made aware of the pitfalls of this mode of well construction by being made to agree that he will sample the well annually for bacteria. The revised section deletes the provision that dug wells could be installed

only in areas where drilled or other types of conventional wells were not feasible. Interpretation and enforcement of the deleted provision was too subjective to be of practicable use.

7 MCAR §1.222 D.2.c. Part of this subsection is being stricken because the method prescribed here did not provide adequate protection. The existence of an opening to the casing facilitated the entry of contaminants which could not be easily seen because the entry is below grade. Because of this greater potential for contamination and because this method is not frequently used, we have decided to delete this alternative method in its entirety.

7 MCAR §1.222 G.1. is being changed to require that the vent need only be one foot above the ground or floor. This is the height which was intended in the original rule. One foot is the minimum prescribed height to the top of the casing. It makes little sense to require that the vent be one foot higher than the casing, when both of these are equally likely points of entry for contaminants. One foot has been shown to provide adequate protection. At the hearing, amendments will be made to the proposed revision. We will propose that 7 MCAR §1.222 G.1. read as follows:

> "All wells shall be vented. A casing vent shall be of materials complying with 7 MCAR §1.222 D.1. with watertight joints terminating at least 2 feet above the regional flood level or <u>one foot above</u> the established ground surface or the floor of a pump room, well room or approved basement, whichever is higher. The casing vent shall be screened and

point downward. Vents may be offset provided they meet the provision of this rule. Any submersible pump shall be installed with a vented cap on the ~~pitless adapter~~ top of the well casing or pitless unit to prevent drawing near surface water, mud, sand, etc., into the well through shielding around the electric cable. Flowing artesian wells may be exempted if protected by a specially designed pitless adapter or if the casing is protected as provided in ~~220(b)~~ 7 MCAR §1.220 B. ~~For wells of an inch and one quarter diameter casing or as otherwise protected to insure that contaminated water will not enter the well not using a drop pipe venting is not required when equipped with a suction pump provided the casing is protected in accordance with MHD 220(b).~~ Where the well casing on small diameter wells (one and one quarter inch or less) is used as a suction pipe, the casing need not be equipped with a vented cap, provided the casing is protected in accordance with 7 MCAR §1.220 B.

The phrase "pitless adapter" is to be changed to "top of the well casing or pitless unit. . ." In the existing version there was no requirement regarding placement of the vent cap in relation to the casing. This was an oversight in the original rule which is being rectified here. Since all wells must be vented, it is inappropriate to suggest that when a submersible pump is used, only a pitless unit must be vented, but an ordinary casing need not be. The need to vent is the same with both

types of installations. The last sentence is merely a clarification of the existing provision with regard to venting small diameter wells.

7 MCAR §1.223 A.1. A phrase is being deleted because it contributes nothing to the meaning of the provision.

7 MCAR §1.223 A.2. is a new provision which is being proposed primarily for the convenience of contractors who could not meet the 30-hour maximum when submitting samples to the Health Department laboratory for analysis. The requirement that results of the analysis of the water sample be sent to the Department of Health is authorized by Minn. Stat. §156A.07, Subd. 4 (1976) which states, in part:

> ". . .The department of health may. . .(2) Establish. . . procedures for submission of . . . water samples or other special information which may be required. . . to protect, develop and manage, for the public health and welfare. . ."

At the hearing, we will amend the proposed revision to read as follows:

> "If the licensee chooses to submit the water sample to a laboratory other than that of the Minnesota Department of Health, that laboratory must be certified* by the Minnesota Department of Health for determination of the presence of coliform bacteria. The sample must be collected in containers approved by the Director and must be received by the certified laboratory within 30 hours of the time of collection. The costs of such analysis shall be paid by the licensee. Results

* pursuant to the procedure prescribed in 7 MCAR §1.143 (MHD 143)

of the analysis shall be submitted to the Minnesota Department of Health."

The proposed amendment would specify more clearly which procedure must be followed by the licensee to protect the integrity of the sample. The procedure which is prescribed will help assure that the sample is uncontaminated (by collection in a soiled or unsterile container) and that the sample is not so old that any questionable organisms which might have been present at the time of collection have since died. Either of these conditions could produce a false negative result, which could ultimately lead people to consume water which was bacterially unsafe.

7 MCAR §1.224 F.2. The language which was to be stricken in the proposed revision should not be stricken and should remain in effect. The new sentence which was proposed to be added is to be deleted. These amendments will be made at the public hearing.

All of the changes made in the proposed revision which appeared in the State Register (3 S.R. 957) and those noted in this Statement of Need and Reasonableness have been proposed as a result of experience gained in administration of the 1974 version of the code. The changes are necessary in order to provide better protection to the health of persons who drink water from underground sources. The changes are reasonable in that they impose upon the well drilling industry only those restrictions which are necessary to assure that, to the greatest extent permitted, underground waters which are now safe for human consumption will remain so in the future.

* * * * * *

REVISIONS TO 6MCAR5.001 (WWOB-1)

The Water and Wastewater Operators Certification Council seeks to revise existing rule WWOB-1 (6MCAR §5.001) in its entirety by repealing the existing rule and by proposing the adoption of three new rules. The substance of the three proposed rules is essentially the same as that which was contained in WWOB-1, except that the three distinct content areas have each been assigned a rule number. A comparison of the existing rule and the proposed new rules will be made below, along with justification for the proposed changes.

The Water and Wastewater Treatment Operators Certification Council is revising this rule pursuant to authority contained in Minn. Stat. §115.79 (1976) which states in part "The council...shall make such rules and regulations as are necessary to carry out the intent of sections 115.71 to 115.82. [the law relating to certification of operators] The rules and regulations shall include but are not limited to, provisions establishing the bases for classification of water supply systems and wastewater treatment facilities...and provisions establishing qualifications of applicants and procedures for examination of candidates and such other provisions as are necessary for the administration of sections 115.71 to 115.82." Minn. Stat. §115.79(1976).

The authority to adopt rules necessarily carries with it the responsibility to revise those rules when conditions change sufficiently to render applicability of the old rules impractical or unrealistic. With regard to WWOB-1 there was an urgent need to particularize the classification and rating system for wastewater treatment plants and to clarify the qualifications of persons who could be certified to operate different classes of systems

or facilities. The need for and effect of each proposed change will be discussed individually and with greater specificity below.

A preliminary explanation regarding the use of certain terms in WWOB-1 is appropriate here. WWOB-1 refers to a "board." When WWOB-1 was promulgated, the enabling statute called for a certification "board." Minn. Stat. §115.71 S.4 (1971). Laws 1975, Chap. 271, §4 amended the law by changing the term to "council." WWOB-1 was not reprinted to incorporate that change. WWOB-1 also referred to the "secretary" meaning the executive secretary of the former state board of health. This board was abolished in 1977 (Laws 1977, Chap. 305 § 39) and all of its authority was transferred to the commissioner of health. Where WWOB-1 used the term "secretary," the revised version substitutes the term "commissioner."

6MCAR5.001 A. This portion of 6MCAR5.001 states the purpose of the rules. This purpose embodies the council's interpretation of the intent of the legislature when it enacted the mandatory certification law.

B. This portion of 6MCAR5.001 contains the definitions of certain terms which are used with some frequency throughout the rules, and for which specific definitions are necessary if we are to eliminate confusion and misunderstanding.

A few new definitions have been added. The terms "agency", "department", "facility" and "system" are defined in order to permit the use of a single word in place of a long phrase and to have the meaning of the word be clearly understood wherever it appears in the rules.

B.4. "Population equivalent" is a term of art used in the wastewater treatment field. This is the same definition as that which is used in the existing rule.

In WWOB-1 many of the definitions were taken directly from the statute. Since it is no longer permited (with a few exceptions) to repeat in a rule a term which is statutorily defined (Minn. Stat. §15.0412 Subd. 1, 1977 Supp) certain terms which were defined in WWOB-1 have been deleted from the proposed revision. The definitions which have been deleted are the following:

b.(2) "Board" (should read council),

b.(5) "Director"

b.(7) "Secretary"

b.(8) "Wastewater certificate"

b.(9) "Wastewater treatment facility"

b.(10) "Wastewater treatment facility operator"

b.(11) "Water certificate"

b.(12) "Water supply system"

b.(13) "Water supply system operator"

B.5. "Responsible experience" is a new term which is being defined in the revised rule. It replaces WWOB-1(b)(4) "direct responsibility or direct responsible charge" which was found to be unworkable in several instances. The new term defines "responsible experience" without reference to the need for supervision because many supplies and facilities are one-person operations where there are no other workers for an operator to supervise. Yet these people are as much in charge of operation as are those in supervisory capacities. For a similar reason, the definition includes both shift and non-shift type operations. The council feels that the new term and definition will facilitate the decision regarding who should or should not be required to be a certified operator.

WWOB-1(c) relating to severability of portions of the rule has not been repeated in the proposed rules, because the principles of statutory construction found in Minn. Stats. Chap. 645 (1976) apply and need not be repeated in rule form.

6MCAR5.002 specifies the criteria by which systems and facilities will be classified. Similar criteria were contained in WWOB-1(d) relating to classification of systems.

WWOB-1(d)(1)		proposed 6MCAR5.002A.1.
(aa)	Water Supply Source	a.
(bb)	Quality of Water Supply	b.
(cc)	Unit Treatment Processes	c.(1)
		c.(2)
(dd)	Distribution Storage Capacity	d.
(ee)	Number of Wells	e.

In the proposed rule, an additional category was created for systems with more than 15 wells.

(ff)	Population affected	f.
WWOB-1(d)(2)	Class of Water Supply System	6MCAR5.002 A.2.

In the proposed rule, the number of points for a Class D system was increased from 25 to 30.

The point system for wastewater treatment facilities has been completely changed in the new rule. In the old rule, classification was based on a very global measure which focused primarily on the size of the population served by the facility. Over the years, that system of classification has proven to be unworkable and generally unsatisfactory because it did not take into account some other equally important factors, such as type of treatment required pursuant to a National Pollution Discharge Elimination System permit,

and type and quantity of industrial effluent. The proposed classification system is based on experience gained by the agency in trying to work with the old classification system and the need for more quantified criteria, and a model classification system prepared by a nationally recognized organization, the Association of Boards of Certification for Operating Personnel, Ames, Iowa, in water and wastewater utilities.[1] The proposed system assigns points to each of the processes and techniques which are now in use in treatment facilities. The number of points assigned is based on the degree of difficulty of a particular process or technique and on the level of operator training required to carry out the necessary procedures.

6MCAR5.002 B.2 prescribes for facilities a classification system with the same range of points as that which is prescribed for water systems.

6MCAR5.002 B.3 repeats the classification system used in the existing rule for collection type facilities, with minor changes in Classes S-C and S-D. The Council feels that the existence of pumping facilities is no longer a meaningful distinguishing factor, whereas differences in population in the range of 0-1500, and 1500-15,000 do have independent significance and facilities with these characteristics ought to be treated differently.

6MCAR5.002 C. relates to reclassification of a system much as was prescribed in the existing rule WWOB-1(h)(5). The provision merely serves as a warning that a system or facility could be reclassified if circumstances changed sufficiently to require an operator with more training or experience.

6MCAR5.003 groups all the provisions relating to operator qualifications, examination and certification. Subpart A.1 repeats some of the language of the existing rule at WWOB-1(f)(1). 6MCAR5.003 A.2 prescribes

[1] cf Appendix A

the minimum qualifications necessary before one can take the examination to be certified at a particular level. The qualifications in the proposed rule are slightly more stringent than those in the existing rule. The new rule requires that an applicant have possessed a B certificate for 2 years and have had at least 4 years of experience (or 8 years for one who is not a college graduate) in an A or B system or facility. The existing rule does not require that the applicant be already certified as a Class B operator, and requires only 3 years experience in an A or B system or facility. The reason for the proposed increase in experience is that in the past many applicants with only 2 years' experience did not seem to possess a sufficiently wide variety of skills to enable them to assume control of an A system or facility. With the imposition of both new requirements the persons who do get an A certificate in the future will be better able to operate such a plant than are those who are certified as A operators under the existing rule. The requirement that an applicant for an A certificate pass an oral exam merely puts into rule form what has heretofore been the Council's policy. The qualifications imposed for applicants for B or C certificates are the same in the proposed rule (6MCAR5.003 A.2.b.&c) as they are in the existing rule (WWOB-1(f)(3)&(4)). The proposed rule expands the field of potential applicants for the D certificate by allowing those who have no experience, but who have completed a course of study in the relevant area to apply for a D certificate. The new provision also allows the Council to eliminate the need for an "operator-in-training" certificate which could be issued under existing WWOB-1(g)(3)(cc).

In the existing rule the qualifications for those who apply for S-type certificates are different from those imposed on applicants for a

regular certificate in the same class. In the proposed rule the qualifications for one applying for an S-type certificate are the same as those for one applying for a regular certificate. The Council feels the requirement should be the same to eliminate the confusion which exists because of the differences under the existing rule and also because there is a need for persons to have more experience in the A and B classes than has been required in the past. The Council's informal evaluation of the performance of persons presently holding A and B certificates demonstrates that imposing a requirement for additional experience will help assure that those who are certified in the future will be better equipped to handle the variety of problems which can arise in a more complicated system or facility.

6MCAR5.003 A.3 allows an applicant to substitute experience for education and vice versa, much in the same manner as is provided in the existing rule, WWOB-1(h)(7)&(8). A limitation on the type of experience which will be considered acceptable is imposed in the proposed rule.

