

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 623  
SENATE BILL 450

AN ACT TO PROVIDE FOR THE CERTIFICATION OF WATER POLLUTION CONTROL SYSTEM OPERATORS BY EXPANDING THE FUNCTIONS OF THE WASTEWATER TREATMENT PLANT OPERATORS CERTIFICATION COMMISSION AND TO RENAME THE COMMISSION AS THE WATER POLLUTION CONTROL SYSTEM OPERATORS CERTIFICATION COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 372 of the 1989 Session Laws is repealed.

Sec. 2. The catch line of Article 3 of Chapter 90A of the General Statutes reads as rewritten:

"ARTICLE 3.

"Certification of ~~Wastewater Treatment Plant~~  
Water Pollution Control System Operators."

Sec. 3. G.S. 90A-35 reads as rewritten:

"§ 90A-35. ~~(Effective until September 1, 1991)~~ Purpose.

It is the purpose of this Article to protect the public health and to conserve and protect the quality of the water resources of the State and maintain the quality of receiving ~~streams~~ waters as assigned by the North Carolina Environmental Management Commission; to protect the public investment in ~~wastewater treatment facilities;~~ water pollution control systems; to provide for the ~~classifying of wastewater treatment plants;~~ classification of water pollution control systems; to require the examination of ~~wastewater treatment plant~~ water pollution control system operators and the certification of their competency to supervise the operation of such ~~facilities;~~ systems; and to establish procedures for such classification and certification."

Sec. 4. G.S. 90A-37 reads as rewritten:

"§ 90A-37. ~~(Effective until September 1, 1991)~~ Classification of ~~wastewater treatment facilities.~~ water pollution control systems.

The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall classify all ~~wastewater treatment facilities~~ under the jurisdiction of the North Carolina Environmental Management Commission, as provided in G.S. 143-215.1, and those operated by institutions and agencies of the State of North Carolina. water pollution control systems. In making the classification, the ~~Wastewater Treatment Plant Operators Certification~~ Commission shall give due regard, among other factors, to the size of the ~~facility,~~ system, the nature of the wastes to be treated or removed from the

wastewater, the treatment process to be employed, and the degrees of skill, knowledge and experience that the operator of the ~~wastewater treatment facility~~ water pollution control system must have to supervise the operation of the ~~facility~~ system so as to adequately protect the public health and maintain the water quality standards ~~in~~ of the receiving waters as assigned by the North Carolina Environmental Management Commission."

Sec. 5. G.S. 90A-38 reads as rewritten:

**"§ 90A-38. (~~Effective until September 1, 1991~~) Grades of certificates.**

(a) The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall establish grades and types of certification for ~~wastewater treatment plant~~ water pollution control system operators corresponding to the classification of ~~wastewater treatment facilities~~ water pollution control systems. The grades of certification shall be ranked so that a person holding a certification in the highest grade is thereby affirmed competent to operate ~~wastewater treatment facilities~~ water pollution control systems of that type in the highest classification and any ~~treatment facility~~ water pollution control system of that type in a lower classification; a person holding a certification in the next highest grade is affirmed as competent to operate ~~wastewater treatment facilities~~ water pollution control systems in the next-to-the-highest classification of that type and any lower ~~classification~~ classification of that type; and in a like manner through the range of grades of certification and classification of ~~wastewater treatment facilities~~ water pollution control systems.

(b) No certificate shall be required under this Article to operate a conventional septic tank system. For purposes of this section, 'conventional septic tank system' means a subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field without a pump or other appurtenances."

Sec. 6. G.S. 90A-39 reads as rewritten:

**"§ 90A-39. (~~Effective until September 1, 1991~~) Operator qualifications and examination.**

The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall establish minimum requirements of education, ~~experience~~ experience, and knowledge for each grade of certification for ~~wastewater treatment plant operators~~ water pollution control facility operators and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate to the end that prompt and fair consideration be given every ~~application~~ applicant and ~~the wastewater treatment facilities~~ that the water pollution control systems within the State may be adequately supervised by certified operators."

