

LEGISLATIVE BILL 533

Approved by the Governor March 30, 1987

Introduced by Schmit, 23

AN ACT relating to environmental protection; to adopt the Wastewater Treatment Operator Certification Act.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Wastewater Treatment Operator Certification Act.

Sec. 2. As used in the Wastewater Treatment Operator Certification Act, unless the context otherwise requires:

(1) Certificate shall mean a certificate of competency issued by the director or his or her duly authorized representative certifying that the operator has met the requirements for the specified operator classification of the certification program;

(2) Council shall mean the Environmental Control Council;

(3) Department shall mean the Department of Environmental Control;

(4) Director shall mean the Director of Environmental Control;

(5) Nationally recognized association of certification authorities shall mean an organization or organizations selected by the director which (a) serve as an information center for certification activities, (b) recommend minimum standards and guidelines for classification of wastewater treatment facilities and certification of operators, (c) facilitate reciprocity between state programs, (d) assist authorities in establishing new certification programs and updating existing ones, and (e) provide testing services;

(6) Operator shall mean any person who regularly makes recommendations or is responsible for process control decisions at a wastewater treatment facility. Operator shall not include a person whose duties are limited solely to laboratory testing or maintenance or who exercises general or indirect supervision only;

(7) Voluntarily certified operator shall mean an operator who holds a certificate of competency described in section 6 of this act; and

(8) Wastewater treatment facility shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludge.

Sec. 3. In order to carry out the purposes of the Wastewater Treatment Operator Certification Act, the council shall adopt and promulgate rules and regulations. Such rules and regulations shall include, but not be limited to:

(1) Establishing and carrying out procedures for the certification program provided for in the act;

(2) Classification of wastewater treatment facilities. Such classification shall be based on the size and type of wastewater treatment facility, the quality and quantity of wastewater to be treated, and other physical, chemical, and biological conditions affecting such treatment facilities and according to the skill, knowledge, and experience that the operator must have to supervise successfully the operation of the facilities so as to protect the public health and to protect the waters of the state;

(3) A procedure to be carried out by the department to receive applications and examine the qualifications of applicants for certification;

(4) Development of a training and continuing educational program including regular training schools, short courses, conferences, and programs. The council shall adopt procedures and minimum requirements for the approval of correspondence courses, required classroom instruction, and minimum attendance standards to maintain certification;

(5) Requirements for the maintenance of records of the classification of wastewater treatment facilities;

(6) Distribution of applications and notices of examinations;

(7) Procedures in the department for preparing, conducting, and grading examinations either by the department or by its representatives or persons conducting approved training schools, short courses, conferences, and programs, including correspondence courses;

(8) A fee schedule to be implemented by the department which shall include a fee designed to cover direct and indirect costs associated with applicant's certification but not to exceed one hundred fifty dollars per application. Fees may also be charged by the department for each educational program to be paid by the participant. Such fee shall be an amount

necessary to cover program costs;

(9) Procedures and requirements to allow the director to issue temporary certificates as provided in section 8 of this act; and

(10) Provisions for granting exemptions to operators of individual septic tank systems, nondischarging lagoon systems, and other disposal systems as determined by the council.

Sec. 4. The director shall have authority to exercise all incidental powers necessary to carry out the purposes of the Wastewater Treatment Operator Certification Act. In carrying out such powers the director shall advise, consult, and cooperate with agencies of the state, the federal government, other states, interested groups, political subdivisions, and industries.

Sec. 5. The director may provide for certification without examination of any operator recommended by a governing body or owner as having been in charge of the operation or supervising the operation of a wastewater treatment facility on the effective date of this act and whose competence has been demonstrated. Certificates issued under this section shall be valid for a period of four years from the effective date of this act. After such four-year period, certificates granted under this section shall no longer be valid, and such operators shall become fully certified under the Wastewater Treatment Operator Certification Act.

Sec. 6. The director shall provide for certification without examination of operators who, on the effective date of this act, hold certificates of competency issued pursuant to a program which the director determines meets the requirements of the Wastewater Treatment Operator Certification Act.

Sec. 7. Within two years following the effective date of this act, all wastewater treatment facilities shall be under the supervision of an operator certified by the director at least to the level of classification of the wastewater treatment facility to be supervised by such operator, except that individual septic tank systems and individual wastewater treatment lagoons for domestic wastewater treatment shall be exempt from the Wastewater Treatment Operator Certification Act. No operator shall be required to be certified in a classification other than that corresponding to the classification of the wastewater treatment facility to be supervised by the operator.

Sec. 8. The director shall have the authority to issue a temporary certificate to an operator of a

wastewater treatment facility which relies on the services of one person for its operation. A temporary certificate shall be valid for a period of one year after which time such operator shall be required to become fully certified under the Wastewater Treatment Operator Certification Act.

Sec. 9. The director may revoke, suspend, or refuse to grant the certificate of an operator, following opportunity for hearing, upon any reasonable ground including, but not limited to, the following: (1) The operator has practiced fraud or deception; (2) reasonable care was not used in the performance of duties; (3) the operator is unable to perform duties properly; or (4) for failure to maintain the minimal continuing education requirements of the Wastewater Treatment Operator Certification Act.

Sec. 10. All hearings shall be conducted in accordance with procedures established in section 81-1507.

Sec. 11. Certificates shall expire two years from the date of issuance and shall be renewed by the director if the applicant has met minimum continuing education requirements and if other provisions of section 9 of this act do not apply. Operators shall be given sixty days' notice prior to expiration of their certificates and shall have a ninety-day period after such expiration to renew their certificates.

Sec. 12. On and after two years following the effective date of this act, unless the director determines that an emergency exists, it shall be unlawful for any wastewater treatment facility to be operated unless its operator is duly certified under the Wastewater Treatment Operator Certification Act at the level of classification of the facility to be operated.

Sec. 13. (1) The director shall provide for reciprocal certification agreements with other states, territories, and countries if the requirements for certification by such other states, territories, and countries do not conflict with the Wastewater Treatment Operator Certification Act and are as stringent as those required by this state.

(2) In making determinations pursuant to subsection (1) of this section, the director may consider any generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities.

Sec. 14. Any person violating any provisions of the Wastewater Treatment Operator Certification Act or the rules and regulations adopted and promulgated

pursuant to such act shall be subject to a civil fine of not more than five hundred dollars for each offense, and in the case of a continuing violation, each day of violation shall constitute a separate offense.

Sec. 15. Any person aggrieved by an order or decision of the director may appeal such order as provided in section 84-917.

Sec. 16. All fees collected pursuant to the Wastewater Treatment Operator Certification Act shall be deposited in the Wastewater Treatment Operator Certification Cash Fund, which is hereby created. Such fund shall be administered by the department for the purposes of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.