6MCAR5.003 A.3.a. The new rule provides that experience gained in one occupational setting is not directly transferable when one is applying for certification in a different work setting. These provisions are an acknowledgement of the fact that many operators shift occupational settings. The provisions also reflect the fact that not all of the experience gained in a system will be useful in a facility and vice versa. In order to assure that operators who are certified in a certain class possess sufficient knowledge, the Council feels it is necessary to limit the type of experience which can be applied to that which is directly related to the new work setting.

6MCAR5.003 A.3.b(3) provides that the Council may approve credit for taking the same course more than once. This refers to continuing education

courses which operators are required to take. The Council reserves the right to give such approval if the content of the course is substantially different from that which the applicant took on a previous occasion.

The examination procedure prescribed in proposed 6MCAR5.003 B. is substantially the same as that which is found in the existing rule WWOB-1(g). The proposed rule shortens the time within which one must submit the application for examination from 30 days to 15 days because the 30-day limit was not being systematically enforced. Another minor change (6MCAR5.003 B.2.f.) reduces the time interval after which an applicant may retake an examination from 6 months (WWOB-1(g)(2)(dd)) to 3 months. Since exams are typically given several times each year, applicants complained that they were being unfairly delayed in their attempts to be certified in a higher class. The Council feels that a three month interval will preclude the remembering of specific questions found on the last exam taken while also providing sufficient time for the operator to gain the knowledge sufficient to pass the exam upon retake.

WWOB-1(g)(1)(cc) which specifically allowed a person who was not qualified to take an examination has been deleted because the Council was being called on to make numerous case-by-case evaluations in instances where they were clearly not necessary. The Council hopes that by specifying more clearly when substitutions in qualifications can be made, that all applicants will have a better chance to be evaluated more equally.

6MCAR5.003 C. expands somewhat on the existing rule (WWOB-1(h)(5))by limiting the availability of a restricted certificate to those instances where reclassification is not based on a major change in process. The proposed rule sets out no time limits because none are contained in the law.

6MCAR5.003 D. essentially repeats what is now contained in WWOB-1(g)(3)(aa).

6MCAR5.003 E. repeats WWOB-1(h)(1) and adds the requirement that an operator has 30 days' grace after the date of expiration within which to renew a certificate. This provision helps assure that renewals will be made in a timely manner in order to help minimize the time spent by the staff in handling renewals.

6MCAR5.003 E.2. is a new provision which limits the right of a D certificate holder to renew if that person has not had at least one year's work experience. This provision reflects the Council's opinion that an operator must have actual, in-plant experience before such a person can be certified. The provision also acknowledges a recognition of the fact that a recent training course graduate may not have had the opportunity to gain much experience and the proposed provision gives such an applicant 3 years (the term of the initial certificate) in which to gain on-the-job experience. The Council feels that if a D certificate holder has not been able to gain at least one year's in-plant working experience, then that person's certificate should not be renewed.

6MCAR5.003 F.addresses the matter of reinstatement in slightly more detail than does the existing WWOB-1(g)(3)(ee).

6MCAR5.003 G contains the fee schedule which is the same as that contained in the existing rule in WWOB-1(i).

Several of the other provisions contain in WWOB-1 are not mentioned in the preceding discussion, either because the issue being addressed no longer exists, e.g., grandfather provisions and the former voluntary certification program, or because the same material is already prescribed in the statute, e.g., WWOB-1(k) Violations. Minn. Stats. §115.80 (1976).

The rule revision being proposed here imposes the minimum requirements to assure, (a) that water supply systems and wastewater treatment facilities are classified in a manner which reflects the complexity of their operation, and (b) that persons in charge of those systems and facilities possess sufficient knowledge and experience to operate them in a manner which will assure compliance with applicable laws and ultimately the protection of the public health and environment.

Each of the above proposed revisions is necessary in order to assure that only the best qualified persons are certified to operate systems which have a direct effect on the public's health. The proposed revisions 1) only set out limits and requirements which are designed to promote proper operation of systems and facilities, 2) impose minimum burdens on persons who would apply for certification, and 3) further the goals specified in the law. Therefore, the proposed revisions are reasonable.

grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Water and Wastewater Operator Certification Council

Notice of Intent to Solicit Outside Opinion on the Revision of an Existing Rule

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412 subd. 6 (1976) that the Water and Wastewater Operator Certification Council will propose the revision of its existing rule.

All interested parties desiring to submit data or views relating to the proposed revision of WWOB 1 should address their comments (either written or oral) to Paul B. Johnson, Secretary, Minnesota Department of Health, Division of Environmental Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, phone: (612) 296-5331. Evidence submitted for consideration should be pertinent to the matter at hand. Any material received by the council will become part of the hearing record.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Amendments * to Rules Relating to Water * and Wastewater Facility * Classification and Operator * Certification *

CERTIFICATE OF RESOLUTION OF COUNCIL ADOPTION OF AMENDMENT TO RULES

I, Paul B. Johnson, do hereby certify that I am secretary of the Water and Wastewater Operators Certifican Council, hereafter Council, which is duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted by the Council at its meeting of March 1, 1979, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting.

"RESOLVED, that the amendments to rules relating to water and wastewater facility classification and operator certification, identified as 7MCAR §5.001, §5.002, and §5.003, which were considered at a public hearing held on December 12, 1978, are found to be reasonable, necessary and supported by the evidence contained in the record, and are hereby approved and adopted, pursuant to authority vested in the Council by Minn. Stats. §115.71-115.82(1978), and that Paul B. Johnson, Secretary of the Council, is hereby authorized to sign an order adopting these rules.

BE IT FURTHER RESOLVED, that the Report of the Hearing Examiner relating to this matter is hereby expressly adopted by the Council as its own."

Motion passed.

Paul B. Johnson

PAUL B. JOHNSON, Secretary

Subscribed and sworn to before me this 5th day of March, 1979.

Marie B. Tromiczak

MARIE B. TROMICZAK
NOTARY PUBLIC MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct 9, 1980

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Amendments to Rules Relating to Water and Wastewater Facility Classification and Operator Certification	* * * * *	ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Water and Wastewater Operators Certification Council on the 12th day of December, 1978, at 12:30 p.m. in the Minnesota Department of Health Building, Minneapolis, Minnesota, after proper notice as required by Minn. Stats. §15.0412(1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 7MCAR §5.001, 5.002, and 5.003 are adopted and WWOB-1 is repealed this 16th day of March, 1979, pursuant to authority vested in me by the Council.

WATER AND WASTEWATER OPERATORS
CERTIFICATION COUNCIL

Paul B. Johnson

PAUL B. JOHNSON, Secretary

STATE OF MINNESOTA

OFFICE OF HEARING EXAMINERS

FOR THE

WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed
Amendments to Rules Relating
to Water and Wastewater
Facility Classification
and Operator Certification

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on December 12, 1978, before George A. Beck, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Water and Wastewater Operators Certification Council (hereafter "Council") on January 20, 1979; and

WHEREAS, the Council has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Council has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Council has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Council has the responsibility of submitting the complete hearing record and the rules as adopted by the Council to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 3rd day of April, 1979.

/S/ Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed *
Amendments to Rules *
Relating to Classification *
and Operator Certification *

BEFORE THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

MINNESOTA DEPARTMENT OF HEALTH APPROVAL

Minn. Stats. §115.79(1976) authorizes the Minnesota Water and Wastewater Operators Certification Council (hereinafter Council) to make rules establishing bases for classification of wastewater treatment facilities and rules establishing qualifications of applicants and procedures for examination of candidates, upon approval of the Minnesota Department of Health.

The above-captioned rule of the Council would be amended to revise the bases for classification of wastewater treatment facilities, the qualifications of applicants and procedures for examination and issuing of certificates.

Upon review of the attached supporting information justifying the need for and reasonableness of the revisions and pursuant to authority vested in the Minnesota Department of Health by Minn. Stats. §115.79 and 115.72 Subd. 2 (1976), the revisions set forth in the proposed amendment to WWOE-1 are hereby approved.

STATE OF MINNESOTA
DEPARTMENT OF HEALTH

DATED: 12/1/78

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Classification and Operator Certification *

MINNESOTA POLLUTION CONTROL AGENCY APPROVAL

Minn. Stats. §115.79(1976) authorizes the Minnesota Water and Wastewater Operators Certification Council (hereinafter Council) to make rules establishing bases for classification of wastewater treatment facilities and rules establishing qualifications of applicants and procedures for examination of candidates, upon approval of the Minnesota pollution control agency.

The above-captioned rule of the Council would be amended to revise the bases for classification of wastewater treatment facilities, the qualifications of applicants and procedures for examination and issuing of certificates.

Upon review of the attached supporting information justifying the need for and reasonableness of the revisions and pursuant to authority vested in the Minnesota pollution control agency by Minn. Stats. §115.79 and 115.72 Subd. 2 (1976), the revisions set forth in the proposed amendment to WWOB-1 are hereby approved.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

DATED: 11-28-78

Sandra Gardebring
SANDRA S. GARDEBRING
Executive Director