Sec. 7. G.S. 90A-40 reads as rewritten:

**"§ 90A-40. (~~Effective until September 1, 1991~~) Issuance of certificates.**

(a) An applicant, upon meeting satisfactorily the appropriate requirements, shall be issued a suitable certificate by the ~~Wastewater Treatment Plant Operators Certification~~ Commission designating the level of his competency. ~~Certificates shall be~~

~~permanent unless revoked for cause or replaced by one of a higher grade. Once issued, a certificate shall be valid unless:~~

- ~~(1) The certificate holder voluntarily surrenders the certificate to the Commission;~~
- ~~(2) The certificate is replaced by one of a higher grade;~~
- ~~(3) The certificate is revoked by the Commission for cause; or~~
- ~~(4) The certificate holder fails to pay the annual renewal fee when due.~~

~~(b) A certificate may be issued in an appropriate grade without examination to any person who is properly registered on the 'National Association of Boards of Certification' reciprocal registry and who meets all other requirements of rules adopted under this Article.~~

~~(c) Repealed by Session Laws 1987, c. 582, s. 2.~~

~~(d) Certificates in an appropriate grade will be issued without examination to any person or persons certified by the governing board in the case of a city, town, county, sanitary district, or other political subdivision, or by the owner in the case of a private utility or industry, to have been in responsible charge of its wastewater treatment facilities on the date the Wastewater Treatment Plant Operators Certification Commission notifies the governing board, or owner, of the classification of its treatment facility, and if the application for such certification is made within one year of the date of notification. A certificate so issued will be valid for use by the holder only in the treatment facility for which he had responsible charge at the time of his certification. Provided: that no certification shall be issued under this subsection after July 1, 1979. Operators of these facilities receiving initial notification of classification after July 1, 1979, shall be eligible for a temporary certificate to be valid as provided in subsection (e).~~

~~(e) Temporary certificates, in any grade and without examination, Temporary certificates in an appropriate grade may be issued without examination to any person employed as a wastewater treatment plant water pollution control system operator when the Wastewater Treatment Plant Operators Certification Commission finds that the supply of certified operators, operators or persons with training and experience necessary to certification, is inadequate or when certificates without examination would formerly have been granted under subsection (d) of this section. for certification is inadequate. Temporary certificates shall be valid for only one year, but may be renewed. Temporary certificates may be issued with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Wastewater Treatment Plant Operators Certification Commission may deem necessary to protect the public health and maintain the water quality standards in of the receiving waters as assigned by the North Carolina Environmental Management Commission.~~

~~(f) Certificates in an appropriate grade and type may be issued without examination to water pollution control system operators who on 1 January 1992 hold certificates of competency issued under the voluntary certification program administered by the North Carolina Water Pollution Control Association."~~

Sec. 8. G.S. 90A-41 reads as rewritten:

**"§ 90A-41. (~~Effective until September 1, 1991~~) Revocation of certificate.**

The ~~Wastewater Treatment Plant Operators Certification Commission~~, in accordance with the procedure set forth in Chapter 150B of the ~~General Statutes of North Carolina, Statutes~~, may suspend or revoke the certificate of an operator a certificate or may issue a written reprimand to an operator when it is found if it finds that the operator has practiced fraud or deception; that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties."

Sec. 9. G.S. 90A-42 reads as rewritten:

**"§ 90A-42. (~~Effective until September 1, 1991~~) Fees.**

(a) The ~~Wastewater Treatment Plant Operators Certification Commission~~, in establishing procedures for implementing the requirements of this Article, shall impose the following schedule of fees:

- (1) Examination including Certificate, ~~\$25.00;~~ \$75.00;
- (2) Temporary Certificate, ~~\$35.00;~~ \$200.00;
- (3) Temporary Certification Renewal, ~~\$50.00;~~ \$300.00;
- (4) Conditional Certificate, ~~\$25.00;~~ \$75.00;
- (5) Repealed by Session Laws 1987, c. 582, s. 3.
- (6) Reciprocity Certificate, ~~\$50.00;~~ \$100.00;
- (6a) Voluntary Conversion Certificate, \$50.00;
- (7) Annual Renewal, ~~\$15.00;~~ \$30.00;
- (8) Replacement of Certificate, ~~\$15.00;~~ \$20.00;
- (9) Late Payment of Annual Renewal, ~~\$15.00~~ \$50.00 penalty in addition to all current and past due fees; and annual renewal fees plus one hundred dollars (\$100.00) penalty per year for each year for which annual renewal fees were not paid prior to the current year; and
- (10) Mailing List Charges – The ~~Wastewater Treatment Plant Operators Certification Commission~~ may provide mailing lists of certified wastewater treatment plant water pollution control system operators and of wastewater treatment plants water pollution control system operators to persons who request such lists. The charge for such lists shall be five dollars (\$5.00) per 100 names of certified operators or treatment plants, with a minimum charge of fifty dollars (\$50.00). twenty-five dollars (\$25.00) for each such list provided.

(b) There is established within the Department a separate nonreverting fund into which fees collected pursuant to this section shall be credited. Subject to appropriation by the General Assembly, this fund shall be used to defray the costs of administering this Article."

Sec. 10. G.S. 90A-43 reads as rewritten:

**"§ 90A-43. (~~Effective until September 1, 1991~~) Promotion of training and other powers.**

The ~~Wastewater Treatment Plant Operators Certification Commission~~ and the Secretary of Environment, Health, and Natural Resources are authorized to take all necessary and appropriate steps in order to effectively and fairly achieve the purposes of

this Article, including, but not limited to, the providing of training for water pollution control system operators and cooperating with educational institutions and private and public ~~asssociations, associations,~~ persons, or corporations in the promotion of training for ~~wastewater treatment~~ water pollution control system personnel."

Sec. 11. G.S. 90A-44 reads as rewritten:

**"§ 90A-44. Certified operators required.**

~~On and after July 1, 1971, every~~ No person, firm, or corporation, municipal or private, owning or having control of a wastewater treatment works water pollution control system shall have the obligation of assuring that the operator in responsible charge of such plant is duly certified by the Wastewater Treatment Plant Operators Certification Commission under the provisions of this Article. for which a certified operator is required under rules adopted by the Commission shall allow such system to be operated by any person who does not hold a currently valid certificate in an appropriate grade and type issued by the Commission. No person, after July 1, 1971, No person shall perform the duties of an operator, in responsible charge of a wastewater treatment works, a water pollution control system operator in responsible charge without being duly certified under the provisions of this Article. No person shall perform the duties of a water pollution control system operator who has not paid all fees required under this Article."

Sec. 12. G.S. 90A-45 reads as rewritten:

**"§ 90A-45. ~~(Effective until September 1, 1991)~~ Commercial wastewater treatment operation** water pollution control system operating firms.

(a) ~~Every~~ Any person, firm, or corporation, municipal or private, owning or having control of a wastewater treatment works water pollution control system may contract with a responsible commercial wastewater treatment works operation water pollution control system operating firm for operational and other services of that firm, firm. and that Such firm shall designate an employee as the operator in responsible charge. charge of the water pollution control system. Such designee and other licensed employees of the firm employee and any other employees who have been duly certified under this Article shall be responsible for the total operation and maintenance of the wastewater treatment works. water pollution control system. Contractual Commercial water pollution control system operating firms shall not be limited as to the number of facilities, systems, distance between facilities, systems, location of office or residence, frequency of visits, utilization of local persons who are not certified, or other internal management procedures.

(b) Any employee designated by the firm as operator in responsible charge must obtain certification from the Wastewater Treatment Plant Operators Certification hold an appropriate certificate issued by the Commission and must comply with all of the requirements specified in Chapter 90A and the rules and reasonable standards of the Commission, applicable to all operators in responsible charge, designed to assure satisfactory operation of wastewater facilities. of this Article and rules adopted by the Commission.

(c) The Commission may adopt rules requiring that any commercial water pollution control system operating firm file an annual report with the Commission as to the operation of such system."

Sec. 13. Article 3 of Chapter 90A of the General Statutes is amended by adding a new section to read:

**"§ 90A-46. Definitions.**

The following definitions shall apply throughout this Article:

- (1) 'Commercial water pollution control system operating firm' means a person who contracts to operate a water pollution control system for any person who holds a permit for a water pollution control system, other than an employee of the permittee.
- (2) 'Commission' means the Water Pollution Control System Operators Certification Commission.
- (3) 'Waste' has the same meaning as in G.S. 143-213.
- (4) 'Operator' means a person who holds a currently valid certificate as a water pollution control system operator issued by the Commission under rules adopted pursuant to this Article.
- (5) 'Operator in responsible charge' means the person designated by a person owning or having control of a water pollution control system as the operator of record of the water pollution control system and who has primary responsibility for the operation of such system.
- (6) 'Water pollution control system' means a system for the collection, treatment, or disposal of waste for which a permit is required under rules adopted by either the North Carolina Environmental Management Commission or the Commission for Health Services."

