TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES
PART 4 UTILITY OPERATOR CERTIFICATION

20.7.4.1 ISSUING AGENCY: Water Quality Control Commission.
[20.7.4.1 NMAC - Rp, 20 NMAC 7.4.100, 1-26-01]

20.7.4.2 SCOPE: All persons, facilities and systems subject to the act.
[20.7.4.2 NMAC - Rp, 20 NMAC 7.4.101, 1-26-01; A, 11-15-06]

20.7.4.3 STATUTORY AUTHORITY: Utility Operators Certification Act, NMSA 1978, Sections 61-33-1 to 10.
[20.7.4.3 NMAC - Rp, 20 NMAC 7.4.102, 1-26-01]

20.7.4.4 DURATION: Permanent.
[20.7.4.4 NMAC - Rp, 20 NMAC 7.4.103, 1-26-01]

20.7.4.5 EFFECTIVE DATE: January 26, 2001, unless a later date is indicated in the history note at the end of a section.
[20.7.4.5 NMAC - Rp, 20 NMAC 7.4.104, 1-26-01]

20.7.4.6 OBJECTIVE: The objective of this part is to implement the act.
[20.7.4.6 NMAC - Rp, 20 NMAC 7.4.105, 1-26-01; A, 11-15-06]

20.7.4.7 DEFINITIONS: All terms used in this part shall have the following meanings:

A. "act" means the Utility Operators Certification Act, NMSA 1978, Sections 61-33-1 to 10;

B. "board" means the utility operators certification advisory board;

C. "certified operator" means a person who is certified by the department as being qualified to operate one of the classifications of public water supply systems or public wastewater facilities;

D. "collection system" means pipelines or conduits, pumping stations, force mains, and all other devices, appurtenances and facilities used for collecting and conducting waste to a point of treatment and disposal;

E. "commission" means the water quality control commission;

F. "department" means the New Mexico environment department;

G. "distribution system" means pipelines, appurtenances, devices and facilities which carry potable water under pressure to each consumer;

H. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

I. "domestic liquid waste treatment unit" means any system that is designed to discharge less than two thousand gallons per day and that is subject to the rules promulgated by the environmental improvement board pursuant to Paragraph (3) of Subsection (A) of Section 74-1-8 NMSA 1978 or a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid waste, including septic tanks;

J. "education" means academic credit received attending any public or private primary, secondary or high school, approved vocational training courses in the water supply and wastewater field, college or university;

K. "experience" means actual work experience, full or part-time, as an operator in the fields of public water supply or public wastewater treatment; work experience in a related field may be accepted at the discretion of the department;

L. "operate" means performing any activity or function or making any process control or system integrity decision regarding water quality or water quantity that has the potential to affect the proper functioning of a public water supply system or public wastewater facility or to affect human health, public welfare or the environment; the term "operate" does not include the operation of monitoring equipment from a distantly remote location;

M. "operator" means any person who operates a public water supply system or public wastewater facility;

N. “owner” means the person or persons who own(s) any part of a public water supply system or public wastewater facility;

O. “person” means any agency, department or instrumentality of the United States and any of its officers, agents or employees, the state or any agency, institution or political subdivision thereof, any public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any political subdivision or public or private corporation;

P. “population served” means actual or estimated maximum number of persons served by the public water supply system or public wastewater facility;

Q. “public wastewater facility” means a system of structures, equipment and processes designed to collect and treat domestic and industrial waste and dispose of the effluent, but does not include:

(1) any domestic liquid waste treatment unit;

(2) any industrial facility subject to an industrial pretreatment program regulated by the United States environmental protection agency under the requirement of the federal Clean Water Act of 1977; or

(3) any waste treatment system which is strictly limited to treating non-human, agricultural waste;

R. “public water supply system” means:

(1) a system for the provision through pipes or other constructed conveyances to the public of water for human consumption or domestic purposes if the system:

(a) has at least fifteen service connections; or

(b) regularly serves an average of at least twenty-five individuals at least sixty days of the year;

(2) any water supply source and any treatment, storage and distribution facilities under control of the operator of the system; and

(3) any collection device, including but not limited to wells, spring boxes, infiltration galleries or intake structures, and any treatment, storage, and distribution facilities under the control of the operator of such system and any collection device or pretreatment storage facilities not under such control which are used primarily in connection with such system;

S. “supervision” means the coordination, direction, oversight or inspection of the operation of a public water supply system or a public wastewater facility; the term "supervision" does not include the operation of monitoring equipment from a distantly remote location;

T. “training” means approved education or non-academic training in the fields of public water supply system or public wastewater facility operations;

U. “training credit” means the amount of credit earned by a participant in a training program; and

V. “treatment works” means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

[20.7.4.7 NMAC - Rp, 20 NMAC 7.4.108, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.8 CONSTRUCTION: This part shall be liberally construed to carry out the purposes of the act. If any provision or application of this part is held invalid, the remainder or its application to other situations or persons shall not be affected.

[20.7.4.8 NMAC - Rp, 20 NMAC 7.4.106, 1-26-01; A, 11-15-06]

20.7.4.9 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this part does not relieve a person from the obligation to comply with other applicable state and federal regulations.

[20.7.4.9 NMAC - Rp, 20 NMAC 7.4.107, 1-26-01]

20.7.4.10 LEVELS OF CERTIFICATION FOR OPERATORS OF PUBLIC WATER SUPPLY SYSTEMS AND PUBLIC WASTEWATER FACILITIES:

A. The levels of general certification for operators of public water supply systems from lowest to highest shall be:

(1) level 1 water supply (WS1);

(2) level 2 water supply (WS2);

(3) level 3 water supply (WS3); and

(4) level 4 water supply (WS4).

B. The levels of special certification for operators of public water supply systems from lowest to highest shall be:

(1) small water (SW); and

(2) small water advanced (SWA);

C. The levels of certification for water sample technicians at public water supply systems from lowest to highest shall be:

(1) water sample technician 1 (WST1); and
(2) water sample technician 2 (WST2).

D. The levels of certification for operators of distribution systems at public water supply systems from lowest to highest shall be:

(1) distribution systems 1 (DS1);
(2) distribution systems 2 (DS2); and
(3) distribution systems 3 (DS3).

E. The levels of general certification for operators of public wastewater facilities from lowest to highest shall be:

(1) level 1 wastewater (WW1);
(2) level 2 wastewater (WW2);
(3) level 3 wastewater (WW3); and
(4) level 4 wastewater (WW4).

F. The levels of special certification for operators of public wastewater facilities from lowest to highest shall be:

(1) small wastewater (SWW); and
(2) small wastewater advanced (SWWA).

G. The levels of certification for wastewater laboratory technicians at public wastewater facilities from lowest to highest shall be:

(1) wastewater laboratory technician 1 (WWLT1);
(2) wastewater laboratory technician 2 (WWLT2); and
(3) wastewater laboratory technician 3 (WWLT3).

H. The levels of certification for operators of collection systems at public wastewater facilities from lowest to highest shall be:

(1) collection systems 1 (CS1); and
(2) collection systems 2 (CS2).

[20.7.4.10 NMAC - Rp, 20 NMAC 7.4.109 - 110, 1-26-01; A, 11-15-06]

20.7.4.11 CLASSIFICATION OF PUBLIC WATER SUPPLY SYSTEMS AND PUBLIC WASTEWATER FACILITIES:

A. Public water supply systems and public wastewater facilities are classified based on: (1) the size and type of the system or facility; (2) the capacity of the system or facility in terms of size service area and number of users served; (3) the type and character of the water or wastewater to be treated; and (4) the physical conditions affecting the treatment plants, collection systems and distribution systems.

B. Public water supply systems and public wastewater facilities are classified in accordance with the requirements of 20.7.4.12 NMAC and 20.7.4.13 NMAC.

[20.7.4.11 NMAC - Rp, 20 NMAC 7.4.111, 1-26-01; A, 11-15-06]

20.7.4.12 PUBLIC WATER SUPPLY SYSTEMS:

A. In order to operate the various types of treatment processes at public water supply systems, the indicated level of certification shall be required:

Type of Treatment Process	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Filtration (sand, gravity)	SWA	WS3	WS3	WS3	WS4
Coagulation, sedimentation, filtration	SWA	WS3	WS3	WS4	WS4
Chemical precipitation (Mn, Fe, softening)	SWA	WS3	WS3	WS4	WS4
Aeration	SW	WS2	WS3	WS3	WS4
Odor and taste control (activated carbon)	SW	WS2	WS3	WS3	WS4
Chemical addition (stabilization)	SW	WS2	WS2	WS3	WS4
Pressure filtration	SWA	WS2	WS2	WS3	WS4
Ion exchange (softening, defluoridation)	SWA	WS2	WS3	WS3	WS4

Chlorination	SW	WS2	WS2	WS3	WS4
Fluoridation	SW	WS2	WS2	WS3	WS4
Arsenic removal	SWA	WS3	WS3	WS3	WS4
Radionuclide removal	SWA	WS3	WS3	WS3	WS4
Special, such as desalinization	SWA	WS4	WS4	WS4	WS4
Production, ground water only	SW	WS1	WS2	WS3	WS4

B. In order to operate various types of distribution systems at public water supply systems, the indicated level of certification shall be required:

Type of Distribution Systems	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Distribution of treated surface water	SW	DS2	DS2	DS2	DS3
Distribution of chlorinated groundwater	SW	DS2	DS2	DS2	DS3
Distribution of unchlorinated groundwater	SW	DS1	DS2	DS2	DS3

C. In order to perform the various types of water sampling at public water supply systems after January 1, 2008, the indicated level of certification shall be required:

Type of Water Sampling	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Microbiology	SW or WST1	WST1	WST1	WST1	WST1
Chemical and Radiological	WST2	WST2	WST2	WST2	WST2

[20.7.4.12 NMAC - Rp, 20 NMAC 7.4.112, 1-26-01; A, 11-15-06]

20.7.4.13 PUBLIC WASTEWATER FACILITIES:

A. In order to operate the various types of treatment processes at public wastewater facilities, the indicated level of certification shall be required:

Type of Treatment Process	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Raw wastewater lagoons	SWW	WW1	WW1	WW1	WW1
Aerated lagoons	SWW	WW2	WW2	WW2	WW2
Primary treatment	SWW	WW2	WW2	WW2	WW2
Primary treatment and oxidation ponds	SWW	WW2	WW2	WW2	WW2
Secondary treatment, trickling filter	SWW	WW2	WW3	WW3	WW4
Secondary treatment, aeration	SWWA	WW3	WW3	WW4	WW4
Physical-chemical treatment processes	SWWA	WW3	WW3	WW3	WW4
Advanced waste treatment process	SWWA	WW3	WW4	WW4	WW4
Phosphorous and nitrogen removal	SWWA	WW3	WW3	WW4	WW4

B. In order to operate collection systems at the various sizes of public wastewater facilities, the indicated level of certification shall be required:

Population Served	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Level of Certification	SWW	CS1	CS1	CS2	CS2

C. In order to perform wastewater analysis for regulatory compliance at public wastewater facilities after January 1, 2011, the indicated level of certification shall be required:

Level of Certification Needed	Type of Methodology Performed
WWLT1	Analyses involving colorimetry and commercially prepared reagents, including but not limited to Dissolved Oxygen (DO) and pH by probe, and commercially available test kits.
WWLT2	WWLT1 plus analyses involving other specific ion electrodes, titration, gravimetry, microbiology, media and standards preparation, including but not limited to Biochemical Oxygen Demand (BOD), fecal coliform, E.coli, residuals (Total Suspended Solids (TSS), Total Volatile Solids (TVS), Volatile Suspended Solids (VSS), etc.), Total Residual Chlorine (TRC) by titration, and Dissolved Oxygen by the Winkler method.
WWLT3	WWLT1 and WWLT2 plus analyses involving digestion, distillation, spectrophotometry, chromatography, reagents and standards preparation, live organisms, including but not limited to nitrogen (Nitrate (NO_3), Ammonium (NH_4), Total Kjeldahl Nitrogen (TKN)), trace metals, anions, and whole effluent toxicity.
SWW, SWWA, WW1, WW2, WW3, WW4, WWLT1, WWLT2 or WWLT3	TRC by the N-diethyl-p-phenylene-diamine (DPD) method, pH, Temperature and DO by probe.

[20.7.4.13 NMAC - Rp, 20 NMAC 7.4.113, 1-26-01; A, 11-15-06; A, 1-15-11]

20.7.4.14 LESSER INCLUDED CERTIFICATIONS:

A. An operator holding a SWA certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW certification.

B. An operator holding a SWWA certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW certification.

C. An operator holding a WS1 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, WST1 and DS1 certification.

D. An operator holding a WS2 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, WS1, WST1, WST2, DS1 and DS2 certification.

E. An operator holding a WS3 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, SWA, WS1, WS2, WST1, WST2, DS1, DS2 and DS3 certification.

F. An operator holding a WS4 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, SWA, WS1, WS2, WS3, WST1, WST2, DS1, DS2 and DS3 certification.

G. An operator holding a WW1 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW and CS1 certification.

H. An operator holding a WW2 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW, WW1, WWLT1, CS1 and CS2 certification.

I. An operator holding a WW3 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW, SWWA, WW1, WW2, WWLT2, CS1 and CS2 certification.

J. An operator holding a WW4 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW, SWWA, WW1, WW2, WW3, WWLT2, CS1 and CS2 certification.
[20.7.4.14 NMAC - N, 11-15-06; A, 1-15-11]

20.7.4.15 MINIMUM NUMBER OF CERTIFIED OPERATORS:

A. A public wastewater facility or public water supply system shall provide the minimum number of certified operators needed to operate the system or facility to protect human health, public welfare or the environment.

B. If the department determines a public wastewater facility or public water supply system is in violation of Subsection A of this section, the department may determine the minimum number of certified operators needed for the public wastewater facility or public water supply system. The determination shall be made in writing and delivered by certified mail. Violation of the department determination shall be considered a violation of the rule.

C. In determining the minimum number of certified operators needed to operate a public wastewater facility or public water supply system in compliance with Subsection A of this section, the department shall consider the following criteria:

(1) current compliance with applicable state and federal regulations;
(2) historical compliance with applicable state and federal regulations;
(3) actual discharge/production compared to design capacity;
(4) availability of redundant facilities;
(5) geographic area served by the public wastewater facility or public water supply system;
(6) level of automation;
(7) staffing plan;
(8) capacity assessment findings;
(9) sanitary survey deficiencies;
(10) mechanical reliability; and
(11) currency of federally required vulnerability assessments and risk management plans.

[20.7.4.15 NMAC - N, 2/2/09]

20.7.4.16 - 20.7.4.19 [RESERVED]

20.7.4.20 CERTIFICATION GENERAL PROVISIONS:

A. It is unlawful to operate or allow the operation of a public water supply system or public wastewater facility unless the system or facility is operated by or under the supervision of a certified operator who meets or exceeds the appropriate level of certification required to operate the system or facility.

B. Separate certification is required for the operation of public water supply systems and public wastewater facilities.

C. The name(s) of the certified operator(s) employed by a public water supply system or public wastewater facility must be on file at all times with the department. A certified operator may be replaced with another certified operator of the required level at any time. The owner shall notify the department in writing of the name of the new certified operator within thirty days after the replacement of the certified operator.

D. The department may issue certifications restricted to distribution systems or collection systems.
[20.7.4.20 NMAC - Rp, 20 NMAC 7.4.200, 1-26-01; A, 11-15-06]

20.7.4.21 REQUIREMENTS FOR APPLICATION FOR CERTIFICATION:

A. Each applicant for certification as a certified operator shall:

(1) complete an application on forms furnished by the department; applications shall be submitted to the department not later than thirty days prior to the date of the examination;
(2) submit evidence that the applicant has reached the age of majority;
(3) pay a nonrefundable examination application fee, in advance, to the department; the examination application fee for certification as a SW, SWA, SWW, SWWA, WST1, WST2 and WWLT1 shall be $25.00; the examination application fee for certification as a WS1, WS2, WS3, WS4, WW1, WW2, WW3, WW4, WWLT2, WWLT3, CS1, CS2, DS1, DS2 and DS3 shall be $30.00;

(4) successfully meet the educational, experience and training requirements stipulated in 20.7.4.22 NMAC; all training programs must be approved by the department, and the department shall assign the number of training credits for each approved training program; and

(5) successfully pass the written examination for the level of certification being applied for.

B. Written examinations for certification shall be scheduled at such times and locations as the department deems appropriate. Written examinations shall be used in determining skill, knowledge, ability and judgment of the applicant. All written examinations will be graded and the applicants notified of the results. Examination papers will not be returned to the applicant, but may be reviewed by the applicant at the department.
[20.7.4.21 NMAC - Rp, 20 NMAC 7.4.201, 1-26-01; A, 11-15-06]

20.7.4.22 MINIMUM REQUIREMENTS FOR CERTIFICATION:

A. The minimum requirements for each level of certification are:

(1) SW, SWA, SWW, SWWA, WS1, WW1, WWLT1, DS1 and CS1 certification require high school graduation, or general equivalency diploma, one year of experience and successful completion of ten training credits;

(2) WS2, WW2, WWLT2, DS2 and CS2 certification require high school graduation, or general equivalency diploma, two years of experience and successful completion of thirty training credits;

(3) WS3, WW3, WWLT3 and DS3 certification require high school graduation, or general equivalency diploma, four years of experience and successful completion of fifty training credits;

(4) WS4 and WW4 certification require high school graduation, or general equivalency diploma, one year's experience, as appropriate, as a WS3 and WW3 certificate holder and successful completion of eighty training credits;

(5) WST1 certification requires high school graduation, or general equivalency diploma, and successful completion of five training credits;

(6) WST2 certification requires high school graduation, or general equivalency diploma, and successful completion of ten training credits.

B. Substitutions.

(1) In no case shall the actual experience be less than one year for any level except as in Subparagraph (d) of Paragraph (2) of Subsection B of this section.

(2) Education may be substituted for the basic requirements or used for training credits as follows. In no case may the same education serve both as a substitution for experience and as training credits except as provided in this section.

(a) One year of additional experience may be substituted for the high school graduation or general equivalency diploma requirement for all levels of certification except level 4.

(b) No more than one year (30 semester hours) of successfully completed college education in a non-related field may be substituted for an additional six months of the required experience.

(c) One year of an approved vocational school in the water and/or wastewater field may be substituted for only one additional year of the required experience.

(d) An associate's degree for a two-year program in an approved school in the water and/or wastewater field and six months of actual experience in that field (which may be accrued before, during, or after the school program) may be substituted for the requirements of any level up to and including level 2. An associate's degree for a two-year program in an approved school in the water and/or wastewater field and twelve months of actual experience in that field (which may be accrued before, during, or after the school program) may be substituted for the requirements of a level 3.

(e) Completion of at least three years of actual experience in the water and/or wastewater field plus high school diploma or equivalent, plus 15 semester hours of successfully completed college education directly related to the water or wastewater field may be substituted for any level up to and including level 3.

(f) A bachelor's degree for a major directly related to the water or wastewater field plus two years of actual experience in that field may be substituted for any level up to and including level 3.

(3) Full time water and wastewater laboratory experience may be substituted for operator experience in a respective field at a rate of 25 percent of the actual experience held.
[20.7.4.22 NMAC - Rp, 20 NMAC 7.4.202, 1-26-01; A, 11-15-06]

20.7.4.23 TEMPORARY CERTIFICATION:

A. If, after reasonable time and effort by an owner, a qualified operator cannot be employed, the system or facility may apply for temporary certification for the operator of a system or facility. In support of the

application, the system or facility shall submit documentation demonstrating that it cannot employ a qualified operator and a schedule of compliance that includes the actions the system or facility will take to employ a certified operator, the date by which the system or facility will employ a certified operator, and a contingency plan that outlines the actions to be taken if the system's or facility's schedule fails to result in the employment of a certified operator.

B. A temporary certificate may be issued to an individual for a period not to exceed six months.

C. A temporary certificate may be extended to a maximum of 18 months if the operator is involved in a training program that will qualify the operator for the required level in that period.

D. An extension to the six-month temporary certification will require prior approval of a training program to ensure coverage of areas that are specific to the system, facility or individual's knowledge and skills.

[20.7.4.23 NMAC - Rp, 20 NMAC 7.4.203, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.24 CERTIFICATION WITHOUT EXAMINATION:

A. Certificates shall be issued without an examination to persons who, on July 1, 1993, were operators of a system or facility serving under 2,500 persons. Applications for certification under this subsection must have been made on or before December 1, 1993.

(1) Persons making application under this subsection must meet the basic requirements for certification outlined in 20.7.4.22 NMAC.

(2) Certificates issued under this subsection will be restricted to the particular system or facility for which the applicant is employed as it existed on July 1, 1993. Major changes in the type of treatment employed, or the size of the population served, that would significantly affect the operation of the system or facility shall cause any certificate issued under this subsection to become invalid. The limitations of any certificate issued under this subsection will be printed thereon.

(3) The department may deny any application for certification under this subsection if, in the opinion of the department, approval of the application could adversely affect the health and safety of the public or the environment.

(4) Application for certification under this subsection must be accompanied by a $30.00 fee per certificate requested, payable to the department.

B. The department may issue certificates, at an equivalent level of certification, without examination to applicants who hold valid certificates or licenses issued by any state, territory, or foreign jurisdiction, provided that the requirements for issuance of such certificates or licenses are, in the opinion of the department, equal to or higher than those set forth in this part. Application for certification under this provision must be accompanied by a $30.00 fee per certificate requested, payable to the department.

[20.7.4.24 NMAC - Rp, 20 NMAC 7.4.204, 1-26-01; A, 11-15-06]

20.7.4.25 RENEWAL OF CERTIFICATES:

A. All initial certifications shall expire on the last day of the certificate holder's birth month following the third anniversary of certification. All renewals shall be for three years. A renewal fee will be payable to the department for each renewal. Renewal fees shall be paid for each individual certification and shall be in accordance with the following fee schedule.

(1) The renewal fee for SW, SWA, SWW and SWWA certifications shall be $20.00.

(2) The renewal fee for WS1, WS2, WW1, WW2, WST1, WST2, WWLT1, WWLT2, WWLT3, CS1, CS2, DS1 and DS2 certifications shall be $25.00.

(3) The renewal fee for WS3, WW3, WS4, WW4 and DS3 certifications shall be $30.00.

B. The department shall mail each holder of a certificate a renewal notice at least thirty days prior to the expiration date, mailed to his last address of record. Failure to receive such notice shall not relieve the holder of his responsibility to apply for renewal prior to the expiration date.

