

S B

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Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907

Senate Committee on Resources

M E M O R A N D U M

January 14, 1986

TO: All Members, Senate Resource Committee
FROM: Staff, Senate Resources Committee
RE: SB 194 "An Act relating to certification of water and wastewater systems and facilities operators; and providing for an effective date."

Senate Bill 194 corrects an error that was made in the Alaska Administrative Code. AS 46.30.070, which passed in 1976, allowed persons employed as water or wastewater operators on September 24, 1976 to be certified without examination.

Regulations were later adopted that stated operators employed as of September 24, 1978 could be certified without examination. This error went undetected for some time. A correction to the regulations at this time would adversely affect some 60 operators who were certified without examination. This legislation would allow any certificates authorized under these erroneous regulations to be considered valid. Additionally, the regulations allowed certificates to be issued to holders of an Alaska Water Management Association Voluntary Certificate, but contained the same erroneous dates.

A proposed committee substitute, based on HB 450, by Representative Max Gruenberg, would delete the requirement in AS 46.30.060 that a certificate be invalidated if the operator has not worked in the field for a period of one year. Water and wastewater operators certificates are valid for a period of three years. This is an effort to reduce administrative record-keeping since the operator must reapply after three years in any case. This section is identical to HB 450. SB 194 has a zero fiscal note, as does HB 450.

Enclosures:

Fiscal note
Letter from Governor
Letter from Commissioner Ross
AS 46/30 Certification
of Operators
18AAC74 Cert. of Operators
Letter from Max Gruenberg

Proposed amendment (HB 450)
Fiscal note: HB 450
Letter from Comm. Ross to
Rep. Gruenberg supporting
amendment, April 22, 1985
Letter from Comm. Ross,
Sept. 25, 1985

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 194
 Title: Certification of Water/
 Wastewater Facilities Operators
 Sponsor: Senate Rules Committee
 Requestor: Governor
 Date of Request: 2/19/85

FISCAL DETAIL

Agency Affected: Environmental Conservation
 Program Category Affected: Water/Wastewater
 Operator Certification
 BRU, Program or Subprogram(s) Affected: Facility Construction & Operation
NRMEC

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: LINDA TAYLOR Phone: 465-2620
 Division: FACILITY CONSTRUCTION & OP Date: 2/19/85
 Approved by Commissioner: Bill Km Date: 2/21/85
 Agency: ADEC

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

January 16, 1986

Honorable Arliss Sturgulewski
Chair, Senate Resources Committee

Re: Senate Bill 194, "An act relating to certification of Water and Waste Water Systems and Facilities Operators, and providing for an effective date."

Dear Madame Chair:

Enclosed please find an amendment that Rep. Jenkins and I would like to offer to the above bill. This incorporates House Bill 450, which we introduced January 13. I would appreciate it if you would transmit copies of this letter to members of your committee. It should serve as a sectional analysis of the amendment.

BACKGROUND OF HOUSE BILL 450

This legislation was introduced as the result of a problem of one of our constituents from House District 11. AS 46.30.060 provides that a certification for a waste water operator is good for three years, unless it is earlier revoked for one of several reasons. It may be revoked for cause, or replaced by a higher grade certificate, or because the operator for a period of one year has not continuously been employed as a waste water operator.

Our constituent lost his job for reasons beyond his control and was therefore not working as a waste water operator for one year. As a result, he automatically lost his certificate. This became a vicious cycle, as he was ineligible for rehire because he no longer had a certificate. He requested that I introduce a bill to repeal the automatic revocation provision.

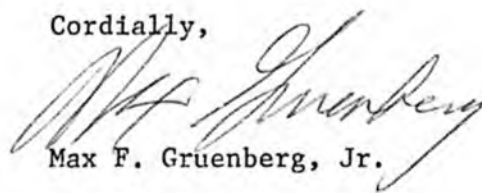
As a result of the constituent inquiry, I wrote the Commissioner of Environmental Conservation. A copy of Commissioner Ross' April 22, 1985, letter is attached as Exhibit "A", without enclosures. In it, he indicated that the department would support such a change in AS 46.30.060.

House Bill 450 was drafted accordingly. I wrote Commissioner Ross a second time requesting confirmation of his support of the draft language. In his letter of September 25, 1985, he confirmed that the department supported the proposed language. See Exhibit "B".

I would very much appreciate the Senate Resources Committee adding the proposed amendment to SB 194.

Thank your very much.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.", written in dark ink. The signature is fluid and somewhat stylized, with a long, sweeping underline that extends to the right.

Max F. Gruenberg, Jr.

Enclosures

MFG/dd1

cc:

Rep. Roger Jenkins

SENATE BILL 194

Amendment in the Senate Resources Committee

January 17, 1986

by Gruenberg and Jenkins

1. Add a new section as follows:

Section 1. AS 46.30.060 is amended to read:

Sec. 46.30.060. CERTIFICATION. The department shall issue certification entitling those persons who successfully complete the required examinations to supervise the operation of portable water supply and wastewater systems and facilities after considering the recommendations of the advisory board. The certificate will designate the class of system for which the operator is qualified in accordance with the classification system of the department. The certificate shall be valid for three years unless revoked for cause or [,] replaced by one of a higher grade [, OR THE OPERATOR FOR A CONTINUOUS PERIOD OF ONE YEAR HAS NOT BEEN ACTIVELY ENGAGED IN THE DUTIES AUTHORIZED BY THE CERTIFICATE. AN OPERATOR WHOSE CERTIFICATE HAS BEEN INVALIDATED FOR NOT HAVING BEEN ACTIVELY ENGAGED IN THE DUTIES AUTHORIZED MAY BE ISSUED A NEW CERTIFICATE UPON PROOF OF COMPETENCY AS PRESCRIBED BY REGULATIONS].

2. Renumber other sections accordingly.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 1/15/86

REQUEST

Bill/Resolution No. : HR 450
 Title : Certification of water and wastewater operators
 Sponsor : Gruenberg and Jenkins
 Requestor : Gruenberg
 Date of Request : 1/14/86

FISCAL DETAIL

Agency Affected : ADEC
 BRU : Facilities Construction & Operation
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS : NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Billie Trent Phone : 465-2600
 Division : Office of the Commissioner Date : 1/15/86

Approved by Commissioner : Bill Ross Date : 1/15/86
 Agency : Department of Environmental Conservation

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*norm gorsuch / Trent
copy*

BILL SHEFFIELD GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 13, 1985

M E M O R A N D U M

RECEIVED

TO: Honorable Bill Sheffield
Governor

FEB 15 1985

FROM: *Norm Gorsuch*
Norman C. Gorsuch
Attorney General

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

RE: Attached bill on certification of water
and wastewater treatment system operators
Cur file: 377-174-85

Attached is a bill to rectify an error in 18 AAC 74.030 which has gone undetected since 1978. The bill was requested by the Department of Environmental Conservation, prompted by legal advice from us.

The underlying statute, AS 46.30.070, waived the certification examination requirement for wastewater plant operators who were employed as operators on September 24, 1976. However, when the implementing regulation was adopted in 1978, it mistakenly prescribed the cutoff date as September 24, 1978. As a result, numerous operators who were employed as such on September 24, 1978 were issued certificates and have continued to work on waiver without taking the required examination. In addition, many have worked under operator's certificates issued under the Alaska Water Management Association voluntary certification program, which the regulation mistakenly identified as a valid substitute for a certification examination.

The Department of Environmental Conservation believes that experienced operators who were employed as such on September 24, 1978 and operators who were certified under the Alaska Water Management Association Voluntary Certification Program on or before September 24, 1978 are fully qualified to serve as operators and may continue to do so without the need to take the certification examination that the law, in its current form, requires. For this reason, and because so many of the operators relied on the errors in 18 AAC 74.030, we recommend that those individuals (numbering approximately 60) be grandfathered in and be considered properly certified. The attached bill accomplishes this result and is supported by the Department of Environmental Conservation.

Honorable Bill Sheffield
377-174-85

February 13, 1985
Page 2

A draft transmittal letter to the legislature is also attached.

NCG:TMJ:rn

cc w/enc.: Hon. Bill Ross, Commissioner
Dept. of Environmental Conservation

D R A F T

Under the authority of art III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and wastewater treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

The attached bill will grandfather in those individuals who, before January 1, 1985, applied for and received certification without examination, based upon employment as operators on September 24, 1978 or a valid certificate issued under the Alaska Water Management voluntary

certification program. You should note that this corrective legislation will be uncodified and will not change the existing law in AS 46.30.070; it only alleviates the harm that would be done to operators who relied on the errors in the Alaska Administrative Code while continuing to require others who have not been so affected to comply with the standard the legislature set down in 1976 in AS 46.30.070. It is my recommendation that, after enactment, the revisor of statutes arrange for the inclusion of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

Bill Sheffield
Governor



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and wastewater treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

The attached bill will grandfather in those individuals who, before January 1, 1985, applied for and received certification without examination, based upon employment as operators on September 24, 1978 or a valid certificate issued under the Alaska Water Management voluntary certification program. You should note that this corrective legislation will be uncodified and will not change the existing law in AS 46.30.070; it only alleviates the harm that would be done to operators who relied on the errors in the Alaska Administrative Code while continuing to require others who have not been so affected to comply with the standard the legislature set down in 1976 in AS 46.30.070. It is my recommendation that, after enactment, the revisor of statutes arrange for the inclusion

of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the typed name and title.

Bill Sheffield
Governor

STATE OF ALASKA

MAY 01 1985

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
POUCH C
JUNEAU, ALASKA 99811

Telephone: (907)

Address:

(907) 465-2600

April 30, 1985

The Honorable Arliss Sturgulewski
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I draw your attention to SB 194, which was referred to Senate Resources in late February. That bill relates to certification of water and wastewater system operators and was drafted when our attorney discovered errors in 18 AAC 74.030 that had gone undetected since 1978. Those errors resulted in the certification of approximately 60 persons who would have otherwise been required to take the state examination.

It is, of course, mandatory that we amend our regulations to accurately reflect the law, but absent the passage of SB 194, such amendments could jeopardize the livelihood of the 60 individuals who have relied since 1978 on the accuracy of the regulations. Those persons who were erroneously certified are, nonetheless, fully qualified to continue working as operators. A class action lawsuit has been threatened if we fail to honor the certifications, and under the doctrine of equitable estoppel, they would probably prevail.

I would appreciate very much your using your good offices to see that this bill is addressed by the Legislature, preferably this session. Other significant amendments to our regulations may have to be put on hold until this bill is passed.

Sincerely,



Bill Ross
Commissioner

WRR:BT

cc: Thomas M. Jahnke, Esq.
Linda Taylor
Billie Trent

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
POUCH O, JUNEAU, AK 99801

Telephone: (907) 465-2600
Address:

April 22, 1985

The Honorable Max F. Gruenberg, Jr.
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Gruenberg:

This is in response to your inquiry about renewal of certification of water/ wastewater operators. At present, this department administers the certification of operators as directed by State statute passed in 1976 (AS.03.060). This includes the requirement to revoke the certificate of an operator who "has not actively engaged in the duties authorized by the certificate" for a continuous period of one year.

An operator may regain certification by taking an examination on the next scheduled examination date, or by appealing to the Water/Wastewater Advisory Board. If the operator is still unemployed after taking an examination, a letter is issued stating the person has passed an examination and that upon employment in an Alaskan water/wastewater system, a certificate will be issued. After 12 months the records are returned to the individual who must then reapply for certification.

As stated in 18 AAC 74.140(2) and (4) "Duties of the Water and Wastewater Board include making recommendations to the Department on issuance, cancellation, invalidation and revocation of certificates."

In addition, the Board reviews "qualifications of applicants for examination and/or certification in cooperation with the Department or at the request of the applicant."

During the March 15, 1985, Board meeting, two operators appealed to the Board to regain their certification. A decision was made in both cases concerning reinstatement of certification. The minutes of that meeting are enclosed.

18 AAC 74.100 (b) applies only to those operators whose certification has been revoked for a cause, not to unemployed operators. Those operators whose certificates have been revoked may still appeal to the board to regain certification before the revocation is final. The Board may reinstate certification if it finds no fraud or deceit in obtaining the certificate or in plant record keeping, gross negligence on the part of the operator, or violations of regulations or statute requirements.

Exhibit "A" - 1

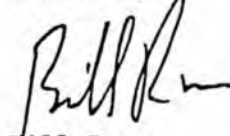
April 22, 1985

The one year break in service item could be a hardship on some operators who, because of sickness or additional formal education (to name only two), stay out of water and wastewater operations for more than 12 months. This department would support revocation of that section. However, I would like to emphasize that certification applies only to persons who are operators of water or wastewater systems. Certification should not be for persons not engaged in actual operation of a system; such as trainers, engineering consultants, or laboratory personnel. These people do not actually operate a system and do not plan to make a career of operations.

I do not believe the statutes and regulations apply to those people.

Again, this department would support a change in Section 46.30.060 of Chapter 30 which deletes the sentence pertaining to one year break in service.

Sincerely,



Bill Ross
Commissioner

Enclosures

BR:LT:jh

Exhibit "A" - 2

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
POUCH O, JUNEAU, ALASKA 99811

Telephone: (907)
Address:
(907) 465-2600

September 25, 1985

OCT 02 '85

The Honorable Max Gruenberg
Alaska State House
914 Clay Court
Anchorage, AK 99503

AS 46.30.060

Dear Representative Gruenberg:

Thank you for the opportunity to review the draft legislation concerning the certification of water and wastewater operators.

The Department will support the amendment to AS 46.30.060 which deletes the requirement that would invalidate the certificate of an operator who had not been actively engaged in his or her duties for a continuous period of one year.

Sincerely,
Bill Ross
Bill Ross
Commissioner

Exhibit "B"

1 IN THE HOUSE

BY GRUENBERG AND JENKINS

2 HOUSE BILL NO. 450

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certification of water and waste-
7 water operators."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 46.30.060 is amended to read:

10 Sec. 46.30.060. CERTIFICATION. The department shall issue
11 certification entitling those persons who successfully complete the
12 required examinations to supervise the operation of potable water
13 supply and wastewater systems and facilities after considering the
14 recommendations of the advisory board. The certificate will designate
15 the class of system for which the operator is qualified in accordance
16 with the classification system of the department. The certificate
17 shall be valid for three years unless revoked for cause or [,] re-
18 placed by one of a higher grade [, OR THE OPERATOR FOR A CONTINUOUS
19 PERIOD OF ONE YEAR HAS NOT BEEN ACTIVELY ENGAGED IN THE DUTIES AU-
20 THORIZED BY THE CERTIFICATE. AN OPERATOR WHOSE CERTIFICATE HAS BEEN
21 INVALIDATED FOR NOT HAVING BEEN ACTIVELY ENGAGED IN THE DUTIES AU-
22 THORIZED MAY BE ISSUED A NEW CERTIFICATE UPON PROOF OF COMPETENCY AS
23 PRESCRIBED BY REGULATIONS].

SB 193 cont'd

Under the amendments in this bill, the superior court has the discretion to allow the presentation of additional evidence as it does in its appellate jurisdiction.

I urge your favorable action on this measure, so that our eminent domain code accurately reflects the law, and so that the public's business is handled in an expeditious and fair manner for all concerned.

Sincerely,

Bill Sheffield
Governor

SB 194

SENATE BILL NO. 194 by the Rules Committee by request of the Governor, entitled:

"An Act relating to certification of water and waste-water systems and facilities operators; and providing for an effective date."

was read the first time and referred to the Resources Committee and the Judiciary Committee.

Department of Environmental Conservation fiscal note is zero.

Governor's transmittal letter dated February 26:

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and waste-water treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

SB 193 cont'd

The language proposed in AS 09.55.450(d) is a departure from existing practice, but, when combined with the amendments regarding decisional documents, should streamline the procedure in the superior court without prejudicing the property owners' rights. Under this language, the superior court will consider the decisional document, any supporting reports, studies, or statements relied upon in reaching the decision to condemn, and any affidavits the parties might submit, as well as depositions taken by the parties. There is no provision for the taking of evidence by the court except in situations in which the court allows the presentation of additional evidence. This proposed language provides for a review process by the superior court which is analogous to the function it serves when reviewing decisions of the district court and administrative agencies under AS 22.15.240 and Appellate Rule 609.

Under the cited statute and rule, the superior court reviews cases involving significant liberty and property interests that have been adjudicated by the district court and a variety of administrative agencies. These appeals are all upon the record without the taking of additional evidence, except as provided by statute and rule in extraordinary circumstances.

There are significant differences between the record in an appeal from the district court or an administrative agency and the decisional document envisioned in sec. 1 of this bill. The most important is that the aggrieved party will have presented his case before the matter is in the superior court. We believe that allowing the parties to submit affidavits and depositions in response to, or to support objections to, the taking is a reasonable substitute. We reach this conclusion because of the extensive nature of the background analysis that is performed in the course of developing a public works project. Typically, location and design studies and, in many instances, environmental impact studies are prepared. An additional component of the planning and design of a public works project is a public hearing process during which comments are solicited from the public. Furthermore, AS 35.30.010 requires approval by local planning and zoning commissions. An analogous approval is required under AS 09.55.275 for any replatting which is necessary to accommodate the project. By the time an eminent domain action is filed, the project is a well-known entity and well defined, and has been the subject of local political decisions and adjudication procedures under AS 35.30.010 and AS 09.55.275.

With this extensive administrative background, we believe that augmenting the evidence before the court with depositions and affidavits provides the superior court an adequate basis to review the appropriateness of the taking.

SB 194 cont'd

The attached bill will grandfather in those individuals who, before January 1, 1985, applied for and received certification without examination, based upon employment as operators on September 24, 1978 or a valid certificate issued under the Alaska Water Management voluntary certification program. You should note that this corrective legislation will be uncodified and will not change the existing law in AS 46.30.070; it only alleviates the harm that would be done to operators who relied on the errors in the Alaska Administrative Code while continuing to require others who have not been so affected to comply with the standard the legislature set down in 1976 in AS 46.30.070. It is my recommendation that, after enactment, the revisor of statutes arrange for the inclusion of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

Bill Sheffield
Governor

SB 195

SENATE BILL NO. 195 by the Rules Committee by request of the Governor, entitled:

"An Act making miscellaneous amendments concerning boards, commissions, and councils; and providing for an effective date."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

Department of Commerce and Economic Development fiscal note is zero. Analysis by Jennifer Strickler, Occupational Licensing: "The bill will standardize limitations and terms of office for board members from the various individual board statutes to a central licensing statute under AS 08.01 (Centralized Licensing Act). The bill is also intended to eliminate the fragmentation in the different board statutes and to revise language which have caused conflicts, problems and ambiguities."

SB 195 cont'd

Governor's transmittal letter dated February 26:

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that makes a number of relatively minor changes to AS 08 and AS 44.19 concerning various boards, commissions, and councils. The most important change made by the bill is making uniform the length and limitations of terms for all occupational licensing boards and commissions in AS 08. This will not only increase the efficiency of the appointment process but, more importantly, will also improve the access of the public to service on the boards.

The bill also includes a variety of other changes to the statutes governing particular boards and occupations to eliminate problems, ambiguities, conflicts, and outdated cross references. These changes have been requested by the particular boards, commissions, or councils themselves, by the attorney general's office, by the division of occupational licensing in the Department of Commerce and Economic Development, or by the division of governmental coordination in the Office of Management and Budget. They are explained briefly in the following section-by-section outline.

I urge favorable consideration of this bill to improve the effectiveness and the efficiency of our boards, commissions, and councils, and of our occupational licensing system.

SECTION-BY-SECTION OUTLINE

Section 1 of the bill adds to the listing of boards in AS 08.01.010 occupations for which licensing is required, but for which there is no board.

Sections 2, 3, 8, 27, 28, 29, and most of the repeals in sec. 36, all make uniform the length of and limits upon terms of members of the various occupational licensing boards.

Sections 4 and 5 of the bill amend AS 08.01.050 and 08.01.070 to clarify the respective administrative duties of the Department of Commerce and Economic Development and the occupational licensing boards.

Section 6 of the bill makes several amendments to AS 08.01.100 concerning renewal, lapse, and reinstatement of occupational licenses. First, it deletes the word "biennial," regarding renewals, from AS 08.01.100(a). Second, it amends AS 08.01.100(b) to give the Department of Commerce and Economic Development authority to set the late renewal penalty fee by regulation after consultation with the appropriate board. That penalty fee is currently set, by statute, at only \$10. The same amendment to AS 08.01.100(b) is included in sec. 3 of HB 78, also introduced at my request.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
FACILITY CONSTRUCTION & OPERATION
POUCH 0, JUNEAU 99811

465-2620

October 1, 1985

Frank - file

Enclosed are the proposed revisions to the Water/Wastewater Operator Certification Regulations. The comment period ends at 4:30 p.m., October 31, 1985. Please submit comments, in writing, to:

Linda Taylor
Dept. of Environmental Conservation
Pouch 0
Juneau AK 99811

Sincerely,

Linda L. Taylor

Linda L. Taylor
Operations Engineer

MAE GRENANDURG

CHAPTER 74. WATER AND WASTEWATER OPERATOR CERTIFICATION

The contents list of 18 AAC 74 is amended to read:

Section

- 10. General provisions
- 20. Certification requirements
- 30. [Repealed]
- 40. Examination requirements
- 50. Experience and education requirements
- 60. Display of certificate
- 70. Certificate term and renewal
- 80. Lapsed certificate
- 90. [Repealed]
- 100. Revocation of certificate
- 110. Temporary certification
- 120. Classification of water supply and wastewater systems
- 130. [Repealed]
- 140. Water and Wastewater Works Advisory Board
- 150. [Repealed]
- 160. Appeals
- 170. Fees
- 900. Definitions

18 AAC 74.020(b) is amended to read:

(b) The department will certify an applicant who has met the examination requirements of 18 AAC 74.040, [AND] the experience and education requirements of 18 AAC 74.050, and the fee requirements of 18 AAC 74.170. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am ___/___/86, Register ___)

Authority: AS 46.03.020
AS 46.30.080

18 AAC 74.040(a) and 18 AAC 74.040(e) are amended to read:

(a) An application for certification must be received by the department at least 45 [60] days before the date set for an examination, and must be filed for the level of certification sought.

• • • • •
(e) An applicant who fails an examination or who fails to appear for an examination may submit a written request for rescheduling at least 45 days before a scheduled examination date, and pay the fee required by 18 AAC 74.170(b). Requests received after the deadline will be scheduled for the next examination. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am ___/___/86, Register ___)

Authority: AS 46.03.020
AS 46.30.050
AS 46.30.080

(g) For all department sponsored short courses, the following fee schedule applies:

1-day course	\$ 75
2-day course	100
3-day course	150
4-day course	175
5-day course	200

(h) The department will, in its discretion, cancel short courses with fewer than 10 students in attendance.

(i) All department sponsored correspondence courses providing CEU credits require a fee of \$10 per CEU.

(j) A reciprocal certificate may be issued upon receipt of a \$10 application fee, a \$15 certificate fee, and proof of compliance with 18 AAC 74.050. (Eff. / /86, Register)

Authority: AS 46.03.020
AS 46.30.030
AS 46.30.080

CHAPTER 74. WATER AND WASTEWATER OPERATOR CERTIFICATION

The contents list of 18 AAC 74 is amended to read:

Section

- 10. General provisions
- 20. Certification requirements
- 30. [Repealed]
- 40. Examination requirements
- 50. Experience and education requirements
- 60. Display of certificate
- 70. Certificate term and renewal
- 80. Lapsed certificate
- 90. [Repealed]
- 100. Revocation of certificate
- 110. Temporary certification
- 120. Classification of water supply and wastewater systems
- 130. [Repealed]
- 140. Water and Wastewater Works Advisory Board
- 150. [Repealed]
- 160. Appeals
- 170. Fees
- 900. Definitions

18 AAC 74.020(b) is amended to read:

(b) The department will certify an applicant who has met the examination requirements of 18 AAC 74.040, [AND] the experience and education requirements of 18 AAC 74.050, and the fee requirements of 18 AAC 74.170. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am ___/___/85, Register ___)

Authority: AS 46.03.020
AS 46.30.080

18 AAC 74.040(a) and 18 AAC 74.040(e) are amended to read:

(a) An application for certification must be received by the department at least 45 [60] days before the date set for an examination, and must be filed for the level of certification sought.

(e) An applicant who fails an examination or who fails to appear for an examination may submit a written request for rescheduling at least 45 days before a scheduled examination date, and pay the fee required by 18 AAC 74.170(b). Requests received after the deadline will be scheduled for the next examination. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am ___/___/86, Register ___)

Authority: AS 46.03.020
AS 46.30.050
AS 46.30.080

18 AAC 74.070(d) is amended to read:

(d) The department will renew a certificate only if an operator has actively and continuously performed the duties authorized by the certificate for more than two years of the certificate period, and has paid the fee required by 18 AAC 74.170(d). (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am / /86, Register)

Authority: AS 46.03.020
AS 46.30.060

18 AAC 74.080(a) is amended to read:

(a) An operator who seeks renewal of a lapsed certificate shall submit a request for renewal within 180 days after the certificate lapses. Upon receipt of a valid request for renewal, including proof of compliance with 18 AAC 74.070(c) and (d) and with 18 AAC 74.170(d), the department will renew a certificate. (Eff. 8/21/78, Register 67; am 8/24/85 Register 95; am / /86, Register)

Authority: AS 46.03.020
AS 46.30.080

18 AAC 74.110 is amended to read:

18 AAC 74.110. TEMPORARY CERTIFICATION. The department will, in its discretion, issue a temporary certificate for good cause shown. The temporary certificate is valid until the earliest date when the operator may be examined and certified under this chapter. A temporary certificate applies only to the system which the applicant is operating at the time of application, and will not be renewed. The certificate will be issued upon compliance with 18 AAC 74.170(e). (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am / /86, Register)

AUTHORITY: AS 46.03.020
AS 46.30.110

18 AAC 74 is amended by adding:

18 AAC 74.170. FEES. (a) The department will accept for processing an initial application for examination only when the application is accompanied by an application fee of \$10.

(b) The department will accept for processing an application for re-examination only when the application is accompanied by an application fee of \$10.

(c) The department will schedule a qualified applicant for an examination only upon receipt of a \$15 examination fee for each examination to be taken.

(d) The department will renew a certificate upon receipt of a \$30 renewal fee and proof of compliance with 18 AAC 74.070.

(e) The department will issue a temporary certificate upon receipt of a \$10 application fee, a \$15 certificate fee, and compliance with 18 AAC 74.110.

(f) An examination fee will be forfeited for failure to take an examination unless the department is notified, in writing, at least two weeks before the examination date. The fee will be applied to the next examination cycle without reapplication.

(g) For all department sponsored short courses, the following fee schedule applies:

1-day course	\$ 75
2-day course	100
3-day course	150
4-day course	175
5-day course	200

(h) The department will, in its discretion, cancel short courses with fewer than 10 students in attendance.

(i) All department sponsored correspondence courses providing CEU credits require a fee of \$10 per CEU.

(j) A reciprocal certificate may be issued upon receipt of a \$10 application fee, a \$15 certificate fee, and proof of compliance with 18 AAC 74.050. (Eff. 1/1/85, Register)

Authority: AS 46.03.020
AS 46.30.030
AS 46.30.080

CHAPTER 74. WATER AND WASTEWATER OPERATOR CERTIFICATION

The contents list of 18 AAC 74 is amended to read:

Section

- 10. General provisions
- 20. Certification requirements
- 30. [Repealed]
- 40. Examination requirements
- 50. Experience and education requirements
- 60. Display of certificate
- 70. Certificate term and renewal
- 80. Lapsed certificate
- 90. [Repealed]
- 100. Revocation of certificate
- 110. Temporary certification
- 120. Classification of water supply and wastewater systems
- 130. [Repealed]
- 140. Water and Wastewater Works Advisory Board
- 150. [Repealed]
- 160. Appeals
- 170. Fees
- 900. Definitions

18 AAC 74.020(b) is amended to read:

(b) The department will certify an applicant who has met the examination requirements of 18 AAC 74.040, [AND] the experience and education requirements of 18 AAC 74.050, and the fee requirements of 18 AAC 74.170. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am ___/___/86, Register ___)

Authority: AS 46.03.020
AS 46.30.080

18 AAC 74.040(a) and 18 AAC 74.040(e) are amended to read:

(a) An application for certification must be received by the department at least 45 [60] days before the date set for an examination, and must be filed for the level of certification sought.

• • • • •
(e) An applicant who fails an examination or who fails to appear for an examination may submit a written request for rescheduling at least 45 days before a scheduled examination date, and pay the fee required by 18 AAC 74.170(b). Requests received after the deadline will be scheduled for the next examination. (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am / /86, Register)

Authority: AS 46.03.020
AS 46.30.050
AS 46.30.080

18 AAC 74.070(d) is amended to read:

(d) The department will renew a certificate only if an operator has actively and continuously performed the duties authorized by the certificate for more than two years of the certificate period, and has paid the fee required by 18 AAC 74.170(d). (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am / /86, Register)

Authority: AS 46.03.020
AS 46.30.060

18 AAC 74.080(a) is amended to read:

(a) An operator who seeks renewal of a lapsed certificate shall submit a request for renewal within 180 days after the certificate lapses. Upon receipt of a valid request for renewal, including proof of compliance with 18 AAC 74.070(c) and (d) and with 18 AAC 74.170(d), the department will renew a certificate. (Eff. 8/21/78, Register 67; am 8/24/85 Register 95; am / /86, Register)

Authority: AS 46.03.020
AS 46.30.080

18 AAC 74.110 is amended to read:

18 AAC 74.110. TEMPORARY CERTIFICATION. The department will, in its discretion, issue a temporary certificate for good cause shown. The temporary certificate is valid until the earliest date when the operator may be examined and certified under this chapter. A temporary certificate applies only to the system which the applicant is operating at the time of application, and will not be renewed. The certificate will be issued upon compliance with 18 AAC 74.170(e). (Eff. 8/21/78, Register 67; am 8/24/85, Register 95; am / /86, Register)

AUTHORITY: AS 46.03.020
AS 46.30.110

18 AAC 74 is amended by adding:

18 AAC 74.170. FEES. (a) The department will accept for processing an initial application for examination only when the application is accompanied by an application fee of \$10.

(b) The department will accept for processing an application for re-examination only when the application is accompanied by an application fee of \$10.

(c) The department will schedule a qualified applicant for an examination only upon receipt of a \$15 examination fee for each examination to be taken.

(d) The department will renew a certificate upon receipt of a \$30 renewal fee and proof of compliance with 18 AAC 74.070.

(e) The department will issue a temporary certificate upon receipt of a \$10 application fee, a \$15 certificate fee, and compliance with 18 AAC 74.110.

(f) An examination fee will be forfeited for failure to take an examination unless the department is notified, in writing, at least two weeks before the examination date. The fee will be applied to the next examination cycle without reapplication.

(g) For all department sponsored short courses, the following fee schedule applies:

1-day course	\$ 75
2-day course	100
3-day course	150
4-day course	175
5-day course	200

(h) The department will, in its discretion, cancel short courses with fewer than 10 students in attendance.

(i) All department sponsored correspondence courses providing CEU credits require a fee of \$10 per CEU.

(j) A reciprocal certificate may be issued upon receipt of a \$10 application fee, a \$15 certificate fee, and proof of compliance with 18 AAC 74.050. (Eff. / /86, Register)

Authority: AS 46.03.020
AS 46.30.030
AS 46.30.080

SB 193 cont'd

Under the amendments in this bill, the superior court has the discretion to allow the presentation of additional evidence as it does in its appellate jurisdiction.

I urge your favorable action on this measure, so that our eminent domain code accurately reflects the law, and so that the public's business is handled in an expeditious and fair manner for all concerned.

Sincerely,

Bill Sheffield
Governor

SB 194

SENATE BILL NO. 194 by the Rules Committee by request of the Governor, entitled:

"An Act relating to certification of water and waste-water systems and facilities operators; and providing for an effective date."

was read the first time and referred to the Resources Committee and the Judiciary Committee.

Department of Environmental Conservation fiscal note is zero.

Governor's transmittal letter dated February 26:

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and waste-water treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

SB 194 cont'd

The attached bill will grandfather in those individuals who, before January 1, 1985, applied for and received certification without examination, based upon employment as operators on September 24, 1978 or a valid certificate issued under the Alaska Water Management voluntary certification program. You should note that this corrective legislation will be uncodified and will not change the existing law in AS 46.30.070; it only alleviates the harm that would be done to operators who relied on the errors in the Alaska Administrative Code while continuing to require others who have not been so affected to comply with the standard the legislature set down in 1976 in AS 46.30.070. It is my recommendation that, after enactment, the revisor of statutes arrange for the inclusion of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

Bill Sheffield
Governor

SB 195

SENATE BILL NO. 195 by the Rules Committee by request of the Governor, entitled:

"An Act making miscellaneous amendments concerning boards, commissions, and councils; and providing for an effective date."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

Department of Commerce and Economic Development fiscal note is zero. Analysis by Jennifer Strickler, Occupational Licensing: "The bill will standardize limitations and terms of office for board members from the various individual board statutes to a central licensing statute under AS 08.01 (Centralized Licensing Act). The bill is also intended to eliminate the fragmentation in the different board statutes and to revise language which have caused conflicts, problems and ambiguities."

Chapter 26. Commission for Ocean Advancement Through Science and Technology.

Section

10 — 100. [Repealed]

Secs. 46.26.010 — 46.26.100.

Terminated by § 4 ch 115 SLA 1969, as amended by § 81 ch 69 SLA 1970.

Editor's notes. — The terminated sections derived from § 2, ch. 115, SLA 1969; § 6, ch. 104, SLA 1971; § 117, ch. 218, SLA 1976.

Chapter 30. Certification of Operators.

Section

- 10. Classification
- 20. Water and Wastewater Works Advisory Board
- 30. Training
- 40. Certification requirement
- 50. Examinations
- 60. Certification

Section

- 70. Certificates without examination
- 80. Regulations
- 90. Guidelines
- 100. Reciprocity
- 110. Temporary certification
- 120. Prohibited acts
- 130. Definitions

Collateral references. — 78 Am. Jur. 2d, Waterworks and Water Companies, § 2.
94 C.J.S., Waters, §§ 250-253, 261.

Sec. 46.30.010. Classification. The department shall classify all potable water systems and facilities actually used or intended for use by the public, and all wastewater systems and facilities which discharge into publicly owned wastewater systems, or to receiving bodies of water, or on land used by others. The classification shall take due regard to size and type, character of water or wastewater to be treated, and other physical conditions affecting the systems and facilities, and according to the skill, knowledge and experience required of an operator. (§ 1 ch 244 SLA 1976)

Sec. 46.30.020. Water and Wastewater Works Advisory Board. There is created the Water and Wastewater Works Advisory Board composed of the commissioner of environmental conservation and eight additional members appointed by the governor. The Water and Wastewater Works Advisory Board shall advise and assist the department in the administration of the training and certification program. Appointments to the board shall be for a period of five years. The initial term of office of two of the members is for one year, the initial term of

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three of the members is three years, and the initial term of three of the members is five years. Vacancies shall be filled in the same manner as the original appointments. (§ 1 ch 244 SLA 1976)

Sec. 46.30.030. Training. The department shall, with the assistance and advice of the Water and Wastewater Works Advisory Board, provide a water and wastewater works operator training program. The purpose of this program is to provide mechanisms for water and wastewater works operators to become certified under the provisions of this chapter and for certified operators to maintain and improve their competency in operating water and wastewater systems or facilities. The department shall coordinate and cooperate with educational institutions and other organizations or individuals in the administration of this section. (§ 1 ch 244 SLA 1976)

Sec. 46.30.040. Certification requirement. Two years following September 24, 1976, all potable water supply and wastewater systems and facilities, whether publicly or privately owned, which serve 100 or more service connections or are used or intended for use by 500 or more persons, must at all times be under the supervision of an operator whose competency is certified to by the department in a classification corresponding to the classification of the system or facility to be supervised. (§ 1 ch 244 SLA 1976)

Sec. 46.30.050. Examinations. Examinations shall be held at least annually at times and places set by the department. Separate examinations shall be given for each operator classification. Applicants who fail to pass an examination may repeat the examination at subsequent regularly scheduled examinations. (§ 1 ch 244 SLA 1976)

Sec. 46.30.060. Certification. The department shall issue certification entitling those persons who successfully complete the required examinations to supervise the operation of potable water supply and wastewater systems and facilities after considering the recommendations of the advisory board. The certificate will designate the class of system for which the operator is qualified in accordance with the classification system of the department. The certificate shall be valid for three years unless revoked for cause, replaced by one of a higher grade, or the operator for a continuous period of one year has not been actively engaged in the duties authorized by the certificate. An operator whose certificate has been invalidated for not having been actively engaged in the duties authorized may be issued a new certificate upon proof of competency as prescribed by regulations. (§ 1 ch 244 SLA 1976)

Sec. 46.30.070. Certificates without examination. Certificates may be issued without an examination to persons employed as water or wastewater works operators on September 24, 1976 who request such a waiver. The examination waiver shall be printed on the certificate. An operator certified under this section may request to have his

certificate transferred to another facility of the same general class and type or to another facility of lower class. The request shall be granted if, in the opinion of the department, the transfer would not adversely affect the health and safety of the public or the environment. The department shall consider the recommendations of the Water and Wastewater Works Advisory Board before granting or denying a request under this section. (§ 1 ch 244 SLA 1976)

Sec. 46.30.080. Regulations. The department, with the advice of the Wastewater Works Advisory Board, shall issue regulations for administration of this chapter. The regulations shall include

(1) the basis for classification of potable water supply and wastewater systems and facilities, including the type and size of lesser systems and facilities, if any, to which the provisions of this chapter do not apply, as required by AS 46.30.010;

(2) criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in AS 46.30.010;

(3) procedures for examination of candidates and renewal of certificates;

(4) procedures for the revocation of certificates;

(5) determination as to which additional personnel shall be certified when certification is required for more than the operator in direct responsible charge. (§ 1 ch 244 SLA 1976)

Sec. 46.30.090. Guidelines. The department, to the extent it determines feasible, shall be guided by the standards recommended by the Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities. (§ 1 ch 244 SLA 1976)

Sec. 46.30.100. Reciprocity. Certificates may be issued without examination in the comparable classification to an applicant who holds a certificate in a state, territory, or possession of the United States, if its certification requirements and examinations are comparable to those of this state and if reciprocal privileges are granted to operators certified in this state. (§ 1 ch 244 SLA 1976)

Sec. 46.30.110. Temporary certification. In the event of unusual or emergency circumstances or following the hiring of new employees, temporary certificates may be issued to an operator until such time as he may be examined and certified. Within two weeks after employment of such an operator, the department shall be notified in writing and information shall be provided, including the operator's name, background, experience, training, education, and references. Thereafter, the operator may be issued a temporary certificate which shall remain valid only for that time required for next routine examination and evaluation. (§ 1 ch 244 SLA 1976)

Sec. 46.30.120. Prohibited acts. On or after two years following September 24, 1976, it shall be unlawful

(1) for any potable water supply or wastewater system or facility subject to AS 46.30.040 to be operated unless the operator is certified under the provisions of this chapter;

(2) for any person to perform the duties of an operator without being certified under the provisions of this chapter. (§ 1 ch 244 SLA 1976)

Sec. 46.30.130. Definitions. In this chapter

(1) "certificate" means certificate of competency issued by the department stating that the operator has met the requirements for the specified operator classification of the certification program;

(2) "department" means the Department of Environmental Conservation;

(3) "potable water supply system" means the system of pipes, structures, and facilities through which water is obtained, treated and sold, distributed or otherwise offered to the public for household use or any use by humans;

(4) "wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry away and treat domestic and industrial wastewater and dispose of the effluent. (§ 1 ch 244 SLA 1976)

Chapter 35. Environmental Procedures Coordination.

Section	Section
10. Legislative determination	120. Fee schedules
20. Purpose	130. Compliance with local zoning ordinances and plans
30. Master application	140. Applicability of other laws
40. Withholding final permit	150. Regulations and authorities
50. Notice of proposed project	160. Permit requirement information centers
60. Public hearing	170. Conflicts and compliance with federal requirements
70. Final decision	200. Definitions
80. Withdrawal of agency from participation	210. Short title
90. Administrative and judicial review	
100. Time	
110. Application	

Cross references. — As to powers of Department of Environmental Conservation, see AS 46.03.020. 39A C.J.S., Health and Environment, §§ 115-124.

Collateral references. — 61 Am. Jur. 2d, Pollution Control, §§ 46-49.

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- (1) a proven history of successful placer mining in the state;
- (2) the capability to produce verifiable results; and
- (3) the capability to study and test innovative and economically viable techniques for waste disposal and pollution control in placer mining.

(c) The commissioner of environmental conservation may not make a grant under this section to a person in excess of \$100,000.

(d) The commissioner of environmental conservation shall monitor and evaluate the results of grants made under this section. (§ 1 ch 131 SLA 1984)

Sec. 46.16.090. Access to information. (a) All information generated as a result of grants made under this chapter is public information. The commissioner of natural resources and the commissioner of environmental conservation shall compile, analyze, and distribute the information for the benefit of the placer mining industry and the state and federal governments.

(b) The contents of an application for a grant are available to the extent permitted under AS 09.25.110 and 09.25.120. (§ 1 ch 131 SLA 1984)

Sec. 46.16.100. Patents. A person who applies for a grant under this chapter shall assign to the state the right to patent any patentable process developed as a result of a grant under this chapter. The department making the grant shall seek to patent any patentable process developed as a result of a grant under this chapter. The state shall license without cost to a person engaged in placer mining in the state the right to use in the state a patented process that was developed as a result of a grant under this chapter. (§ 1 ch 131 SLA 1984)

Chapter 30. Certification of Operators.

Section

20. Water and Wastewater Works Advisory Board

Section

40. Certification requirement
120. Prohibited acts

Sec. 46.30.020. Water and Wastewater Works Advisory Board. There is created the Water and Wastewater Works Advisory Board composed of the commissioner of environmental conservation and eight additional members appointed by the governor. The Water and Wastewater Works Advisory Board shall advise and assist the department in the administration of the training and certification program. Appointments to the board shall be for a period of five years. Vacancies shall be filled in the same manner as the original

appointments. (§ 1 ch 244 SLA 1976; am § 129 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment deleted the former next-to-last sentence, which read "The initial term of office of two of the members is for one year, the initial term of three of the members is three years, and the initial term of three of the members is five years."

Sec. 46.30.040. Certification requirement. All potable water supply and wastewater systems and facilities, whether publicly or privately owned, which serve 100 or more service connections or are used or intended for use by 500 or more persons, must at all times be under the supervision of an operator whose competency is certified to by the department in a classification corresponding to the classification of the system or facility to be supervised. (§ 1 ch 244 SLA 1976; am § 130 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment deleted "Two years following September 24, 1976" at the beginning of the section.

Sec. 46.30.120. Prohibited acts. It is unlawful

(1) for any potable water supply or wastewater system or facility subject to AS 46.30.040 to be operated unless the operator is certified under the provisions of this chapter;

(2) for any person to perform the duties of an operator without being certified under the provisions of this chapter. (§ 1 ch 244 SLA 1976; am § 131 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "It is" for "On or after two years following September 24, 1976, it shall be" in the introductory language.

Chapter 35. Environmental Procedures Coordination.

Section

10. Legislative determination

200. Definitions

Sec. 46.35.010. Legislative determination. The legislature determines that the substantial burdens placed upon persons who are proposing to undertake certain types of projects in this state through requirements to obtain numerous permits and related documents from various federal, state and local agencies are undesirable and should be alleviated. The legislature further finds that present methods for obtaining public views relating to applications to state and local agencies pertaining to these projects are cumbersome and place undue hardships on members of the public with the result that the public

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combination of municipalities, which has received a construction grant offer for a water, sewerage, or solid waste system;

(6) "professional engineer" means an engineer registered in the state in accordance with AS 08.48.221;

(7) "start of construction" means the issuance to a contractor of a notice to proceed with construction;

(8) "storm sewer system" means pipelines or conduits, pumping stations, and force mains, and all other appurtenant construction, devices, and appliances used for conducting storm water drainage and runoff to a point of ultimate disposal or discharge;

(9) "water supply system" means any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which water is available for two or more individual dwellings or business establishments. (Eff. 12/10/77, Reg. 64; am 6/11/81, Reg. 78)

Authority: AS 46.03.020(10)
AS 46.03.030

**CHAPTER 74.
WATER AND WASTEWATER OPERATOR
CERTIFICATION AND TRAINING**

Section

- 10. General provisions
- 20. Certification requirements
- 30. Certification without examination
- 40. Examination requirements
- 50. Experience and education requirements
- 60. Display of certificates
- 70. Certificate term and renewal
- 80. Lapsed certificates
- 90. (Repealed)
- 100. Revocation of certificates
- 110. Temporary certification
- 120. Classification of water supply systems and wastewater systems
- 130. Training
- 140. Duties of the water and wastewater works advisory board
- 150. Composition of the water and wastewater works advisory board
- 160. Appeals
- 900. Definitions

18 AAC 74.010. GENERAL PROVISIONS.
After September 24, 1978, all water supply systems and wastewater systems, whether publicly or privately owned, which serve 100 or more service connections or are used or intended for use by 500 or more persons per day, must be under the supervision of an operator certified by the department as follows:

(1) An operator in responsible charge of a system must be certified at a level corresponding to the classification of the system under his responsibility.

(2) An operator in responsible charge of an operating shift of a system must be certified at no less than one level below that corresponding to the classification of the system under his responsibility.

(3) An operator in responsible charge of more than one system must be certified at a level corresponding to the highest individual classification of the systems under his responsibility. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.040 AS 46.30.080(3)
AS 46.30.080(1) AS 46.30.080(5)

18 AAC 74.020. CERTIFICATION REQUIREMENTS. (a) No person will be certified under this chapter unless an appropriate application has been submitted to the department on forms provided by the department.

(b) The department will certify an applicant if it finds that the applicant has either met the conditions of 18 AAC 74.030, or has satisfied the examination requirements of 18 AAC 74.040 and the experience and education requirements of 18 AAC 74.050. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.080(2)

18 AAC 74.030. CERTIFICATION WITHOUT EXAMINATION. The department, in its discretion, will issue certificates without regard to the requirements of 18 AAC 74.040 – 18 AAC 74.050 if the applicant

(1) has been verified by the owner of the system or by the Alaska Water Management Association to have been an operator of a water supply system or wastewater system on September 24, 1978; certificates issued under this subsection will have "examination waiver" printed on the certificate, and will authorize the holder to continue operation of the system for which verification was made under this subsection; an operator certified under this section may request to have the certificate transferred to another system of the same classification or to a system of lower classification; the department, in its discretion, will grant the request if the system for which the transfer is sought is substantially similar to the system from which the transfer is being made; the department will consider the recommendation of the board before making a determination on a request under this subsection;

(2) holds a valid certificate issued under the Alaska Water Management Association voluntary certification program on or before September 24, 1978; or

(3) holds a current certificate issued by any state, territory or possession of the United States, if that jurisdiction's certification requirements and examinations are comparable to those of the State of Alaska and that

reciprocal privileges are granted by that jurisdiction to operators certified by the State of Alaska. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.070
AS 46.30.080(3)
AS 46.30.100

18 AAC 74.040. EXAMINATION REQUIREMENTS. (a) Applications for certification must be submitted to the department at least 60 days before the date set for an examination.

(b) An application must be filed for the level of certification requested.

(c) The department will notify the applicant regarding eligibility for examination.

(d) An applicant who fails to appear for a certification examination must file a new application to be eligible for another scheduled examination.

(e) Examinations will be held at least annually at times and locations announced by the department. The department will, in its discretion, designate representatives to act as proctors in administering the examinations.

(f) The department, in its discretion, will conduct oral or practical examinations instead of, or to augment, the written examination. Before conducting oral or practical examinations, the department will notify the board, which must have one or more members present during the oral or practical examination. A certificate issued following an oral or practical examination will apply only to the system which the applicant is operating at the time of examination.

(g) Examinations will be graded by the department and each applicant notified of the results within 60 days. Examinations will not be mailed to the applicant; however, the applicant may review the examination results with the department.

(h) Applicants who fail an examination may reapply and retake the examination at another scheduled examination date. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.050
AS 46.30.080(3)

18 AAC 74.050. EXPERIENCE AND EDUCATION REQUIREMENTS. (a) Criteria used by the department to evaluate experience

and education qualifications of operators are contained in Table A.

TABLE A —
MINIMUM PERSONNEL EDUCATION AND EXPERIENCE REQUIREMENTS (IN YEARS)

System Type	Operator Level										
	Operator in Training		I		II		III			IV	
	Op. Educ.	Op. Exp.	Op. Educ.	Op. Exp.	Op. Educ.	Op. Exp.	Op. Educ.	Resp. Charge Exp.	Op. Educ.	Resp. Charge Exp.	
Wastewater Collection	12	*	12	1	12	4	—	—	—	—	—
Wastewater Treatment	12	*	12	1	12	3	14	4	(2)	16	4 (2)
Water Distribution	12	*	12	1	12	4	—	—	—	—	—
Water Treatment	12	*	12	1	12	3	14	4	(2)	16	4 (2)

*Three months' operating experience or satisfactory completion of a basic training course approved in writing by the department.

Abbreviations

Educ.—Education

Op.—Operator

Exp.—Experience

Resp.—Responsible

(1) For level I certification, the minimum experience requirement is one year of experience in the appropriate type of system, without substitution;

(2) For levels II, III, and IV certification, substitutions under (b) of this section may be made for up to 50 percent of the minimum experience requirements (both operating and responsible charge); the remainder of the experience requirements must be met by actual on-site operating experience in the appropriate type of system;

(3) Experience requirements must be met under the supervision of a certified operator or through an organized on-the-job training program;

(4) The department will issue a conditional

level III certificate to allow a level II operator to accumulate responsible charge experience, if an application has been submitted to the department and the applicant has satisfied the level III examination and operating experience requirements. A certificate issued under this paragraph is valid for one year and is renewable for a maximum of one year upon approval by the department; the certificate will be valid only for the system which the applicant is operating at the time of application;

(5) At least half of the operating experience requirement for level III certification must be achieved through operating experience with a level II or higher system;

(6) At least half of the operating experience requirement for level IV certification must be achieved through operating experience with a

level III or higher system;

(7) In smaller systems without shift operation, responsible charge experience is active, daily, on-site charge and performance of operation duties in a system in the next lower classification; and

(8) In larger systems with shift operation, responsible charge experience is both daily, on-site technical direction and supervision of operation duties in a system in the next lower classification, and active, daily, on-site charge of an operating shift, or a major segment of a system, in the same or next lower classification.

(b) Substitutions under (a)(2) of this section may be made under following criteria:

(1) High school education may not be substituted for experience.

(2) Relevant postsecondary education as approved by the department may be substituted for operating or responsible charge experience. The rate of exchange of education for experience is one year of experience for each year of relevant full-time postsecondary education successfully completed by the applicant.

(3) Education used to substitute for an operating experience requirement may not also be applied to the education requirement.

(4) One year of operating or responsible charge experience may be substituted for either two years of elementary school education with no limitation, or one year of high school education with no limitation.

(5) A maximum of one year of responsible charge experience in a class II or higher system may be substituted for one year of the postsecondary educational requirement for level III certification.

(6) A maximum of one year of responsible charge experience in a class III or higher system may be substituted for one year of the postsecondary educational requirement for level IV certification.

(7) Experience substituted for an educational

requirement may not be applied toward meeting the operating or responsible charge experience requirements.

(8) Forty-five continuing education units (CEU's) in relevant specialized operator training or education may be used to satisfy one year of the educational requirement or one year of operating or responsible charge experience. Ten hours of department approved course work equals one CEU. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.080(2)

18 AAC 74.060. DISPLAY OF CERTIFICATES. Certificates must be displayed in the plant or utility office of the operator. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.060

18 AAC 74.070. CERTIFICATE TERM AND RENEWAL. (a) The term for certificates and renewals will be from the first of January of the year of issuance until December 31 three years later.

(b) The department will send each holder of a certificate a renewal notice at least 60 days before the expiration date of the certificate. Notice will be mailed to the last address of record. Failure to receive notice does not relieve the holder of his responsibility to renew the certificate.

(c) Upon receipt of a valid and timely request for renewal, the department will issue a renewal certificate. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.060

AS 46.30.080(3)

18 AAC 74.080. LAPSED CERTIFICATES. (a) The department will renew certificates for which timely application for renewal was not made under 18 AAC 74.070 if an application for renewal is received within 180 days after the expiration of the certificate.

(b) The department will, in its discretion, require reexamination of an operator if a renewal application is received more than 180 days after the expiration of the certificate. The department will consider the recommendations of the board in determining the need for examination of an operator whose certificate has

lapsed under this section. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.080(3)

18 AAC 74.090. CANCELED CERTIFICATES. Repealed 2/21/81.

18 AAC 74.100. REVOCATION OF CERTIFICATES. (a) The department will, in its discretion, revoke the certificate of an operator upon a finding of fraud or deceit in obtaining the certificate; fraud or deceit in plant recordkeeping; gross negligence in the operation of a system; or violation of the requirements of this chapter. The department will consider the recommendations of the board in determining whether to revoke a certificate.

(b) If a certificate is revoked, the operator may not apply again for certification for 365 days following revocation. An application received under this subsection will be treated as an initial application. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.060
AS 46.30.080(4)

18 AAC 74.110. TEMPORARY CERTIFICATION. The department will, in its discretion, issue a temporary certificate for good cause shown. The temporary certificate will be valid until the earliest opportunity at which the operator may be examined and certified under this chapter. A temporary certificate will apply only to the system which the applicant is operating at the time of application. Temporary certificates are not renewable. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.110

18 AAC 74.120. CLASSIFICATION OF WATER SUPPLY SYSTEMS AND WASTEWATER SYSTEMS. (a) For the

purposes of this chapter, water supply systems and wastewater systems are classified as follows:

TABLE B – CLASSIFICATION RATING SYSTEM

Collection and Distribution Systems

System Type	Units	I	II
Wastewater Collection System	Population Served	500 to 15,000	15,001 and greater
Water Distribution System			

TABLE C – CLASSIFICATION RATING SYSTEM

Treatment Systems

System Type	Units	I	II	III	IV
Wastewater Treatment System	Range of Points	30 and less	31–55	56–75	76 and greater
Water Treatment System					

(b) The department will, in its discretion, and after considering the advice of the board, modify the classification rating system in (a) of this section if the department finds that there are unusual factors affecting the complexity of unit processes, quality of raw water sources, users of water downstream of wastewater system discharges or potential health hazards.

(c) In classifying water treatment systems under (a) of this section, the following point system will be used:

Item	Points
Size ^a	
Maximum population served, peak day	1 point per 10,000 or part
Design flow (average day) or peak month's production (average day) whichever is larger	1 point per 1.0 million gallons per day or part
Water Supply Source	
Groundwater	3–5 ^b
Surface water	4–7 ^b

Adjustment
pH adjustment, stability, corrosion control7

Treatment
Aeration3
Ion exchange, catalytic adsorption^c10
Chemical precipitation, coagulation-flocculation20
Sedimentation 5
Filtration10
Reverse osmosis, electrodialysis, etc. . . .20
Activated carbon10
On-site treatment of system sludge15
Ozonation 8

Fluoridation 5

Disinfection 5–8^b

Laboratory Control by Plant Personnel
Bacteriological (complexity) 3–10^b
Chemical/physical (complexity) 1–10^b

^a Limit 10 points each, or maximum of 20 points for size.

- b Range of points determined by raw water quality, disinfection scheme, and complexity of on-site laboratory analysis.
- c Includes potassium permanganate green-sand.

(d) In classifying wastewater treatment systems under (a) of this section, the following point system will be used:

Item Size ^a	Points
Maximum population served, peak day 1 point per 10,000 or part	
Design flow (average day) or peak month's flow (average day), whichever is larger 1 point per 1.0 million gallons per day or part	
Pretreatment	
Screening, comminution 1-3 ^b	
Mechanically cleaned grit chamber 3	
Plant pumping of main flow 3	
Pre-aeration 1	
Flow equalization 2	
Primary Treatment	
Primary clarifiers 5	
Combined sedimentation/digestion 5	
Chemical addition 4	
Dissolved air flotation 5	
Secondary Treatment	
Trickling filter 10	
Activated sludge 10-15 ^b	
Stabilization ponds without aeration 5	
Aerated lagoon 8	
Rotating biological surface 10	
Activated bio-filter with aeration 15	
Activated bio-filter without aeration 10	
Pure oxygen 20	
Secondary clarifiers 5	
Advanced Waste Treatment	
Polishing pond 2	
Chemical/physical—without secondary . . . 15	
Chemical/physical following secondary . . . 10	
Ion exchange 10	
Reverse osmosis, electrodialysis 15	
Chemical recovery, carbon regeneration . . 4	
Adsorption 10	
Filtration 10	

Solids Handling	
Thickening	5
Anaerobic digestion	10
Aerobic digestion	6
Evaporative sludge drying	2
Mechanical dewatering	8
Solids reduction (incineration, wet oxidation)	12
Residual disposal	1-4 ^b
Disinfection 5-8^b	
Chemical or mechanical dechlorination . . .	3

Effluent Discharge	
Receiving stream	2-6 ^b
Land application	2
Subsurface disposal	4

Laboratory Control by Plant Personnel	
Bacteriological (complexity)	3-10 ^b
Chemical/physical (complexity)	1-10 ^b

- a Limit 20 points each, or maximum of 20 points for size.
- b Range of points determined by complexity of unit process operation, effluent discharge scheme, and complexity of on-site laboratory analysis.

(Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.010
AS 46.30.080(1)
AS 46.30.090

18 AAC 74.130. TRAINING. The department will, with the assistance of the board, develop a program for the training of water and wastewater operators. To the extent practicable, the training program will use the facilities of higher educational institutions in the state. The plan will include, at a minimum, training through seminars, workshops, classroom instruction, correspondence, and on-the-job programs. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.030

18 AAC 74.140. DUTIES OF THE WATER AND WASTEWATER WORKS ADVISORY BOARD. The duties of the board include

(1) advising and assisting the department in certifying operators and classifying water and wastewater systems;

(2) reviewing qualifications of applicants for examination and/or certification in cooperation with the department or at the request of the applicant;

(3) advising the department in the preparation and administration of examinations;

(4) making recommendations to the department on the issuance, cancellation, invalidation, or revocation of certificates;

(5) assisting the department in the determination of the number of certified operators necessary for the successful operation of a system;

(6) making recommendations to the legislature and the governor proposing new or modified legislation concerning operation and maintenance or public water supply and wastewater systems;

(7) assisting and advising the department in the development and administration of a training program; and

(8) other assistance as may be requested from time to time by the department. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.020
AS 46.30.030
AS 46.30.060

18 AAC 74.150. COMPOSITION OF THE WATER AND WASTEWATER WORKS ADVISORY BOARD. A minimum of three members of the board will be operators certified pursuant to this chapter. (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.020
AS 46.30.090

18 AAC 74.160. APPEALS. Any person aggrieved by an action of the department taken under this chapter may ask the board to hear the grievance, and to make a recommendation to the

department. Use of this procedure does not diminish any right the aggrieved person may have under the Administrative Procedure Act (AS 44.62). (Eff. 8/21/78, Reg. 67)

Authority: AS 46.30.080

18 AAC 74.900. DEFINITIONS. (a) Unless the context indicates otherwise in this chapter

(1) "applicant" means any person who desires to obtain a certificate under this regulation;

(2) "board" means the Water and Wastewater Works Advisory Board established by AS 46.30.020;

(3) "certificate" means a certificate of competency issued to an operator by the department stating that the operator has met the requirements for the specified operator level of the certification program;

(4) "department" means the Alaska Department of Environmental Conservation;

(5) "operating experience" means the time spent at a system in satisfactory performance of operation duties;

(6) "operator" means anyone who is engaged in the on-site operation of a water supply system or wastewater system; "operator" does not ordinarily apply to an official exercising only general administrative supervisions, such as the city engineer or public works superintendent;

(7) "operator-in-training" means any person receiving on-the-job training under the supervision of a certified operator or through an organized training program, who desires to obtain a certificate and who is, or can show probable employment as, an operator of a water or wastewater system;

(8) "person" means any individual, public or private corporation, political subdivision, government agency, municipality, partnership, association, or any other entity whatsoever;

(9) "responsible charge" means the active, daily, on-site supervision of system operations;

(10) "service connection" means a pipe, with its appurtenances, that connects a water or sewer main with building plumbing;

(11) "systems" means water supply system or wastewater system;

(12) "wastewater collection system" means pipelines or conduits, pumping stations and force mains, and all other appurtenant constructions, devices, and appliances used for conducting wastewater to a wastewater treatment system;

(13) "wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry away and treat domestic and industrial wastewater and dispose of the effluent;

(14) "wastewater treatment system" means devices, structures, and appurtenances used for treating, neutralizing, stabilizing, or disposing of wastewater and residuals;

(15) "water distribution system" means post-treatment storage facilities, conduits, mains, lines and appurtenances, pumping stations or other devices used to transport water to the consumer; and

(16) "water supply system" means any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which water is available for human consumption; the term includes, but is not limited to, systems providing water to more than one residential dwelling unit, or to a factory, office building, restaurant, school, and other similar facilities, but does not include a system serving only a single-family residence;

(17) "water treatment system" means devices, structures and appurtenances, used to condition, purify, or refine water for human consumption; a groundwater supply with only chlorination is considered a water distribution system and not a water treatment system;

(18) "on-site" means present at a system for an amount of time and at intervals considered acceptable by the department, based upon the complexity of the treatment process, and available and on-call within two hours of the system at all times, unless there is a back-up operator who is certified at no less than one level below the classification of the system and who is designated to assume the responsibilities of the op-

erator in responsible charge in his absence. (Eff. 8/21/78, Reg. 67; am 2/21/81, Reg. 77)

Authority: AS 46.30.130

the requirements for the specified operator classification of the certification program;

(2) "department" means the Department of Environmental Conservation;

(3) "potable water supply system" means the system of pipes, structures, and facilities through which water is obtained, treated and sold, distributed or otherwise offered to the public for household use or any use by humans;

(4) "wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry away and treat domestic and industrial wastewater and dispose of the effluent.



LAWS OF ALASKA

1976

Source

CSHB 407 am

Chapter No.

244

AN ACT

Requiring certification of water and wastewater operators; and providing a program for the training of water and wastewater operators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 46 is amended by adding a new chapter to read:

CHAPTER 30. CERTIFICATION OF OPERATORS.

Sec. 46.30.010. CLASSIFICATION. The department shall classify all potable water systems and facilities actually used or intended for use by the public, and all wastewater systems and facilities which discharge into publicly owned wastewater systems, or to receiving bodies of water, or on land used by others. The classification shall take due regard to size and type, character of water or wastewater to be treated, and other physical conditions affecting the systems and facilities, and according to the skill, knowledge and experience required of an operator.

Sec. 46.30.020. WATER AND WASTEWATER WORKS ADVISORY BOARD. There is created the Water and Wastewater Works Advisory Board composed of the commissioner of environmental conservation and eight additional members appointed by the governor. The Water and Wastewater Works Advisory Board shall advise and assist the department in the administration of the training and certification program. Appointments to the board shall be for a period of five years. The initial term of office of two of the members is for one year, the initial term of three of the members is three years, and the initial term of three of the members is five years. Vacancies shall be filled in the same manner as the original appointments.

Sec. 46.30.030. TRAINING. The department shall, with the assistance and advice of the Water and Wastewater Works

Advisory Board, provide a water and wastewater works operator training program. The purpose of this program is to provide mechanisms for water and wastewater works operators to become certified under the provisions of this chapter and for certified operators to maintain and improve their competency in operating water and wastewater systems or facilities. The department shall coordinate and cooperate with educational institutions and other organizations or individuals in the administration of this section.

Sec. 46.30.040. CERTIFICATION REQUIREMENT. Two years following the effective date of this chapter, all potable water supply and wastewater systems and facilities, whether publicly or privately owned, which serve 100 or more service connections or are used or intended for use by 500 or more persons, must at all times be under the supervision of an operator whose competency is certified to by the department in a classification corresponding to the classification of the system or facility to be supervised.

Sec. 46.30.050. EXAMINATIONS. Examinations shall be held at least annually at times and places set by the department. Separate examinations shall be given for each operator classification. Applicants who fail to pass an examination may repeat the examination at subsequent regularly scheduled examinations.

Sec. 46.30.060. CERTIFICATION. The department shall issue certification entitling those persons who successfully complete the required examinations to supervise the operation of potable water supply and wastewater systems and facilities after considering the recommendations of the advisory board. The certificate will designate the class of system for which the operator is qualified in accordance with the classification system of the department. The certificate shall be valid for three years unless revoked for cause, replaced by one of a higher grade, or the operator for a continuous period of one year has not been actively engaged in the duties authorized by the certificate. An operator whose certificate has been invalidated for not having been actively engaged in the duties authorized may be issued a new certificate upon proof of competency as prescribed by regulations.

Sec. 46.30.070. CERTIFICATES WITHOUT EXAMINATION. Certificates may be issued without an examination to persons employed as water or wastewater works operators on the effective date of this chapter who request such a waiver. The examination waiver shall be printed on the certificate. An operator certified under this section may request to have his certificate transferred to another facility of the same general class and type or to another facility of lower class. The request shall be granted if, in the opinion of the department, the transfer would not adversely affect the health and safety of the public or the environment. The department shall consider the recommendations of the Water and Wastewater Works Advisory Board before granting or denying a request under this section.

Sec. 46.30.080. REGULATIONS. The department, with the advice of the advisory board, shall issue regulations for administration of this chapter. The regulations shall include

(1) the basis for classification of potable water supply and wastewater systems and facilities, including the type and size of lesser systems and facilities, if any, to which the provisions of this chapter do not apply, as required by sec. 10 of this chapter;

(2) criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in sec. 10 of this chapter;

(3) procedures for examination of candidates and renewal of certificates;

(4) procedures for the revocation of certificates;

(5) determination as to which additional personnel shall be certified when certification is required for more than the operator in direct responsible charge.

Sec. 46.30.090. GUIDELINES. The department, to the extent it determines feasible, shall be guided by the standards recommended by the Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities.

Sec. 46.30.100. RECIPROCITY. Certificates may be issued without examination in the comparable classification to an applicant who holds a certificate in a state, territory, or possession of the United States, if its certification requirements and examinations are comparable to those of this state and if reciprocal privileges are granted to operators certified in this state.

Sec. 46.30.110. TEMPORARY CERTIFICATION. In the event of unusual or emergency circumstances or following the hiring of new employees, temporary certificates may be issued to an operator until such time as he may be examined and certified. Within two weeks after employment of such an operator, the department shall be notified in writing and information shall be provided, including the operator's name, background, experience, training, education, and references. Thereafter, the operator may be issued a temporary certificate which shall remain valid only for that time required for next routine examination and evaluation.

Sec. 46.30.120. PROHIBITED ACTS. On or after two years following the effective date of this chapter, it shall be unlawful

(1) for any potable water supply or wastewater system or facility subject to AS 46.30.040 to be operated unless the operator is certified under the provisions of this chapter;

(2) for any person to perform the duties of an operator without being certified under the provisions of this chapter.

Sec. 46.30.130. DEFINITIONS. In this chapter

(1) "certificate" means certificate of competency issued by the department stating that the operator has met