Sec. 14. The catch line of Part 9 of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 9. ~~Wastewater Treatment Plant~~ Water Pollution Control System Operators Certification Commission."

Sec. 15. G.S. 143B-300 reads as rewritten:

**"§ 143B-300. ~~Wastewater Treatment Plant~~ Water Pollution Control System Operators Certification Commission – creation; powers and duties.**

(a) There is hereby created the ~~Wastewater Treatment Plant~~ Water Pollution Control System Operators Certification Commission to be located in the Department of Environment, Health, and Natural Resources. The Commission shall adopt rules with respect to the certification of ~~wastewater treatment plant~~ water pollution control system operators as provided by Article 3 of Chapter 90A of the General ~~Statutes of North Carolina~~ Statutes.

(b) The Commission shall adopt such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for programs concerned with the certification of ~~wastewater treatment plant~~ water pollution control system operators which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission may by rule delegate any of its powers, other than the power to adopt rules, to the Secretary of Environment, Health, and Natural Resources or his designee."

Sec. 16. G.S. 143B-301 reads as rewritten:

"§ 143B-301. ~~(Effective until September 1, 1991) Wastewater Treatment Plant~~ **Water Pollution Control System Operators Certification Commission – members; selection; removal; compensation; quorum; services.**

(a) ~~The Wastewater Treatment Plant~~ Water Pollution Control System Operators Certification Commission shall consist of ~~seven~~ nine members appointed by the Secretary of Environment, Health, and Natural Resources with the approval of the Environmental Management Commission with the following qualifications:

- (1) ~~Two members shall be currently employed as wastewater treatment plant-water pollution control facility operators, wastewater plant-water pollution control system superintendents, superintendents or directors, water and sewer superintendents, superintendents or directors, or equivalent positions with a North Carolina municipality;~~
- (2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;
- (3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;
- (4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;
- (5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment; ~~and~~
- (6) One member who is employed by the Department of Environment, Health, and Natural Resources and works in the field of water pollution control, who shall serve as Chairman of the ~~Commission~~ Commission;
- (7) One member who is employed by a commercial water pollution control system operating firm; and
- (8) One member shall be currently employed as a water pollution control system collection operator, superintendent, director, or equivalent position with a North Carolina municipality.

(b) ~~The initial members of the Commission shall be the members of the Wastewater Treatment Plant Operators Board of Certification who shall serve for a period equal to the remainder of their current terms on the Wastewater Treatment Plant Operators Board of Certification. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms of three years and until their successors are appointed and qualify. Appointments to the Commission shall be for a term of three years. Terms shall be staggered so that~~

three terms shall expire on 30 June of each year, except that members of the Commission shall serve until their successors are appointed and duly qualified as provided by G.S. 128-7.

(c) ~~The chairman of the Wastewater Treatment Plant Operators Certification Commission shall serve at the pleasure of the Secretary of Environment, Health, and Natural Resources. The Commission shall elect a Vice-Chairman from among its members. The Vice-Chairman shall serve from the time of his election until 30 June of the following year, or until his successor is elected.~~

(d) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

(f) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15.

(g) A majority of the Commission shall constitute a quorum for the transaction of business.

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment, Health, and Natural Resources."

Sec. 17. Part 9 of Article 7 of Chapter 143B is amended by adding a new section to read:

**"§ 143B-301.1. Definitions.**

The definitions set out in G.S. 90A-46 shall apply through this Part."

Sec. 18. This act shall not be construed to affect the validity of any certificate issued by the Wastewater Treatment Plant Operators Certification Commission prior to the date this act becomes effective.

Sec. 19. The Water Pollution Control Systems Operators Certification Commission may establish an implementation schedule for the classification of water pollution control systems and for the certification of water pollution control system operators. Such schedule shall provide for the full implementation of this act by 1 July 1993.

Sec. 20. Members of the Wastewater Treatment Plant Operators Certification Commission shall be initial members of the Water Pollution Control System Operators Certification Commission. Each such member shall serve until 30 June of the year in which his term on the Wastewater Treatment Plant Operators Certification Commission expires and until his successor is appointed and duly qualified. Other initial appointments to the Water Pollution Control System Operators Certification Commission shall be made for a term of two, three, or four years to achieve staggered terms as required by G.S. 143B-301(b).

Sec. 21. This act becomes effective 1 July 1991.

In the General Assembly read three times and ratified this the 10th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives