BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PUBLIC HEARINGS
Natural Resources Board Order WT-29-09

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.11 Stats., interpreting ss. 281.17(3) Wis. Stats., the Department of Natural Resources will hold public hearings on proposed revisions to ch. NR 114 Subchapter I, Wis. Adm. Code, relating to the certification requirements of wastewater treatment system and plant operators.

NOTICE IS HEREBY FURTHER GIVEN that hearings will be held on:

Date/Time	**Location**
August 13, 2013/11:00 a.m.	WDNR West Central Service Center 1300 W. Clairemont Ave, Room 185 Eau Claire, WI 54701
August 16, 2013/11:00 a.m.	WDNR Service Center Conference Room 5301 Rib Mountain Drive Wausau WI, 54401
August 27, 2013/11:00 a.m.	WDNR Northeast Region Service Center Lake Michigan Conference Room 2984 Shawano Ave Green Bay, WI 54313
August 28, 2013/11:00 a.m.	WDNR Southeast Region Service Center 2300 N. Martin Luther King Jr. Drive Rooms 140 and 141 Milwaukee, WI 53212
August 29, 2013/ 10:00 a.m.	WDNR Southern Region Service Center Glaciers Edge Conference Room 3911 Fish Hatchery Road Fitchburg, WI 53911

Availability of the Proposed Rule and the Fiscal Estimate and Economic Impact Analysis

The proposed rule revisions, including the Fiscal Estimate and the Economic Impact Analysis may be viewed and downloaded and comments electronically submitted at the following internet site at the following internet site. The public comment period closes on August 29th, 2013: https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=8023

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at: DNRSmallBusinessCoordinator@Wisconsin.gov or by calling (608) 266-1959.

If you do not have internet access, a copy of the proposed rules and supporting documents, including the Economic Impact Analysis may be obtained from Jack Saltes, DNR-WY/3, P.O. Box 7921, Madison, WI 53707-7921, or by calling (608) 264-6045.

Place Where Comments are to be Submitted and Deadline for Submission

Written comments on the proposed rules may be submitted via U. S. mail to Jack Saltes, DNR-WY/3, P.O. Box 7921, Madison, WI 53707-7921 or by e-mail to: jack.saltes@wisconsin.gov

Comments may be submitted using the internet site where the rule and other documents have been posted [https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=8023]. Please follow the guidelines stated on this site when submitting comments.

Comments submitted on or before August 29th, 2013 will be considered in developing a final rule. Written comments whether submitted electronically or by U. S. mail will have the same weight and effect as oral statements presented at the public hearings.

Analysis Prepared by Department of Natural Resources

Operator certification requirements in Wisconsin originated with Chapter 614, Wisconsin laws of 1965. After passage of the Clean Water Act of 1972, the operator certification program became more solidified with the establishment of wastewater treatment plant classifications (1,2,3,4) and numerous subclasses. Study guides and exams were developed for operators of the different classes and subclasses of treatment plants. The Bureau of Science Services administers the certification program, while the Bureau of Water Quality provides the technical base and support. Examinations are given in each of the regions twice a year in May and November.

The program underwent code revisions in the 1990's and currently has a critical need of revisions with the advent of changes and innovation in computer and wastewater technologies over the past two decades. Wisconsin permits over 1000 industrial and municipal wastewater treatment works and has 2400 certified operators operating these wastewater facilities. In the past 25 years, most treatment plants have more received stringent effluent limitations, and have become more complex and technologically advanced through upgrading and new construction. Well operated and maintained wastewater treatment works (sewer systems and treatment plants) by knowledgeable and skilled operators directly translates into protections of public health and the environment. Increased competency of operators also results in more consistent and improved compliance with Wisconsin Pollutant Discharge Elimination System (WPDES) permit requirements. This then leads to fewer instances of noncompliance and a lowered potential for costs due to enforcement of permit violations by the Department.

Chapter NR 114, Subchapter I – Certification of Waterworks and Wastewater Treatment Plant Operators, Wis. Adm. Code, is being repealed and recreated to achieve five objectives: (1) update and revise treatment plant classifications and subclasses to reflect new and changed technologies; (2) eliminate advanced certification examinations and replace them with an advanced certification point system to allow operators more flexibility and educational options towards advancement; (3) expand certification to include sanitary sewer collection systems; (4) provide more options for a new generation of operators to gain knowledge and competency through on-line classes and apprenticeship opportunities; and (5) separate the certification requirements for waterworks and wastewater works operators for improved readability and understanding.

Chapter NR 114, Wis. Adm. Code, establishes revised plant classification levels (basic or advanced) and subclasses; an advanced certification point system; future certification requirements for sanitary sewer collection systems and a fair conversion (grandfathering) process of transferring existing operators into the new certification system.

Initial Regulatory Flexibility Analysis Summary

No small businesses, as defined in s. NR 227.114 (1), Wis. Adm. Code will be affected by changes in wastewater treatment plant operator certification requirements. Small businesses, as defined, do not generally own and operate treatment plants, or at least mechanical treatment plants with surface water discharges, that require certified operators under ch. NR 114, Wis. Adm. Code. Any fiscal impacts that would occur from these rule changes would affect municipalities and larger industries, that have treatment plants or municipal sanitary sewer collection systems.

For example, in the small businesses analysis prepared for the phosphorus water quality criteria, Board Order WT-25-08, that could also potentially apply to treatment plant operator certification, 11 dairy operations were identified that met the small business definition. Small cheese factories may be the best example of a small business. Of those 11, 6 apply wastes to the land through a variety of methods and are exempt from certification requirements. The other 5 discharge their wastes to municipal wastewater treatment plants, also exempt from certification requirements.

Based on this analysis, the Department concluded there are few, if any, small businesses that will be affected by changes in wastewater treatment plant or sanitary sewer system operator certification requirements.

Fiscal Analysis and Economic Impact Analysis Summary

Ultimately, the impact on the state's economy will be moderate. Most of the changes that result from this rule are transfers rather than costs. The advanced exam will be slightly more expensive, but there will be fewer exams for operators to take and the exam is not mandatory. Wastewater treatment facilities may need to pay higher salaries that they offset by increasing rates (or absorbing), but employees will benefit from the raises. Operators may choose to pay for preparatory classes, but those offering these courses will realize an increase in their business.

While there is some variability, we predict the total statewide costs and transfers to be between $100,000 and $200,000 for the first year of implementation as facilities pursue operator certification necessitated by facility reclassification and the new sanitary system requirements. After the first year, economic impacts will be reduced to transfers resulting from salary increases and changes in exam costs.

We anticipate that the Department will absorb implementation costs into the existing program. Table 1 in Appendix 2 of the Fiscal Estimate & Economic Impact Analysis (DOA-2049) provides a summary of the costs associated with different aspects of the point system.

Summary of, and comparison with, existing or proposed federal regulation: While 33 USC 1251, federal Clean Water Act, does not mandate operator certification for wastewater treatment plants, the need for operating and maintaining wastewater treatment plants properly by knowledgeable and highly skilled operators is recognized by all states. All fifty states have wastewater treatment plant operator certification programs.

Comparison with similar rules in adjacent states: All U.S. Environmental Protection Agency (EPA) Region 5 states (Illinois, Indiana, Michigan, Minnesota, and Ohio) have wastewater treatment plant operator certification programs. These certification programs are based on examination and experience.

Of the EPA Region 5 states, Ohio is the only state that requires a certified operator in charge for wastewater collection systems. Minnesota requires a collection system certificate for operation of wastewater collection, pumping, and conveyance facilities that are managed separately from the wastewater treatment facility. Illinois offers a voluntary wastewater collection system operator certificate while, Indiana and Michigan do not offer state certification.

ILLINOIS: In Illinois, a voluntary collection system operator certification is available for wastewater operators. The certification is administered by the Illinois State Environmental Protection Agency's Bureau of Water. Prerequisites for certification include a high school diploma (or equivalent), 6 months collection system operating experience and the equivalent of 6 months substitution experience. There is only one level of voluntary certification offered.

INDIANA: The Indiana Department of Environmental Management, who oversees certification of Wastewater Operators, does not offer collection system certification. The professional member association, Indiana Water Environment Association has a Collection System Committee (30+ members) who administer a voluntary collection system operation certification at 4 levels for wastewater operators.

MICHIGAN: The State of Michigan's Department of Environmental Quality, who certifies Wastewater Operators, does not offer certification for collection systems.

MINNESOTA: The Minnesota Pollution Control Agency (MPCA) , who certifies wastewater operators, requires at least one certified collection system operator for a system of collection, pumping, and conveyance facilities that is operated separately from the facility that treats, stabilizes and disposes of wastewater. The MPCA classifies these facilities as type-S facilities with four subclasses (A, B, C, & D), based upon the size of the population served. If the collection facility is not operated separately from the treatment facility, the designated operator of the treatment facility is responsible and does not need a type S certificate.

OHIO: The Ohio Environmental Protection Agency's Division of Drinking and Groundwater certifies the person responsible and in charge of a collection system. Sewerage systems, a.k.a. collection systems, are classified. Sewerage systems may be classified at one of two levels (I and II) based upon design flow (< or > 0.15 MGD respectively).

NOTICE IS HEREBY FURTHER GIVEN The Department has made a determination that these rule revisions are a Type IV action under Chapter NR 150, Wis. Adm. Code, and no environmental analysis is required.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request as noted below. The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at a hearing site or require other accommodation, please contact Jack Saltes at (608) 264-6045 (email:

jack.saltes@wisconsin.gov) with specific information on your request at least 10 days before the date of the scheduled hearing.

Agency contact:
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Bureau of Water Quality
P.O. Box 7921
101 South Webster Street
Madison, WI 53707
jack.saltes@wisconsin.gov
(608) 264-6045

Dated at Madison, Wisconsin_____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary