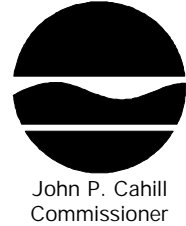


New York State Department of Environmental Conservation
Division of Water
Bureau of Watershed Compliance Programs, Room 340
50 Wolf Road, Albany, New York 12233-3506
Phone: (518) 457-5968 FAX: (518) 457-7038



Final (05/08/98)

MEMORANDUM

***** NOTICE *****

This document has been developed to provide Department staff with guidance on how to ensure compliance with statutory and regulatory requirements, including case law interpretations, and to provide consistent treatment of similar situations. This document may also be used by the public to gain technical guidance and insight regarding how department staff may analyze an issue and factors in their consideration of particular facts and circumstances. This guidance document is not a fixed rule under the State Administrative Procedure Act section 102(2)(a)(I) and has no legal effect, but is merely explanatory. Furthermore, nothing set forth herein prevents staff from varying from this guidance as the specific facts and circumstances may dictate, provided staff's actions comply with applicable statutory and regulatory requirements. This document does not create any enforceable rights for the benefit of any party.

TO: Regional Water Engineers
Bureau Directors
Section Chiefs

SUBJECT: Division of Water Technical Operational Guidance
Series (Originator: Phillip T. Smith)
Wastewater Treatment Plant Operator Certification (5.1.6)

DATE:

I. Purpose

A. To identify roles and responsibilities of Regional Office DOW staff and Bureau of Watershed

- Compliance Programs staff as they relate to the administration of 6NYCRR Part 650.
- B. To provide guidance relating to the interpretation and administration of 6NYCRR Part 650.
 - C. To identify the grounds and procedures for operator certificate suspension and revocation.

II. Discussion

Part 650, Chapter X of 6 NYCRR establishes specific requirements for wastewater treatment plant operator certification and is to be considered an integral part of this TOGS. This regulation underwent major revision in 1994 resulting in significant changes in the certification requirements. These changes not only effect wastewater treatment plant operators, but also DEC Regional and Central Office staff that are responsible for overseeing the certification program. This TOGS has been developed to identify responsibilities and establish procedures necessary to carry out the requirements of the Part 650 regulations.

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APPENDIX

- I. Part 650 Regulations**
- II. Suspension and Revocation Committee Executive Summary**
- III. Responsiveness Summary to 5/8/95 TOGS**
- IV. Responsiveness Summary to 12/24/97 TOGS**

III. Guidance

A. Responsibilities

1. Regional Water Engineer (RWE)

- a. *Provides applicant with application forms and assistance in completing the form, understanding and meeting the certification requirements.*

Applicants are to be provided the booklet Wastewater Treatment Plant Operator Certification Manual.

- b. *Except as noted in Section III.A.2.C; forwards complete applications to BWCP along with regional recommendation of approval or disapproval.*

Regional staff are asked to review the application and ensure it includes all required elements (proof of education, training, exam fee, etc.). Additionally, to the best of the field staff's knowledge, they are asked to confirm the applicant's experience. Have you ever seen the applicant at the facility? Is their function limited strictly to laboratory work or administrative functions?

In cases where RWE recommends disapproval of an application, the RWE will provide BWCP with written explanation of the basis for the recommendation.

- c. *Ensures that chief AND assistant/shift operator are certified at the appropriate level.*

Part 650.4(a) requires that wastewater treatment plants be under the responsible supervision of a chief or assistant/shift operator AT ALL TIMES. Since no individual can be expected to work 365 days/year, the regulation effectively requires that all facilities employ at least two certified operators (unless an alternate coverage plan is approved in accordance with Sect. III B.2C.) It should be noted, however, this does not mean that both operators must be full time employees.

- d. *Ensures that, at the minimum, the treatment plant coverage is in accordance with Section III.B.2 of this guidance.*
- e. *Consults with BWCP and provides recommendations relating to special plant upgrades pursuant to Part 650.9.a*

Part 650.9a gives the Department, under certain circumstances, authority to require that a wastewater treatment plant be operated by a higher grade operator than the plant score would dictate. There may be situations where due to local or

facility

III.A.1.e. (cont'd)

specific factors the RWE believes that a higher plant rating is appropriate. In such a situation, the RWE will provide BWCP with a written recommendation along with justification for a higher plant rating.

f. Recommends that an operator's certification be revoked pursuant to Part 650.10.

The RWE can recommend that an operator's certificate be suspended or revoked on the grounds identified under 650.10 (a) (b) & (c). Section III.C. provides guidance relative to suspension and revocation of operator certificates.

g. Takes enforcement action against permittees and operators for failure to comply with Part 650.

The RWE is responsible for taking enforcement action against those permittees who fail to provide coverage of their treatment facilities with certified operators in accordance with Part 650.4. The RWE is also responsible for taking enforcement action against certified operators per Part 650.10(c). (Refer to Section IIIC of this TOGS).

h. Ensures that the wastewater treatment plant is properly scored in accordance with Part 650.3 and Worksheet FOAS 100-4/95.

The majority of POTW's in the state were scored prior to the establishment of this TOGS. However, it is recognized that, with time, facility scoring may change due to factors such as plant expansion, change in process, or change in SPDES permit requirements. Many of the industrial and PCI facilities may not have a score.

The scoring of plants will be an on-going process. Scoring could be performed or checked during inspections. The RWE will advise BWCP when a new facility score has been verified by the region. BWCP will return a new score sheet to the Region confirming the score change.

I. Advises BWCP of the need to issue a restricted operator certificate. Section III.B.5 of this TOGS addresses restricted operator certificates.

2. Bureau of Watershed Compliance Programs

a. Provides the RWE with interpretation of Part 650 requirements as needed.

b. Provides training to regional staff and delegated agents on plant scoring and application procedures.

III.A.2.c

- c. *Validates the qualifications of applicants whose training, education, or experience was obtained out of state.*

Regional staff are not expected to verify an applicant's qualification if the qualifications were obtained out of state. Such applications should be forwarded to BWCP directly for processing.

- d. *Provides the RWE with a supply of the booklet Wastewater Treatment Plant Operator Certification Manual, when requested.*
- e. *Processes applications received from the RWE.*
- f. *Ensures that the applicants have satisfied the requirements outlined in the Wastewater Treatment Plant Operator Certification Manual.*
- g. *Advises approved applicants of certification testing date, and administers certification examination.*

BWCP will perform examination administrative functions. Sometimes Regions may be requested to proctor exams.

- h. *Administers written laboratory examination and provides successful candidates with written proof of a passing grade.*

BWCP will perform all examination administrative functions. Sometimes Regions may be requested to proctor exams.

- I. *Convenes certification exam appeal committee to review exam questions.*
- j. *Provides RWE with the candidates scores following each exam.*
- k. *Provides the RWE with a listing of certified operators annually, or on request.*
- l. *Advises RWE of impending action to suspend or revoke a certificate under Part 650.10(a) or (b).*
- m. *Suspends and revokes certificates.*

BWCP will perform all administrative functions relating to the suspension or revocation of certificates. Refer to Section III.C for further information relating to suspension and revocation.

- n. *Provides RWE with written notice of reinstatement.*

The RWE will be advised in writing of those individuals who are reinstated following certificate suspension.

- o. Provides RWE with list of suspended and revoked certificates annually, or on request.*
- p. Maintains master list of wastewater treatment plant scoring and provides to RWE annually, or as requested.*
- q. Makes final determination on special plant upgrades based on the recommendation of the RWE. (See Section III.A.1.e.)*
- r. Issues restricted temporary operator certificates. (See Section III.B.5).*
- s. Approves operator certification renewal courses.*
- t. Notifies operators of pending certificate expiration and provides renewal applications.*

One year prior to the operator certificate expiration date FOAS will mail a reminder notice and renewal forms to the operator.

- u. Notifies operator and the RWE when an operator's certificate expires.*
- v. Provides the RWE with a list of all expired certificates semi-annually.*
- w. Process operator certificate renewal applications..*

B. **Special Guidance on Selected Segments of Part 650**

1. Operator Certification Requirements and Procedures

All applicants for operator certification must satisfy the requirements of Part 650.6 and should follow the procedures detailed in the NYSDEC Wastewater Treatment Plant Operator Certification Manual. Refer to that manual for specifics relating to operator certification application procedures.

One issue that is not addressed in the manual, but is frequently raised, relates to satisfying the experience requirement. The required experience specified in the regulation is based on full time work years. (i.e. approximately 8 hr. days 5 days per week).

An individual whose experience is obtained on a part-time basis should be pro-rated accordingly.

2. Plant Coverage

Wastewater treatment plants are specialized, highly complex facilities that require the expertise and presence of specially trained, skilled individuals (certified operators) in order to provide optimum treatment on a continual basis.

Process control monitoring is the primary tool utilized by operators to evaluate treatment plant performance. This monitoring includes, but is not limited to, the collection of samples for analysis, the use of electronic monitoring devices, visual observations, and the detection of odors. It is the collection and interpretation of the information provided by the senses (visual and olfactory) that requires that the operator be physically present at the treatment facility. The information gathered from the senses should not be underestimated. Frequently, a change in the status of the operation of a facility will be noted by sight or smell before sampling results indicate that a change has occurred.

The importance of using the senses in the operation of treatment plants is recognized in both the NYSDEC Basic Operations Curricula Guide for Wastewater Treatment Plant Operator Certification Training and California State University's Operation of Wastewater Treatment Plants, Vols. 1 and 2. These documents, which are used in the certification training courses, make frequent reference to the importance and use of information that operators must be capable of gathering by using the senses.

The primary driving forces that require the regular presence of trained professionals (certified operators) are the collection of information necessary to determine the operating status of the facility, the need to interpret that information, and the ability to make the appropriate operational adjustments.

The amount of time needed to collect the information and to make the appropriate adjustments may vary greatly from facility to facility. At large facilities, this may be a continuous process requiring the presence of a certified operator 24 hours a day. Smaller, less complex facilities will likely not require the continuous 24-hour-a-day presence of a certified operator. The number of hours per day that a certified operator should be present at these smaller facilities should be determined on a case-by-case basis. It is not possible to establish a specific universal time period when certified operators should be present at plants that would be appropriate for all treatment facilities.

Although establishment of a universal time period is not possible, an absolute minimum time at the plant can be derived from the facility's monitoring requirements. Certain monitoring tests must be performed over a specified amount of time i.e., settleable solids. Accordingly, at the minimum, the certified operator must be at the facility for a long enough

period to collect, analyze and record required samples. A reasonable minimum time period to perform these functions is typically about 2 hours.

Considering the above, the following minimum plant coverage guidance has been established:

- a. *Each wastewater treatment plant should be manned by an appropriately certified operator (chief or assistant/shift) a minimum of two hours per day each and every day.*

The chief operator has the responsibility to ensure that the treatment system operates at peak performance.

The chief operator has many critical duties including, but not limited to the following:

- Planning - including setting objectives, developing routine procedures, problem solving and decision making.
- Organizing - including assigning responsibilities for work activities so that the plant's mission will be achieved and delegating authority necessary to properly accomplish work activities.
- Directing - ensuring that the day-to-day plant functions are carried out.
- Controlling - evaluating results and performance against a set of objectives. This includes the evaluation of financial, technical and personnel objectives.

(A more complete and detailed listing of chief operator duties and responsibilities can be found in Water Environment Federation's Manual of Practice 11 and The Plant Manager's Handbook MOP SM-4).

Certain duties such as planning and organizing do not necessarily require the everyday presence of the chief operator at the plant. However, the duties of directing and controlling cannot be effectively performed without the regular physical presence of the chief operator at the facility for which they have been designated the individual with responsible supervision.

It is the chief operator who is ultimately responsible for all process control decisions. It is this process control responsibility, above all others, which requires the chief operator's regular physical presence at the treatment facility. The chief operator should be present at the facility on a sufficiently frequent basis to coordinate operational changes that the process control monitoring data suggest are necessary.

The operational status of most facilities can change over a short period of time, (i.e. 48-72 hours or over the course of a weekend). It is, therefore, considered both necessary and reasonable to require that the chief operator be present on the average at least one third of the

time.

Considering the above, the following guidance has been established:

- b. *The chief operator should be present at each wastewater treatment plant not less than 30 days per calendar quarter.*

While the above guidance is considered appropriate for most facilities, it is recognized that not all facilities require the same amount of operator attention to perform optimally. Depending upon various conditions or considerations, certain facilities may require a more or less frequent operator presence than that established above.

The basis for requiring alternate chief and/or assistant operator coverage may be derived from any of the following considerations:

- I. The SPDES permit monitoring requirements.
 - ii. Volume and characteristics of wastes.
 - iii. Receiving water considerations.
 - iv. Influent wastewater variability and resulting potential impact on the treatment process.
 - v. Compliance and operational history.
 - vi. Complexity of operation.
 - vii. Sensitivity of operation to change.
 - viii. Age and physical condition of facilities.
 - ix. Seasonal Factors
 - x. Other site specific factors that may require more or less operator attention.

With the above in mind, the following additional guidance has been established:

- c. *The RWE may modify the requirements of III.B.2.a. or b above in accordance with an approved plant coverage plan. Such a plan, developed by the permittee should at a minimum include the periods in which certified staff will be present at the facility. The RWE may require that the plan include additional information necessary to ensure proper operation and maintenance of the facility. Such additional information may include, but not be limited to, a listing of specific duties that will be performed daily or requiring that a daily log be maintained.*

3. Exempted Facilities

Part 650 exempts the following treatment schemes from the requirement of having an operator. Those wastewater treatment plants consisting solely of:

- a. septic tanks followed by subsurface leaching facilities with eventual discharge to the ground waters, regardless of design capacity;

III.B.3.b

- b. septic tanks followed by open or covered intermittent sand filters, with a designed capacity of less than 50,000 gallons per day; and
- c. wastewater treatment plants which treat industrial wastes exclusively.

It is generally accepted by the engineering community that chlorination facilities are typically considered an integral part of the treatment scheme of a septic tank, sand filter treatment system and as such, typically do not require a certified operator if the system is less than a 50,000 gpd design capacity. However, the addition of other treatment unit (i.e., dechlorination, phosphorus removal, pond/lagoon) voids the septic tank, sand filter exemption, because these units are not considered an integral part of a septic tank/sand filter treatment scheme.

As an added note, reaeration facilities are not constructed to "remove objectionable constituents" and thus are not considered a wastewater treatment plant.

In addition to the above exempted facilities, it should be noted that pretreatment facilities do not satisfy the definition of a wastewater treatment plant because these facilities do not have a SPDES permit. Therefore, operators of these facilities cannot become certified and experience gained, while operating these facilities does not count as operating experience.

4. Use of Consulting Operators

Appropriately certified consulting operators should be permitted only when the consulting operator satisfies the plant coverage requirements of III B.2.

5. Restricted Operator Certificates

As a result of the change in the Part 650 regulations, some operators who were previously qualified to be the chief or assistant operator of a facility found they did not satisfy the new requirements. This was true despite the fact that absolutely no physical change to the treatment facility occurred. Additionally, it is expected that in the future, relatively minor treatment facilities changes or permit changes could result in the plant not having an appropriately certified chief operator and jeopardize the operator's position. Loss of certification was not the intent of revising the regulation. Therefore, we developed these processes.

This situation, where the operator does not possess the appropriate certification grade, will be corrected with the issuance of restricted operator certificates. However, the issuance of restricted certificates should be made with reluctance and should only be done if it is necessary to comply with the Part 650 regulations i.e., the plant needs a chief operator.

Restricted operator certificates should only be issued in the following situations:

III.B.5.a

- a. *Grandfathered Certificates* - This situation may have occurred during the initial grandfathering from the old certification system to the new system. If during this change, the new plant grade was higher than the grade automatically given to the grandfathered operator, a restricted certificate was issued.

An example of this situation is where an old Grade II facility becomes a new Grade 4 plant. All old Grade II operators were automatically grandfathered to new Grade 3 operators. In this situation, the operator was no longer certified at the required level, despite the fact that absolutely no physical changes have occurred at the plant. In this case, the chief operator was given a 4R (restricted) certificate. Only the chief operator was given a restricted certificate. All other operators were grandfathered as new Grade 3. There are about 25 facilities Statewide that fall into this category. These restricted certificates will not expire as long as the chief operator continues to work at the facility for which it was issued.

It should be noted that restricted certificates will be granted only once. If the person granted the restricted certificate leaves the facility, a new restricted certificate will not be granted to the new chief operator. The owner must get or appoint an appropriately certified operator. The holder of a grandfathered restricted certificate should satisfy the renewal training requirements of the higher (restricted) certification grade.

BWCP advised the facility owners of the rules relating to restricted certificates when the certificates were issued and encouraged the owner to move towards getting the operator certified at the proper grade.

- b. *Temporary Restricted Certificates* - certificates may be issued under several circumstances. The most common instances where a temporary certificate would be issued are as follows:
- I. Permit Change - Restricted certificates may be issued when a permit change results in an increase in the plant score and in turn results in a higher plant grade. In such cases, the chief operator will be granted a temporary restricted certificate for the higher grade as necessary to satisfy the regulation requiring a chief operator.

The temporary restricted certificates will allow the chief operator to continue to be the operator of record for the facility. It will apply only to that treatment facility for which it was granted. Unlike the grandfathering situation, above these restricted certificates are temporary certificates (see III B.5.c below).

- ii. Treatment Plant Modifications - Temporary restricted certificates will also be issued when changes in the treatment process (e.g., replace sand drying beds with a belt press) results in a higher plant grade. The same conditions outlined in III.B.5.c. below will apply to these certificates.

III.B.5.iii.

iii. Change in Type of Treatment Process - On occasion, generally during a plant upgrade, a facility will change the type of treatment process used to treat the wastewater. A common change has been changing from a fixed film process to an activated sludge process. When this situation occurs, the operator can be granted a temporary restricted certificate after having successfully completed the activated sludge certification course. If the operator fails to complete the activated sludge course before the modified facility goes on line, he/she should not be given a temporary restricted certificate and should not be permitted to be chief operator of the facility. The conditions in III.B.5.c. (see below) should also apply. The holder of a temporary restricted certificate must satisfy the renewal training requirements of the lower (non-restricted) r certification grade.

c. Expiration of Temporary Restricted Certificates - All temporary restricted certificates will be valid for up to two years after the operator has satisfied the experience requirements for the higher grade. If after the 2 year period the operator has failed to satisfy all certification requirements for the higher grade, the restricted certificate should be allowed to expire.

6. Renewal and Expiration of Certificates

Operator renewal functions are the responsibility of BWCP. Operator certificates will be valid for a period of 5 years from the date of issuance. In order to renew certification, the operator must re-apply to the Department and provide evidence that during the previous 5 years he/she completed the required number of approved training contact hours. The number of contact hours of approved training per 5 year period for each grade is as follows:

<u>Certificate Grade</u>	<u>Contact Hours Required</u>
Grade 1 and 1A	20
Grade 2 and 2A	40
Grade 3 and 3A	60
Grade 4 and 4A	80

a. *Renewal of Current Certificates*

Operators submit applications for certificate renewal directly to BWCP. Operators that satisfy the renewal requirements prior to the expiration of their certificate may apply for renewal prior to 90 days before expiration. These operators will be provided with a letter by BWCP indicating that their application has been approved. Additionally, the renewal letter will state that the operator will receive a new certificate automatically upon expiration of their current certificate.

b. *Renewal of Expired Certificates*

I. Recently Expired Certificates

Typically, certificates that have been expired less than 1 year may be renewed by simply

B.III.6.b.i.(cont'd)

satisfying the renewal requirements. Specifically, the applicant must show that he/she has completed the required number of contact hours within the 5 years prior to the application for renewal. Upon approval by BWCP, the applicant will be issued a new certificate. The effective date of the certificate should be the date of processing.

ii. Certificates Expired More than One Year

Part 650.7.c gives the Department the option to require an operator whose certificate has expired to pass an exam as a condition of reinstatement. Considering that the purpose of renewal is to ensure that operators remain current with treatment and operations technology, it is reasonable to question whether an operator who has failed to participate in training is up to date in the wastewater field. Operators whose certificate has expired more than one year should pass an examination to show that he/she has remained current.

Additionally, the operator must satisfy the renewal training requirement by completing the appropriate number of contact hours in the previous 5.0 years prior to application.

Therefore, an operator whose certificate has been expired for more than one (1) year should satisfy the following requirements in order to reinstate the certificate:

- The operator must satisfy the renewal training requirement by obtaining the appropriate number of contact hours in the 5 years prior to application

AND

- Pass the certification exam for the grade in which he/she is seeking reinstatement.

c. *Status of Certified Operators Whose Certificate has Expired*

Certificates expire on the date indicated on the blue 3 ½" x 2 ½" card. If an operator has failed to submit an approvable application prior to the expiration date, the certificate is considered "expired" and the operator is no longer currently certified.

"Expired" operators do not satisfy the 650.4 requirement for a Certified operator.

7. Plant Scoring

All POTWs have been scored as of January 1, 1997. Regional and Central Office staff will score industrial and PCI wastewater treatment facilities on a continuing basis. The purpose of the scoring is to determine the minimum operator qualifications for the facility when used in conjunction with Part 650.6. Additional scoring instructions are included with the FOAS 100-4/95 Worksheet or the latest revision. Plant scorers should refer to that worksheet for additional information.

III.C.

C. Suspension and Revocation of Operator Certificates

The 1994 revisions to Part 650 included provisions for the suspension and revocation of operator certificates. The circumstances under which a certificate can be suspended or revoked are specified in 650.10(a), (b), and (c), as follows:

650.10 - Upon notice and opportunity for hearing, the Department may suspend or revoke a certificate of an operator on grounds including but not limited to:

- (a). the certificate was issued erroneously or by mistake; or
- (b). the operator obtained the certificate through fraud, deceit, or through the submission of incorrect data on his/her application; or
- (c). the operator was negligent, or practiced fraud or deceit in the performance of his/her duties.

Revocation under 650.10(a) & (b) would likely be straightforward where it has been determined that a certified operator obtained his/her certificate by mistake or as a result of submission of misleading or inaccurate information.

Suspension or Revocation under Part 650.10(c) may not be as straight-forward. Depending on the specific circumstances surrounding a particular case, the nature of the penalty sought could vary from case to case.

The Department desired to establish reasonable and appropriate penalties for suspension and revocation under 650.10(c). Accordingly, the Department sought input from the "operator community" in establishing guidelines to be used in the development of this TOGS. In 1996, an Ad Hoc Committee was established to address suspension, revocation, and renewal issues relating to the revised Part 650 regulations. The Committee's focus as described in the Mission Statement was . . .

"To establish the grounds for suspension and revocation of wastewater operator certification. In addition, the duration and reinstatement of such discipline will be examined and determined."

The Committee was comprised of five (5) DEC representatives and nine (9) representatives of external groups. All external representatives were certified wastewater treatment plant operators. The Committee included FOAS representatives, DEC field staff, POTW operators, industrial operators, and New York Water Environment Association representatives. The Executive Summary is found in Appendix IV.

1) Suspension of Certificates

a. Grounds for Suspension

The Committee identified the following actions for which suspension may be appropriate. This list is intended to illustrate the type of act that may be appropriate for suspension but in no way should this be considered an all inclusive list.

I. Selective Sampling

Operator intentionally alters sampling period, in an attempt to collect samples that are not truly representative.

ii. Sabotage of Equipment

Intentional misuse or impairment of equipment necessary to maintain treatment.

Suspension should be considered for acts of sabotage intended against the employer and result in an actual or potential loss of treatment. An act of sabotage intended to cause harm to the environment would be considered a more serious offense and may justify revocation.

iii. Bribery or Extortion

Operator accepts or offers bribes related to plant operations or uses his/her position as an operator to extort money or services from others.

iv. Dangerous Acts

Failure to take appropriate actions necessary to provide a safe and healthful workplace or directs staff to perform activities without proper safety equipment or training.

v. Mislead

Operator gives misleading statements to government officials relative to the operation of the treatment facilities.

vi. Lack of Maintenance

Failure to maintain the treatment facilities to the extent possible despite having the resources and the means to properly maintain the facilities. This action is intended for facilities where SPDES violations can be linked to the lack of maintenance.

vii. Lack of Process Control

Failing to utilize knowledge of process control techniques to optimize the operation of the treatment facilities.

The grounds for suspension should be dependent upon two (2) major considerations. First, an operator should not be held responsible for a condition in which he/she cannot obtain the resources to correct. The owner of the facility has the responsibility of providing the necessary resources so an operator can perform his/her job. Secondly, the offensive act should result in, or reasonably be expected to result in, an adverse impact to the environment or public health. As an added note, 650.10(C) is not intended to replace or compliment employer/employee disciplinary actions. Generally, an employer who seeks to have action taken against an operator under 650.10, should first consider taking action against the operator as the employer. Typically, if an act committed by an operator is not worthy of a disciplinary action, the act is probably not worthy of certificate suspension.

b. Suspension Term

When an operator is suspended, a suspension term of 1 to 5 years is typically recommended before the application for reinstatement should be accepted. The exact suspension term should be determined on a case-by-case basis. Factors that may be used to establish the term may include, but not be limited to, the following:

- I. Number of acts committed
- ii. Degree of environmental harm resulting from the act(s)
- iii. Previous suspensions or revocations
- iv. Degree of cooperation with the investigation
- v. Other relevant information (was the act a result of a knowledge deficiency or was it an act of neglect, deceit or fraud?)

c. Conditions of Reinstatement

Conditions may be established for reinstatement. Establishment of conditions may be most appropriate when the basis for the suspension is related to a deficiency in a particular skill. Examples of skill deficiency situations may include the following:

- ! Lack of Preventive Maintenance Systems and Procedures
- ! Lack of Process Control Testing and/or Process Control Adjustments
- ! Consistent (General) Lack of Knowledge

When a skill deficiency is identified as a problem with the suspended operator, it may be appropriate to require that the suspended operator complete training in the deficiency area.

Additionally, it may be appropriate to require the suspended operator to pass an examination (ABC or other exam).

Where a skill deficiency is not identified as a contributing factor associated with the suspendable act, requiring that an examination be taken prior to reinstatement is not recommended. However, a longer suspension term may be appropriate.

d. Reinstatement of Suspended Certificates

Suspended certificates should be reinstated upon request from the suspended operator after the suspension term and all suspension conditions have been satisfied. Request for reinstatement should be made by letter to the RWE. The RWE will forward the letter along with a recommendation for reinstatement, if approved, to BWCP. If approved BWCP will re-issue his/her certificate for a new five (5) year term.

2. Revocation of Certificates

a. Grounds for Revocation

The following is a listing of actions (not all inclusive) for which revocation is more likely to be appropriate:

I. Falsifying Reports

Making false statements or notations on legal or official records required by EPA/DEC including but not limited to:

- ! Discharge Monitoring Reports
- ! Monthly Operating Reports

ii. Illegal Bypassing

Bypassing the entire facility or individual treatment units in a manner not authorized by the SPDES permit, regulations, or law. Consideration should be given as to whether the bypassing was routine vs. infrequent.

iii. Sample Tampering

Knowingly collecting, preparing, or analyzing a sample that will yield results that are not representative of the actual waste stream.

iv. Coercion

The operator uses his/her position to force another employee to undertake an

inappropriate or illegal act relating to treatment plant operation or facilities.

v. Plant Related Felony or Misdemeanor

The operator pleads or is found guilty of criminal or civil charges related to the operation of the treatment facilities.

vi. Failure to Remove Sludge

Failing to properly handle or remove sludge or stored biomass to the extent possible while knowing that failing to act will result in the discharge of these materials to the environment in an inappropriate fashion. Consideration should be given as to whether the act was routine vs. infrequent.

vii. Equipment Damage and Environmental Damage

Operates the facility in such a manner as to cause harm to the equipment or the environment that the operator had the means to avoid.

As with the grounds for suspension, the grounds for revocation should be dependant upon two major considerations. First, an operator should not be held responsible for a condition in which he/she cannot obtain the resources to correct. Secondly, the revocation act should or reasonably be expected to result in an adverse impact to the environment or public health.

b. Revocation Term

When an operator's certificate is revoked for the first time, a period of 3 to 5 years is recommended before application for reinstatement should be accepted. When an operator's certificate is revoked for the second time, permanent loss of the certificate should be considered. The exact revocation term should be determined on a case-by-case basis. Factors that may be used to establish the term may include, but not be limited to, the following:

- I. Number of acts committed
- ii. Degree of environmental harm resulting from the act
- iii. Previous suspensions or revocations
- iv. Degree of cooperation wit the investigation
- v. Other relevant information (i.e. was the act malicious or inadvertent)

c. Conditions of Reinstatement

When an operator's certificate is revoked, the certificate is gone. Therefore, an operator whose certificate was revoked must satisfy the following requirements before he/she can be certified again:

I. Complete the following appropriate training again (after the effective date of revocation):

Basic Operations Course
Activated Sludge Course
Basic Supervision Course
Advanced Operations/Management Course

- ii. Complete the Basic Laboratory Course or pass the lab test again (after the effective date of revocation).
- iii. Re-apply for Certification
- iv. Pass the appropriate ABC Exam

The revoked operator's previous experience (experience obtained prior to revocation) may be used to satisfy the experience requirement.

3. Suspension and Revocation and Procedures

a. Revocation Under Part 650.10(a) & (b)

Revocation of certificates as a result of a condition identified under 650.10(a) or (b) will be the responsibility of BWCP. BWCP will perform all administrative functions relating to the revocation with the assistance of Central Office legal staff.

Regional staff may be asked to provide supporting documentation relating to a specific case in some instances.

BWCP will notify the Regions when an operator's certificate has been revoked.

b. Suspension and Revocation Under Part 650.10(C)

Most activities associated with the Suspension and Revocation of certificates resulting from acts covered under 650.10(c) will be a responsibility of the Regions. Regional staff should collect evidence and prepare case reports with recommended action and provide to the Regional Attorney. The Regional Attorney will notify the operator of the pending action and advise him/her of the opportunity for a hearing on the matter.

III.C.3.b.(cont'd)

Upon resolution of the matter, the Region will forward a copy of the final decision to BWCP. At a minimum, the final decision should contain the following:

- I. Outline of the facts from which the case arose
- ii. Summary of the hearing outcome (if a hearing was held)
- iii. Type of penalty (Revocation or Suspension)
- iv. Term before re-application is to be accepted
- v. Any special conditions that must be satisfied before re- instatement

BWCP will advise the operator of the decision and the procedures necessary for reinstatement. BWCP will also make the appropriate adjustments to the currently certified operators list.

In some instances, the action against the operator may be initiated by the Bureau of Criminal Investigation. In such cases, a criminal action will likely be filed against the operator in local court, with a decision rendered by that court.

Where a local court acts upon an operator's certificate, BWCP should be provided with a copy of the Court's decision along with any other relevant information. BWCP will then act as directed by the court.

The BWCP will be responsible for providing assistance to the Regions on an as needed basis when suspension/revocation cases and issues arise. Such assistance may include but not be limited to:

- I. providing clarification of regulations and/or guidance
- ii. providing the Regions with a summary of previous suspension and revocation cases for comparison

N.G. Kaul, P.E., Director
Division of Water

APPENDIX I

PART 650

EXPRESS TERMS: Existing Part 650 is repealed in its entirety and New Part 650 is adopted.

Chapter X Division of Water Resources

PART 650

Qualifications of Operators of Wastewater Treatment Plants

Statutory authority: ECL Art. 3, Title 3, Sect. 3-0301 (1)(bb); 3-0301(2)(m); ECL Art. 17, Title 3, Sect. 17-0303

Section 650.1 Purpose, applicability, and exemptions.

(a) Purpose

The purposes of this Part are to:

- (1) establish the qualifications necessary for certification of wastewater treatment plant operators in New York State, and
- (2) require that wastewater treatment plants be under the responsible supervision of an appropriately certified operator.

(b) Applicability

The provisions of this Part apply to wastewater treatment plants as defined in Section 650.2, and to operators of wastewater treatment plants.

(c) Exemptions

Wastewater treatment plants consisting solely of the following treatment schemes are exempt from the requirement of having a certified chief operator or assistant / shift operator:

- (1) septic tanks followed by subsurface leaching facilities with eventual discharge to the ground waters, regardless of design capacity;
- (2) septic tanks followed by open or covered intermittent sand filters, with a designated capacity of less than 50,000 gallons per day; and
- (3) wastewater treatment plants which treat industrial wastes exclusively.

Section 650.2 Definitions. As used in this Part the following words and terms shall have the indicated meanings:

(a) "Activated sludge process" means a biological wastewater

treatment process in which a mixture of wastewater and activated sludge is agitated and aerated. The activated sludge is subsequently separated from the treated wastewater (mixed liquor) by sedimentation and wasted or returned to the process as needed.

(b) "Assistant / Shift operator" means an individual who is employed or appointed by any county, city, village, town, district, or by any state department, agency or authority, or by any sewer company, corporation, person or group of persons, or by any industry or institution, and who is designated by the appointing officials as a person who, under the direction of the chief operator, is responsible for the actual operation of a wastewater treatment plant during a shift or in the absence of the chief operator.

(c) "Chief operator" means an individual who is employed or appointed by any county, city, village, town, district, or by any State department, agency or authority, or by any sewer company, corporation, person or group of persons, or by any industry or institution, and who is designated by the appointing officials as the person in responsible supervision of the complete and actual operation of any wastewater treatment plant. It is not intended to include city managers, superintendents of public works or municipal or other officials unless their duties include the actual operation of a wastewater treatment plant.

(d) "Contact hour" means one hour of acceptable instruction or training in a course or seminar relevant to the field of wastewater treatment.

(e) "Department" means the New York State Department of Environmental Conservation or its designated representatives.

(f) "Other treatment processes" means all biological, physical, and chemical treatment processes other than the activated sludge process. It is intended to include but is not limited to treatment processes such as trickling filters, rotating biological contactors, sand filters, biofilters, oxidation ponds, stabilization ponds, activated carbon or any other devices or processes performing similar functions.

(g) "Responsible supervision" means the accountability for and performance of active, daily on-site operation of the wastewater treatment plant.

(h) "Septic tank" means an underground vessel for treating wastewater by combination of settling and anaerobic digestion.

(i) "Wastewater treatment plant" means any plant or facility owned or maintained by any county, city, village, town, district, or by any State department, agency or authority, or by any sewer company, corporation, person or group of persons, or by any industry or institution, which subjects wastewater to a process for removing or altering the objectionable constituents of wastewater for the purpose of meeting the requirements of its State Pollutant Discharge Elimination System Permit (SPDES) and making it less offensive or dangerous.

650.3 Scoring system established. The Department shall evaluate wastewater treatment plants based on type and complexity of the wastewater treatment plant. The evaluation of the wastewater treatment plant shall be made in accordance with the following point system. The point total for a given plant is used in conjunction with section 650.6 of this Part to determine the minimum operator qualifications for that plant.

Flow Points; (Minimum 1 point, Maximum 50 points)

3 x _____ MGD (design flow) = _____ Flow Points

Unit or Item	Points
Preliminary Treatment (Maximum 8 points)	
Bar screens and/or Comminutor	2
Manual Grit Removal	2
Mechanical or Aerated Grit Removal	3
Pre-aeration	2
Raw Sewage or Effluent Pumping	3
Flow Equalization Basin	3
Primary Treatment (Maximum 5 points)	
Primary Treatment Including: Primary Clarifiers, Imhoff Tanks, Spirogesters, Clarigesters, Fixed Screens, and Hydroscreens	5
Secondary Treatment (Maximum 25 points)	
Lagoon (unaerated)	3
Intermittent Sand Filters without Recirculation	3
Intermittent Sand Filters with Recirculation	5
Aerated Lagoon	7

Trickling Filter / Biological Filter without Recirculation	9
Trickling Filter / Biological Filter with Recirculation	11
Rotating Biological Contactors	11
Activated Sludge (includes all modifications)	20
Chemical Coagulation with Rapid Mix, Flocculation, and Clarification	20
Advanced Waste Treatment/Tertiary Treatment (Maximum 20 points)	
Polishing Pond	2
Microscreens	3
Intermittent Sand Filter	3
Rapid Sand Filter	5
Activated Carbon	5
Reverse Osmosis, Electrodialysis, Ion Exchange	5
Nitrification Required by Permit (Ammonia, TKN, or UOD limit):	
Nitrification by Activated Sludge	8
Nitrification by Other Process	5
Denitrification Required by Permit (Nitrate or Total Nitrogen limit):	
Nitrification by Activated Sludge and Denitrification	13
Nitrification by Other Process and Denitrification	10
Phosphorus Removal (required by permit)	8
Chemical Addition for Neutralization (permanent equipment)	3
Disinfection (Maximum 8 points)	
Chlorination:	
Gas Chlorination	5
Other Chlorination	2
Dechlorination	3
Ultraviolet	5
Ozonization	5
Bromine Chloride	5
Solids Handling/Disposal (Maximum 25 points)	
Gravity Thickener	5
Dissolved Air Flotation Thickener	8
Centrifuge	8
Aerobic Digestion	5
Single Stage Anaerobic Digestion (unheated)	5
Single Stage Anaerobic Digestion (heated)	8
Two Stage Anaerobic Digestion (heated)	10
Sludge Drying Beds, Excluding Vacuum Assisted Drying Beds	3
Belt Press, Plate and Frame, Vacuum Filters	8
All Other Dewatering Units	5
Land Application (unless handled by a third party)	5
Composting: (unless handled by a third party)	
In Vessel	10
Static Pile	5
Solids Reduction (Incineration, Wet Oxidation)	15
Miscellaneous	
Nutrient Addition (Nitrogen and/or Phosphorus)	3
Carbon Regeneration (onsite)	10

650.4 Certified operators required.

(a) A wastewater treatment plant must at all times be under the responsible supervision of a chief operator or assistant / shift operator certified pursuant to this Part.

(b) Tables 1 and 2 indicate the minimum grade chief operator and assistant / shift operator required to be in responsible supervision of the actual operation of a wastewater treatment plant and a summary of the required qualifications of the chief operator and assistant / shift operator.

650.5 Preliminary qualifications. A chief operator or assistant / shift operator shall be physically capable of performing his/her duties, shall possess a high school diploma or high school equivalency diploma, and shall produce evidence acceptable to the appointing authority as to his/her character and ability to maintain and operate properly all equipment entrusted to his/her care.

650.6 Minimum operator qualifications.

(a) Grade 4, 4-A. The qualifications for grade 4, 4-A operators shall be education, training and practical experience consisting of: graduation from an accredited university or school with a bachelor of science degree with thirty credit hours of math and/or science or, graduation from an accredited university or school with a bachelor of arts degree with thirty credit hours of math and/or science; satisfactory completion of an appropriate course of instruction approved by the Department; not less than two years of satisfactory experience in the actual operation of a wastewater treatment plant with a point score of 76 or greater, and facilities of the appropriate type; and the ability to conduct the routine laboratory and field tests required for the control of the operation of a wastewater treatment plant with such facilities. Substitution of approved experience or education may be made as detailed in the footnotes to tables 1 and 2.

(b) Grade 3, 3-A. The qualifications for grade 3, 3-A operators shall be education, training and practical experience consisting of: graduation from an accredited college or university with an Associate of Applied Science (AAS) degree in a Department approved curriculum; completion of an appropriate course of instruction approved by the Department; not less than eighteen months of satisfactory experience in the actual operation of a

wastewater treatment plant with a point score of 56 or greater, and facilities of the appropriate type; and the ability to conduct the routine laboratory and field tests required for the control of the operation of a wastewater treatment plant with such facilities. Substitution of operating experience or education may be made as detailed in the footnotes to tables 1 and 2.

(c) Grade 2, 2-A. The qualifications for grade 2, 2-A operators shall be education, training and practical experience consisting of: graduation from high school or possession of a high school equivalency diploma; completion of an appropriate course of instruction approved by the Department and not less than one year of satisfactory experience in the actual operation of a wastewater treatment plant with a point score of 31 or greater, and facilities of the appropriate type; and the ability to conduct the routine laboratory and field tests required for the control of the operation of a wastewater treatment plant with such facilities.

(d) Grade 1, 1-A. The qualifications for grade 1, 1-A operators shall be education, training and practical experience consisting of: graduation from high school or the possession of a high school equivalency diploma; satisfactory completion of an appropriate course of instruction approved by the Department; not less than six months of satisfactory experience in the actual operation of a wastewater treatment plant regardless of score, and facilities of the appropriate type; and the ability to conduct the routine laboratory and field tests required for the control of the operation of a wastewater treatment plant with such facilities.

650.7 Certification and renewal procedures.

(a) Any person seeking certification shall submit an application on a form specified by the Department. The Department shall issue a certificate which specifies the operator grade consistent with the operator qualifications specified in this Part.

(b) Certificates shall be valid for a period of 5 years unless revoked by the Department prior to that time.

(c) Certificates may be renewed upon application ninety days prior to the date of expiration on a form specified by the Department. An operator whose certificate has expired may have his/her certificate

reinstated upon meeting the renewal requirements and may be required to pass an exam.

650.8 Renewal requirements. Applicants for renewal shall present evidence to the Department that demonstrates the completion of the required contact hours of approved training related to the field of wastewater treatment. Within the 5 years preceding the application for renewal, the applicant must complete the number of required contact hours indicated in Table 3. Each course or seminar attended for the purpose of certification renewal must be verified by a completion certificate designating the training hours involved and signed by the instructor. All training to be used for renewal training must be approved by the Department. The Department assumes no responsibility to provide any training in conjunction with these training requirements.

650.9 Authority to alter requirements or to require examinations.

(a) Based on a given plant's design capacity, the types of treatment processes, and the classification of receiving waters, the Department may require the wastewater treatment plant to be operated by a higher grade operator than that required under this Part.

(b) The Department may require any person whose qualifications are submitted for consideration to take written, oral or practical examinations and may approve such qualifications in a specific grade on the basis of the results of such examinations.

650.10 Suspension or revocation of certificates. Upon notice and opportunity for hearing, the Department may suspend or revoke a certificate of an operator on grounds including but not limited to the following:

(a) the certificate was issued erroneously or by mistake; or

(b) the operator obtained the certificate through fraud, deceit, or through the submission of incorrect data on his/her application; or

(c) the operator was negligent, or practiced fraud or deceit, in the performance of his/her duties.

650.11 Status of previously approved operators.

(a) Valid Part 650 operator certificates in effect as of the day immediately preceding the effective date of this rulemaking remain in effect until a reclassified certificate is issued under this Part.

(b) Operator certificates subject to paragraph (a) of this section are reclassified as of the effective date of this rulemaking in accordance with Table 4:

(c) The Department shall issue new operator certificates reflecting the reclassification scheme in paragraph (b) of this section as appropriate. Certificates issued pursuant to this paragraph shall be valid for a period of 5 years.

Table 1
Type of Plant and Required Grade of
Chief Operator and Assistant / Shift Operator for Activated Sludge Facilities

		Required Minimum Operator Grade					
Type of Treatment	Plant Point Score	Chief Operator	Assistant/Shift Operator	Section Number	Required Basic Education	Required Special Training Course	Required Type and Duration of Approved Operating Experience
Activated	76 Points and Greater	4A		650.6(a)	*See option below	Appropriate Approved Course	Twenty four months operating experience at an activated sludge wastewater treatment plant with a point score of 76 or greater, and the ability to perform necessary tests
			3A	650.6(b)	**See option below	Appropriate Approved Course	Eighteen months operating experience at an activated sludge wastewater treatment plant with a point score of 56 or greater, and the ability to perform necessary tests
Sludge	56 - 75 Points	3A		650.6(c)	High School or High School Equivalency Diploma	Appropriate Approved Course	Twelve months operating experience at an activated sludge wastewater treatment plant with a point score of 31 or greater, and the ability to perform necessary tests
Process			2A				
Including	31 - 55 Points	2A		650.6(d)	High School or High School Equivalency Diploma	Appropriate Approved Course	Six months operating experience at an activated sludge wastewater treatment plant and the ability to perform necessary tests
All Modifications			1A				
	30 Points or Less	1A	1A				

*Qualifying options for Grade 4A operators (Must also have required duration of approved experience).

- a) BS degree with thirty credit hours of math and/or science from duly accredited university or school, or
- b) BA degree with thirty credit hours of math and/or science from duly accredited university or school, or
- c) AAS degree from a duly accredited university or school in a NYSDEC approved curriculum, plus eighteen months operating experience at a wastewater treatment plant, or
- d) AAS degree from a duly accredited university or school plus three years operating experience at a wastewater treatment plant, or
- e) AA degree with thirty credit hours of math and/or science from a duly accredited university or school, plus three years operating experience at a wastewater treatment plant, or
- f) high school or equivalency diploma and 6 years operating experience at a wastewater treatment plant.

**Qualifying options for Grade 3A operators (Must also have required duration of approved experience).

- a) AAS degree from a duly accredited university or school in a NYSDEC approved curriculum, or
- b) AAS degree from a duly accredited university or school, plus eighteen months operating experience at a wastewater treatment plant, or
- c) AA degree with thirty credit hours of math and/or science from a duly accredited university or school, plus eighteen months operating experience at a wastewater treatment plant, or
- d) high school or equivalency diploma and three years operating experience at a wastewater treatment plant.

Table 2
Type of Plant and Required Grade of
Chief Operator and Assistant / Shift Operator for All Other Treatment Facilities

Required Minimum Operator Grade				Section Number	Required Basic Education	Required Special Training Course	Required Type and Duration of Approved Operating Experience
Type of Treatment	Plant Point Score	Chief Operator	Assistant/Shift Operator				
All	76 points and greater	4		650.6(a)	*See Option Below	Appropriate Approved Course	Twenty four months operating experience at a wastewater treatment plant with a point score of 76 or greater, and the ability to perform necessary tests
			3	650.6(b)	**See Option Below	Appropriate Approved Course	Eighteen months operating experience at a wastewater treatment plant with a point score of 56 or greater, and the ability to perform necessary tests
Other	56 - 75 points	3		650.6(c)	High School or High School Equivalency Diploma	Appropriate Approved Course	Twelve months operating experience at a plant with a point score of 31 or greater, and the ability to perform necessary tests
			2				
Treatment	31 - 55 points	2		650.6(d)	High School or High School Equivalency Diploma	Appropriate Approved Course	Six months operating experience at a wastewater treatment plant, and the ability to perform necessary tests
			1				
Processes	30 points or less	1	1				

*Qualifying options for Grade 4 operators (Must also have required duration of approved experience).

- a) BS degree with thirty credit hours of math and/or science from a duly accredited university or school, or
- b) BA degree with thirty credit hours of math and/or science from duly accredited university or school, or
- c) AAS degree from a duly accredited university or school in a NYSDEC approved curriculum, plus eighteen months operating experience at a wastewater treatment plant, or
- d) AAS degree from a duly accredited university or school plus three years operating experience at a wastewater treatment plant, or
- e) AA degree with thirty credit hours of math and/or science from a duly accredited university or school, plus three years operating experience at a wastewater treatment plant, or
- f) high school or equivalency diploma and 6 years operating experience at a wastewater treatment plant.

**Qualifying options for Grade 3 operators (Must also have required duration of approved experience).

- a) AAS degree from duly accredited university or school in a NYSDEC approved curriculum, or
- b) AAS degree from duly accredited university or school plus eighteen months operating experience at a wastewater treatment, or
- c) AA degree with thirty credit hours of math and/or science from a duly accredited university or school, plus eighteen months operating experience at a wastewater treatment plant, or
- d) high school or equivalency diploma and three years operating experience at a wastewater treatment plant.

Table 3

Renewal Training Requirements	
Certificate Grade	Contact Hours Needed
Grade 1 & 1A	20
Grade 2 & 2A	40
Grade 3 & 3A	60
Grade 4 & 4A	80

Table 4

Previously Approved Certificate	Reclassified Certificate
IA	4A
IB	4
IIA	3A
IIB	3
IIC	3
IIIA	2A
IIIB	2
IIIC	2

APPENDIX II

FINAL EXECUTIVE SUMMARY

**SUSPENSION AND REVOCATION
COMMITTEE**

**FINAL
EXECUTIVE SUMMARY
SUSPENSION & REVOCATION**

COMMITTEE (AD HOC)

Purpose of Committee

Approach

Recommendations

December 1996

The Committee's focus as described in the Mission Statement was...

“To establish the grounds for suspension and revocation of wastewater operator certification. In addition, the duration and reinstatement of such discipline will be examined and determined.”

Approach

The DEC wanted to get input from the professional operator community on these important issues relating to certificate suspension and revocation. The Committee approach was used successfully during the process of the revision of Part 650. The recommendations and valuable guidance provided by this Committee would have a “grassroots base” which is helpful towards achieving a reasonable policy. Having certified operators participate makes the recommendations more of a professional self-disciplinary approach.

This Committee was comprised of a mix of key parties.

Co-Chairman:

Skip Shoemaker and Alan Cherubin
NYSDEC - Facility Operations Assistance Section (FOAS)

POTW Certified Operators:

Charles De Fazio - Rensselaer Co. S.D. #1
Douglas Kuhn - Gloversville- Johnstown Joint S.D.
Adam Zabinski - Westchester Co. DEF

Industrial Certified Operators:

James Cunningham - Odgen
Larry Whitten - IBM - East Fishkill
Tom Getz - Anheuser-Busch

Other NYSDEC Staff:

James Doyle - Region 6
Colleen Donovan - Region 8
Phil Smith - FOAS

NYWEA Representatives:

Ben Wright - Suffolk Co. DPW
Rich Hults - Nassau Co.
Dick Crist - Salamanca Board of Public Utilities

The Committee met on the following dates at NYSDEC Headquarters in Albany, NY:

June 24, 1996
August 14, 1996
October 2, 1996

Recommendations of Committee

The Code provides for suspension or revocation based upon the fact that operator was negligent, practices fraud, or there as deceit in the performance of his/her duties. Definitions for these terms were reviewed and discussed as outlined below:

Negligent - 1. marked by or given to neglect

neglect - a. to give little attention to (disregard)
b. to leave undone or unattended to especially through carelessness

2. marked by a carelessly easy manner

Fraud - 1. deceit, trickery: intentional perversion of truth
2. an act of deceiving or misrepresenting: trick, cheat

Deceit - 1. the act or practice of deceiving: deception
2. an attempt or device to deceive: trick

Also, the difference between Suspension vs. Revocation was discussed. Revocation means that the certificate is gone and the operator must start all over again. Suspension, which is a lesser penalty, is a temporary action and the operator gets the certificate back (may have conditions).

Recommendations

Case 1 - Operator Didn't Renew in 5 Yrs.

Specific Issue 1a - Any grace period?

Issue 1a - Recommendations:

- 1. No grace period (expires at end of 5 yr. period)**
- 2. Send reminder letter one year prior to certificate expiration**

3. Inspectors should remind owners of renewal requirements in inspection letter

It was noted that there is no provision for a grace period and that the code says "...prior to expiration...reinstated" i.e., expired on 5 year date. A reasonable approach, was suggested where the operator gets a reminder one year before expiration. Also, DEC needed to get the word to the owner on the renewal training requirement. The inspector should note the renewal training requirement in the inspection letter.

Issue 1b - Do the training hours buildup?

This situation is where the certificate has lapsed. How many hours do you need to get it back? e.g., 3A needs 60 hrs. in 5 yrs. What if the operator comes back in 10 yrs. - need 120 hrs.? There is no regulatory basis to do this. It is not possible to require that renewal hours buildup beyond 5 yrs. It was pointed out that Part 650.7C says that "...certificate has expired may have his/her certificate reinstated upon meeting the renewal requirements..." And that Part 650.8 calls for "...must complete the number of required contact hours indicated in Table 3." Table 3 shows 20 - 40 - 60 - 80 hours.

Issue 1b - Recommendation

Operator must complete the amount of contact hours required by his/her certification grade.

Issue 1c - ABC retest?

The operator's certificate had expired at 5 years. He/she went back and got the renewal training. Do they take the ABC again?

Issue 1c - Recommendation

Require an ABC retest for operators who were suspended more than 1 yr. beyond the 5 yrs. expiration date (still need training hours).

There was clearly a consensus for "yes - take the test." The Committee had extensive discussion and provided the rationale for the need to retest after one (1) year beyond the 5-year expiration of the certificate. It was pointed out that certified operators need to keep current with treatment/operations technology. Keeping up to date is the purpose of renewal and is important. The wastewater field is a dynamic profession. Operators need to keep current and keep up their education/training. Some operators may not be active in the field and may not be up to the task of operating a plant. The Committee also questioned the operator's ability to run the necessary laboratory tests after that long period of time. Numerous other states require operators be

retested after certificate expiration. The results from the Kentucky National Survey* showed that of the 43 states responding to the questionnaire that 69% of the states required retesting for reinstatement of the certificate. It was also felt that there are many training opportunities available and that the renewal requirements are fair.

In summary, this scenario is as follows:

The certificate expires after 5 yrs.

The applicant must complete the required 20 - 40 - 60 - 80 hrs.

The applicant has an additional one (1) year (after the 5 year period) to apply for renewal with the appropriate hrs. completed.

After the additional one (1) year, must complete the required hours and pass ABC Exam.

It was noted that in 650.8 "...Within the 5 yrs. preceding the application for renewal, the applicant must complete the number of required contact hours..." This means that the hours must be completed in the last 5 yrs. and that the new/next renewal period starts when the renewal application is approved (hours are OK and pass ABC Exam if beyond 6 yrs.).

Case 2 - Suspension for "Bad Action"

Issue 2a - Basis or Grounds for Suspension?

This suspension is based upon neglect, fraud, or deceit in the performance of his/her duties (at the plant). The Committee came up with a list of actions that would provide the basis for either suspension or revocation. The Committee then went back and eliminated some actions if the action was not "in the performance of duties" (at the plant).

The Committee was asked to review each of the "Bad Actions" and indicate which actions were "Kind of Bad" vs. "Really Bad." The Committee clearly identified certain actions that they felt were definitely "Really Bad" e.g. DMR Falsification. The Committee felt that some of the actions did not appear to be as bad as others and seemed to be in a "gray area" e.g. lack of Maintenance. Additionally, the list is not intended to be all inclusive.

Shown below in Table 1 is a summary of the Committee's grouping of various "Bad Actions."

TABLE 1
COMMITTEE SUMMARY GROUPING OF (Plant Related) "BAD ACTIONS"

<u>Kind of Bad</u> (Suspend)	<u>Really Bad</u> (Revoke)
a. Selective Sampling	a. Record Falsification

*Department of Environmental Protection, Franklin, KY (1996).

- | | |
|----------------------------|--|
| b. Sabotage of Equipment | b. Illegal Bypassing |
| c. Bribery or Extortion | c. Sample Tampering |
| d. Dangerous Acts | d. Coercion |
| e. Misleading | e. Failure to Remove Sludge |
| f. Lack of Maintenance | f. Equipment Damage/Env. Damage |
| g. Lack of Process Control | g. Conviction of Misdemeanor or Felony |

After grouping and ranking the “Bad Actions,” the Committee discussed the degree of severity of the actions and the appropriate penalty. The general consensus from the Committee indicated that the “Really Bad Actions” were very serious and provide a clear basis for Revocation. The “Kind of Bad Actions” were less serious and deserving of a lesser penalty (suspension).

Issue 2a - Recommendation

Refer to Tables 1 and 1A for guidance to determine if an action (plant related) is appropriate for suspension (table is not meant to be all inclusive).

**TABLE 1A
BASIS AND ACTIONS APPROPRIATE FOR SUSPENSION**

a. Selective Sampling

Operator intentionally establishes or adjusts sampling period, collection method, or location in an attempt to collect samples that are not truly representative.

b. Sabotage of Equipment

Intentional misuse or impairment of equipment necessary to maintain treatment (action intended against the employer).

c. Bribery or Extortion

Operator accepts or offers bribes related to plant operations.

Operator uses his position to extort money or services from others.

d. Dangerous Acts

Failure to take appropriate actions necessary to provide a safe and healthful workplace.

Directing staff to perform activities without proper safety equipment or training.

e. Mislead

Operator gives misleading statements to government officials relative to the operation of the treatment facilities.

f. Lack of Maintenance

Failure to maintain the treatment facilities to the extent possible (must be able to link to SPDES violations).

g. Lack of Process Control

Failing to utilize knowledge of process control techniques to optimize the operation of the treatment facilities.

Issue 2b - Suspension Term for Bad Actions?

Issue 2b - Recommendation

The term for suspension for those bad actions shown in Table 1A would vary between one (1) and five (5) years depending upon the degree of severity of the action(s).

The exact term for suspension would be based upon the degree of severity of the action(s). There was additional discussion on the use of a probation period in lieu of suspension. This is a lesser penalty, although a possibility is not provided for in the certification code (Part 650).

Issue 2c - Specific Training Required for Bad Action Suspension?

Issue 2c - Recommendation

Specific training should be required in conjunction with the term (years) of suspension when the operator has a skill deficiency.

The Committee felt that training should be required with the suspension where a specific skill deficiency had been identified. Examples include the following:

Lack of Preventive Maintenance - operator attends a seminar on how to develop a PM program and proper maintenance procedures.

Lack of Process Control - operator attends activated sludge process control seminar.

Issue 2d - Suspension for Bad Action - ABC or Other Exam Required?

Issue 2d - Recommendation

In addition to specific training, consider requiring a specific test or the ABC Exam where a skill or knowledge deficiency is related to the suspension.

There was extensive discussion on why and whether to require the ABC Exam in the situation where the suspension was due to the “Bad Action(s)” in Table 1A. There was the consensus that an exam may be appropriate when the suspension related to a skill or knowledge deficiency/problem. Examples of possible skill deficiency situations may include the following:

- Lack of Preventative Maintenance Systems & Procedures
- Lack of Process Control Testing and/or Process Control Adjustments
- Consistent (General) Lack of Knowledge

For non-skill related “Bad Actions,” e.g., Bribery, requiring the ABC Exam would only serve as punishment. The Committee felt that requiring the ABC Exam for non-skill related “Bad Actions” was not appropriate. The term of suspension (1 to 5 yrs.) would be used to better serve to reflect on the severity of the “Bad Action(s).”

Case 3 - Operator Revoked for “Really Bad Action”

Issue 3a - Basis or Grounds for Revocation

Issue 3a - Recommendation

Refer to Tables 1 and 1B for guidance to determine if an action (plant related) is appropriate for revocation (table is not meant to be all inclusive).

**TABLE 1
COMMITTEE SUMMARY GROUPING OF (Plant Related) “BAD ACTIONS”**

<u>Kind of Bad (Suspend)</u>	<u>Really Bad (Revoke)</u>
a. Selective Sampling	a. Record Falsification
b. Sabotage of Equipment	b. Illegal Bypassing
c. Bribery or Extortion	c. Sample Tampering
d. Dangerous Acts	d. Coercion
e. Misleading	e. Failure to Remove Sludge
f. Lack of Maintenance	f. Equipment Damage/Env. Damage
g. Lack of Process Control	g. Conviction of Misdemeanor or Felony

TABLE 1B
BASIS & ACTIONS APPROPRIATE FOR REVOCATION

a. Falsifying DMR's

Making false statements or notations on legal or official records required by EPA/DEC including but not limited to:

- Discharge Monitoring Reports
- Monthly Operating Reports

b. Illegal Bypassing

Bypassing the entire facility or individual treatment units in a manner not authorized by the SPDES permit, regulation, or law. Consideration will be given as to whether the bypassing was routine vs. infrequent.

c. Sample Tampering

Knowingly collecting or analyzing a sample that will yield results that are not representative of the waste stream analyzed.

d. Coercion

The operator uses his/her position to force another employee to undertake an inappropriate or illegal act.

e. Failure to Remove Sludge

Failing to properly handle or remove sludge or stored biomass to the extent possible. Knowing that failing to act will result in the discharge of these materials to the environment in an inappropriate fashion.

f. Equipment Damage or Environmental Damage

Operates the facility in such a manner as to cause harm to the equipment or the environment that the operator had the means to avoid.

g. Plant Related Felony or Misdemeanor

The operator pleads or is found guilty of criminal or civil charges related to the operation of the treatment facilities.

Issue 3b - Term for Revocation?

Issue 3b - Recommendation

The term for a first instance revocation should be 3-5 yrs. (the operator cannot reapply prior to this time). A second revocation will result in the permanent loss of the certificate.

The Committee discussed what should be the minimum time period prior to allowing the operator to reapply for certification. It was noted that in the two (2) previous cases of operator revocation that the terms were both 3 yrs. The Committee at the last meeting recommended a 3-5 yr. revocation term for the pending chief operator case.

There was a general consensus that 3-5 yrs. would be an appropriate term for a first revocation. The Committee then discussed the scenario of a second “very bad” (revocable) offense and felt that the certificate should be revoked permanently.

Issue 3c - Experience Requirements - Should Previous Experience Count?

Issue 3c - Recommendation

Allow previous experience to satisfy requirements for new certification.

It was reviewed that, in a revocation, the operator’s certificate is gone and he/she must:

- (1) Complete the following appropriate training again (after the effective date of revocation):
 - Basic Operations Course
 - Activated Sludge Course
 - Basic Supervision Course
 - Advanced Operations/Management Course
- (2) Complete Lab Course or Pass Lab Test again (after the effective date of revocation)
- (3) Re-Apply
- (4) Pass ABC Exam

The Committee discussed the question of whether the operator’s previous experience (experience obtained prior to revocation) can count toward the new certification. The Committee felt that the previous experience was “approvable.”

APPENDIX III

RESPONSIVENESS SUMMARY

to

May 8, 1995 DRAFT TOGS

RESPONSIVENESS SUMMARY

Numerous comments were received on the proposed TOG. Several of these comments questioned the basis for the guidance that was being proposed. Based upon these comments, we have provided additional discussion that presents the rationale behind the proposed guidance. Accordingly, the TOG has been redrafted in order to clarify several issues. As a result of the comments, we feel that a better end product has been developed which supports Part 650.

The specific comments and the responses are as follows.

Comment 1

It would be helpful to repeat in the TOG the types of treatment schemes that are exempted in Part 650.1(c) from the requirement of having a certified chief operator or assistant/shift operator.

Response to Comment 1

The exempted schemes are now identified under Section III.B.3 of the revised draft TOG.

Comment 2

Section III.B.(1) Plant Coverage - Suggest that a plant's long-term performance, specifically its compliance with effluent limits, be a criteria in specifying minimum daily coverage.

Response to Comment 2

The revised draft TOG includes plant compliance and operational history, as well as several other criteria, as considerations when developing alternate coverage requirements (See Section III.B.2.b).

Comment 3

There appears to be no section in this draft which deals with the issue of certification renewal (which we believe to be the most significant feature of the new Part 650). If this is meant to be included in Section III.C. (Page 13), which has been "reserved" for "Suspension and Revocation of Operator Certificates," please include our related comments in the development of that section.

Response to Comment 3

The revised TOG now includes guidance on operator certification renewal, suspension and revocation.

Comment 4a

One of our continuing concerns during the development of the new regulations has been the lack of emphasis on the obligations of the WTPs themselves. Beyond the issue of fairness, we wonder whether lack of attention to this issue could result in legal challenges to any suspensions or revocations of individual certifications. We can think of three specific areas offhand, which could conceivably be enforceable under SPDES Permit General Condition 11.1.c:

WTP responsibility to provide opportunity for certified operator renewal training courses. Given the salaries of some operators, and budgets, staffing and training policies of some WTPs, some operators may have a legitimate problem in obtaining appropriate training. It would be unfair, and possibly contrary to renewal training objectives, if some operators could (for example) take all such training only through correspondence courses, without hands-on training or interaction with other operators, only on their own free time, and/or all at their own expense.

In this regard, consulting operator firms should have the same obligations as the WTPs.

Response to Comment 4a

It is the operator and not the facility owner who is certified. Accordingly, it is the responsibility of the operator to ensure that the renewal training is obtained. Part 650 does not give the Department the authority to require the facility owner to provide the operator with the time and funds to obtain renewal training. We encourage facility owners to provide their operators with the opportunity for training, but that is as far as we can go to support the operator.

Comment 4b

Plant Coverage Plan Requirements. Although touched on in Section III.B.1.c, perhaps the time has come to require plant coverage plans (preferably in O&M Manuals), rather than the questionable general guidance provided in Section III.B.1 (see subsequent specific comments).

Response to Comment 4b

Most facilities currently exceed the coverage requirements established by this TOG. It would be an unnecessary burden on facilities to prove to the Department that they satisfy this guidance when DEC field staff are presently satisfied with the coverage provided. However, any Region can choose to require that all facilities within their area submit coverage plans.

Comment 4c

Submittal of WTP modification data for scoring. There should be some relief from the DEC obligation to track facility modifications for rescoring purposes. A requirement for periodic WTP reporting of modifications or lack thereof could serve this purpose. This submission could even conveniently be as frequently as annual if tied to submission of regulatory fees (and could

also include submission of operator certification and plant coverage plan status or modifications).

Response to Comment 4c

Once a facility has been scored it is unlikely that the facility grade will change unless there is a significant facility modification. Accordingly, checking the facility score on an annual basis is probably not necessary. Previous attempts by FOAS to have the facility score its own plant yielded negative results. Many facility owners misscored their plant. If we are to maintain a reliable scoring system, we need DEC involvement.

Comment 5

Page 2, Section III.A.1.c - Although we badly need a definition of "responsible supervision" of the WTP, and we have wrestled with such a definition for years, this section does not adequately serve that purpose. Although "no individual can be expected to work 365 days/year," without such a definition, it is not clear how "the regulation effectively requires that all facilities employ at least two certified operators."

Obviously, even the combination of the two operators has to provide a presence at the WTP on a daily basis, nor for more than two hours per day when present at the WTP (per Section II.B.1.a&b). Just what else is it that the combined operators (whatever number, perhaps greater than two at certain WTPs) must do to provide "responsible supervision?"

For example, if the operator can be in "responsible supervision" if he/she carries a cellular phone and can be contacted around the clock, and/or can reach the WTP within two hours of requested appearance, are two certified operators necessarily dictated? In this case, we assume that "this does not necessarily mean that both operators must be full time employees" would cover retention of a consulting operator under circumstances defined in a plant coverage plan.

Perhaps it would be simpler to just have "adequate supervision" effectively defined by an approved plant coverage plan, or amend Part 650 to just outright require two certified operators.

Response to Comment 5

The definition of "responsible supervision" is included in the Part 650 regulation. Per the regulation "responsible supervision means the accountability for the performance of active, daily on-site operation of the wastewater treatment plant."

As discussed in detail in the revised TOG, an operator cannot adequately perform the duties of an operator without being physically present at the treatment plant. Being "available" or "on call" does not satisfy the needs of the facility.

Comment 6

Page 4, Section III.A.1.h - This brings up the question of whether the scoring is to be modified when a treatment system change is proposed or installed.

There are sources other than the RWE for verifying proposed and installed changes in treatment systems to maintaining an ongoing WTP scoring process. These would include annual updates, SPDES permit renewal and modification applications, WTP changes required to be reported under SPDES permit general conditions, and changes approved by Regions, local agents, EFC and/or BWFD.

Response to Comment 6

Although there are other sources that may sometimes be aware of changes at certain facilities, the Region is the only source that is aware of all changes at all facilities. In fact, the Region will usually be aware that changes are planned long before any formal proposals are developed.

Comment 7

Pages 4 & 6, Section III.A.2 - Under subsection c., please clarify the implication that the Region is to "verify" an applicant's qualifications if they were obtained in NYS. It had been our understanding that the Regions were only to check for "complete" applications before forwarding to BWCP.

Suggest adding "q. Requests appropriate DEC unit to provide information about and/or verification of WTP treatment system changes that could affect WTP scoring"; and "r. Approve operator certification renewal training courses."

Responses to Comment 7

- a. Section III.A.1.b has been expanded to clarify the Regions responsibilities relating to the review of certification applications.*
- b. As indicated by the response to the previous question, the Regions are the most appropriate unit to take the lead in plant scoring.*
- c. New Section III.A.2.g has been added as requested.*

Comment 8

Page 7, Section III.B.1 - Also, To be consistent with what appears to be the intent of Paragraph 2, subsections a & b could be modified as follows:

- a. The chief operator or an assistant operator to be on site for at least four hours each and every day on which the WTP is to be manned by operations staff, and during at least one shift on every such day.
- b. If the WTP is manned during more than one shift, an assistant operator or a shift

operator should be on site for at least four hours during every such shift.

- c. When an operator indicated above is not present on site during his/her shift, that operator should be required to be reachable by telephone within 30 minutes and capable of returning to the WTP within two hours.
- d. These positions apply to those persons qualified and delegated to perform the functions of those positions, regardless of official titles.

Responses to Comment 8

a&b. As discussed in the TOG, the number of hours per day that the certified operator must be present at a facility will depend upon the facility. The TOG has established 2 hours per day as the minimum amount of time that should be spent by an operator at the facility. If there is a general statewide consensus amongst Regions, as well as a valid rationale, an alternate duration could be established. Based upon the response received on the first draft TOG, 2 hours seems to be a generally acceptable duration.

It should be noted that if the situation warrants, the RWE can establish a longer or shorter duration on a case- by-case basis under Section III.B.2.c.

- c. As indicated by the response to Comment 6 and as detailed in the TOG, an operator cannot adequately perform his/her duties unless they are physically at the facility.*
- d. This is already included in the Part 650 definitions for chief and assistant operator.*

Comment 9

Page 8, Section III.B.2 - It is suggested that a consulting operator be required to be certified at the chief operator's grade (rather than at the optional assistant operator's grade), even if he/she is ostensibly hired to act as the assistant operator, based on the likelihood of limited familiarity and/or experience with the specific WTP.

Response to Comment 9

Part 650 establishes the qualifications of the operator for a given facility. The Department lacks the authority to establish more stringent standards based upon familiarity and/or experience with the specific WWTP.

Comment 10

Page 9, Section III.B.3 - Since the described situations are purportedly rare, it should not be a great burden on the WTP and/or DEC to let the operators know that they are in jeopardy and the regulatory clocks have started to tick. Since the WTPs and DEC have not always been known

to perform as expected (particularly due to continuing staff reductions and increased workloads), is there going to be a waiver provision for these deadlines?

Responses to Comment 10

- a. We agree that the operators should be notified of the conditions associated with these temporary restricted certificates. FOAS will advise the operator of the conditions when the restricted certificate is issued.*
- b. There are no plans to issue waivers from the indicated deadlines.*

Comment 11

Pages 10 & 11, Section III.B.6 - Also, the subsection f example and subsection g(3) should be clarified. Because a treatment unit is used for a purpose other than as designed, it is likely that it will require at least as much skill to operate than if it had originally been designed for that purpose.

While subsections g(1) and (2) make sense, if such a conversion were made to primarily to improve WTP operability, it is not clear that one could quantify/measure its contribution to improvement of the treatment process. After all, a designed WTP thickener would not be required to have its contribution to the treatment process measured before being credited to the score.

Subsections h(2) and (3) should be reversed. In the first place, under what circumstances would or should there be permits without flow limits, particularly since the design capacities of such treatment systems should have been known in the first place?

Furthermore, one cannot arbitrarily assume that the "design" flow has special validity or priority over the maximum 30 day average flow (if that average flow does not exceed the "design" flow). The design flow may not be based on current design standards, and/or may exceed the average flow because of inadequate design or because the generated wastewater has not reached design estimates. Scoring credit should not be given for nonexistent flows, or for greater than current flows unless the adequacy of the design for such flows can be assured.

Response to Comment 11

- a. Treatment units are only given points for their design purpose in order to resolve unsupported claims of beneficial alternate use. Without this rule, endless theoretical arguments on the skills required to operate homemade equipment would result.*
- b. Old subsection "g" has been deleted. Operator installed units will not be given points unless they are accepted as part of the basic plant design.*

c. *The hierarchy for flow points have been changed.*

First, use the average design flow. This is specified by the Part 650 regulation.

Second, use the 30-day average permitted flow. This figure is specified in most permits.

Third, use the maximum recorded 30-day average flow. Only when the first two are not known. This generally should not be necessary for POTW. However, the first two options may not be known for some industrial facilities.

APPENDIX III

RESPONSIVENESS SUMMARY

to

December 24, 1997 DRAFT TOGS

RESPONSIVENESS SUMMARY

The “Public Notice” was printed in the ENB and comments were accepted until March 1, 1998. We received and responded to 37 requests for the Draft TOGS (12/24/97). Comments were received from five (5) people. The specific comments and the responses are as follows:

Comment 1

After reviewing the document, I have but one concern and a subsequent comment. The concern that I have is the time frame that an operator has to renew their certificate. In essence, according to how I interpret these regulations, an operator actually has six years to renew, taking into account the year that the operator has after the five year period has expired. I can't help but feel that this could be conceived as a one year grace period to make up the number of required contact hours and also pass the exam. My comment on this observation would be this, however harsh this may seem, five years is five years, when this time period is up, if you don't have the required number of contact hours for your operational certificate, then you get to start all over.

It just seems unfair to me that operators like myself who are aware of the new regulations and have made every attempt to make sure that the contact hours have been met, are now not on the same playing field as those who haven't. Operators who do not stay current in their field and do not accumulate the required number of contact hours for recertification should lose the privilege to operate a wastewater treatment plant in New York State.

Response to Comment 1

The comment relates to the issue of expiration and the additional one (1) year to submit the renewal application. Those operators who do not renew prior to the end of the five (5) year period are not certified. The certificate has expired. Those operators who submit the renewal application one (1) year beyond the 5 year expiration date will be required to take the certification exam and must still complete the required renewal training. Passing the certification exam will help ensure that the operator has remained up to date and current in the field. This approach to expiration was suggested by a committee which was comprised of operators and DEC staff.

Comments 2a and 2b

a. For the plant itself, a bond amount for at least twice the expected cost of capital construction and initial start-up expenditures.

b. A Performance Bond for a minimum of 20 years of estimated operational costs, including equipment replacement.

Response to Comments 2a and 2b

While the concept of these comments may have merit, there is no legal authority via Part 650 to require/mandate a bond.

Comment 2c

A minimum of 24 hours day of maintenance and operational coverage for the wastewater treatment plant.

Response to Comment 2c

The TOGS provides guidance such that a plant should have coverage by an appropriately certified operator a minimum of two (2) hours per day. The Regional Water Engineer may modify that coverage requirement (see III.B.2.a) based upon many factors e.g. complexity and size of the plant.

Comment 2d

Required yearly training updates and recertification for operators.

Response to Comment 2d

Yearly training and renewal is not within the intent of Part 650.

Comment 2e

Grounds for revocation of incompetent operators.

Response to Comment 2e

Part 650 does not provide for incompetency as a basis for either suspension or revocation.

Comment 2f

We feel that D.E.C. should consider a ban on new private wastewater plants to facilitate new developments. During the last 5 years, 4 private wastewater treatment plants were abandoned on Staten Island alone, causing raw sewage releases, health risks and unplanned burdens to N.Y.C.D.E.P.'s capital construction budget, which is passed along to taxpayers. This amounts to private pilferage of public resources.

Response to Comment 2f

The concept of a ban on new private wastewater plants goes beyond the intent of Part 650.

Comment 3a

We disagree with the exemption for wastewater treatment plants treating industrial wastes (see III.B.3). These wastes are variable, but often just as serious in impact as wastewater from other sources. The treatment methods are often the same as for other waste streams, or, in some cases more complicated. The operator in charge of an industrial wastewater treatment plant may need a different background but she/he should have no less training and experience than other operators if typical wastewater treatment methods are in use.

Response to Comment 3a

While the concept of mandatory certification of industrial treatment plant operators has merit, Part 650 provides a specific exemption.

Comment 3b

The comment relates to III.C.1.a.v.ii) We would add "...or failing to inform the owner/permit holder of the need for maintenance, testing or performing actions that optimize the existing treatment processes and/or requesting the materials needed for maintenance, testing or performing actions that optimize the existing treatment processes within the scope of existing, available treatment units. This applies to employees of the owner/permittee and to contract operators."

Response to Comment 3b

By failing to inform the owner/permit holder, the operator would remain at least partially responsible for the bad situation. It would be in the operator's best interest to document/inform the owner of problems.

Comment 4

It is of great concern to us here at DEP about the State's ability to handle the vast array of Operator Certification Renewal packages that need to be processed from Region 2. We have been informed that only a limited amount of packages have been forwarded to the State at this time. As you are well aware this certification renewal process affects a great number of our employees and it will be detrimental to our operations should the State be swamped with last minute renewals that may take some time to process. This delay may result in uncalled for certificate expirations that will put our Bureau in a state of chaos scrambling to replace personnel that run these facilities around the clock.

I am aware that the State is requesting renewal packages 90 days prior to actual expiration and that expiration dates span a one year time frame. However, I still would like to flag this issue and propose a solution. I would like to recommend that the TOGS be modified to indicate that if the State gets a sudden rush of renewal packages and is unable to process them in a timely

manner, those packages approaching expiration will be automatically renewed. The review of the renewal packages can be performed at a later date. This will take the burden off the State personnel providing this function and offer is the assurance that our personnel receive certification renewal in a timely fashion.

I believe this solution will assist in the recertification process and prevent a potentially disastrous outcome. Please give this issue your utmost concern and include this time sensitive issue in the final version of the TOGS.

Response to Comment 4

The comment relates to a potential backlog of renewal application processing. As is pointed out, we have spread out the renewals so that the applications are due over the course of a year. Timely and prompt certification application processing has been and will be of the highest priority. We don't expect any backlog or delays in processing and if necessary will adjust DEC staff and work assignments to ensure quality service.

Comment 5a

On page 6 (III.B.2 - cont'd) are operators required to have their visual and olfactory senses tested on occasions?

Response to 5a

While the concept has merit, there is no realistic approach for DEC to require visual and olfactory testing.

Comment 5b

Previous T.O.G.S. provided the various applications, checklists, operators requirements, etc., will the Wastewater Treatment Plant Operator Certification Manual accompany the final T.O.G.S.?

Response to Comment 5b

The Wastewater Treatment Plant Operator Certification Manual is available as a companion document.

Comment 5c

The draft T.O.G.S. does not describe the procedures for submitting and receiving approval of training classes for the required training contact hours for renewal certification.

Response to Comment 5c

The renewal procedures are described in the Wastewater Treatment Plant Operator Certification Manual.

Comment 5d

The T.O.G.S. does not discuss the penalties for operators who forget to renew, do not finish the required training contact hours within the five (5) year period or do not submit applications within the ninety (90) days prior to the license expiring and continue to operate.

Response to Comment 5d

There is clear guidance in the TOGS for the situation where the operator does not renew (for whatever reason). At the end of the 5 year period, the operator is not certified. The certificate has expired.

Comment 5e

Page 8 (III.B.2.a - cont'd) the T.O.G.S. need to define the thirty (30) days per calendar quarter for the chief operator to be present. Ex: Is this 30 working days (8 hours per day or 24 hours?

Response to Comment 5e

The intent of the guidance for the Chief Operator to be on site 30 day per calendar is to get him/her at the plant to check on the status first hand. The time (hours) required on-site will vary depending upon size, complexity, etc..

Comment 5f

Is there a list of wastewater treatment facilities type that require operators?

Response to Comment 5f

There is a list of wastewater treatment plants that require (certified) operators and it is available to the public.

Comment 5g

Have Regional Water Engineers inspected the various private/commercial and industrial facilities to determine if the sandfilter treatment systems and/or wastewater treatment plants require a certified operator and to verify that the P/C/I facilities require operators that are manned by an appropriately certified operator, a minimum of two hours per day each and every day?

Response to Comment 5g

Regional Water Engineers do inspect P/C/I and industrial facilities. As part of the inspections, a review/check of appropriately certified operators and plant coverage are made.