C. Each certificate issued under 20.7.4.24 NMAC must be renewed at three-year intervals.

D. Renewal will require that each certificate holder be credited with having obtained thirty training credits in the three-year period preceding the date on which renewal application is due, except for renewals of WST1 certifications which require five hours of training credits and WST2 certifications which require ten hours of training credits. The thirty training credits must include at least ten training credits for approved training in the operation and maintenance of the same type of public water supply system or public wastewater facility as each certificate being renewed.

[20.7.4.25 NMAC - Rp, 20 NMAC 7.4.205, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.26 LAPSED CERTIFICATES:

A. Certificates, which have not been renewed in accordance with 20.7.4.25 NMAC, will be considered lapsed and invalid.

B. Lapsed certificates may be reinstated without penalty upon application within thirty days of the date of expiration. A lapsed certificate which has not been reinstated within the thirty-day period may be reinstated within one year of expiration date upon reapplication and payment of a $10.00 per month penalty fee for each month or portion thereof beyond the expiration date. Reinstatement of lapsed certificate will also require satisfaction of all the renewal requirements of 20.7.4.25 NMAC.

C. If a lapsed certificate has not been reinstated within one year of its expiration date, re-examination will be required for reinstatement. All applicants for re-examination must meet the requirements of 20.7.4.21 and 20.7.4.22 NMAC of this part.

[20.7.4.26 NMAC - Rp, 20 NMAC 7.4.206, 1-26-01; A, 11-15-06]

20.7.4.27 SUSPENSION AND REVOCATION:

A. The department may suspend or revoke any or all certificate(s) held by a certified operator as provided for in Section 61-33-7 of the act.

B. In the event of a contemplated suspension or revocation of a certificate, the department shall notify the certificate holder by registered mail of the reason for such action. Within 20 days after receipt of the notice, the certificate holder may request in writing that a hearing be held by the department.

C. When the department contemplates the suspension or revocation of a certificate, the department shall serve upon the certificate holder a written notice containing a statement:

(1) that the department has sufficient evidence which, if not rebutted or explained, will justify the department in suspending or revoking the certificate;

(2) indicating the general nature of the evidence;

(3) that unless the certificate holder within twenty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the department and containing a request for a hearing, the department will take the contemplated action; and

(4) calling the certificate holder's attention to their rights under the Uniform Licensing Act, NMSA 1978, Section 61-1-8.

D. If the certificate holder does not mail a request for a hearing within the time and in the manner required by this section, the department may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

E. If the certificate holder does mail a request for a hearing as required by this section, the department shall, within twenty days of receipt of such request, notify the certificate holder of the time and place of hearing, the name or names of the person or persons who shall conduct the hearing for the department and the statutes and regulations authorizing the department to take the contemplated action, which hearing shall be held not more than sixty nor less than fifteen days from the date of service of such notice.

F. Re-issuance of a revoked certificate shall be accomplished by reapplication as provided for in an original certificate. Any person whose certificate is revoked shall be ineligible for admission to any examination for certification for the entire period of revocation as set by the department.

G. A certificate may be suspended for a specified period of time to be determined by the department.

[20.7.4.27 NMAC - Rp, 20 NMAC 7.4.207, 1-26-01; A, 11-15-06]

20.7.4.28 ELIGIBILITY FOR OPERATOR TRAINING GRANT FUNDS: Each applicant for operator training grant funds administered by the department shall.

A. Submit evidence satisfactory to the department that the recipient of the training:

(1) is a person who is a candidate for employment as a "certified operator" as defined under 20.7.4.7 NMAC of this part; or

(2) is a person in a supervisory role responsible for the management of a public water supply system or public wastewater facility; or

(3) is a person who is or will be involved in the instruction of operators.

B. Submit evidence satisfactory to the department that not less than ten percent of the training cost is provided by the employer of the utility operator; the cost of per diem and mileage may not be paid from grant funds but may be accounted in determining the training cost provided by the employer; and

C. Supply any other pertinent information deemed necessary by the department.

[20.7.4.28 NMAC - Rp, 20 NMAC 7.4.208, 1-26-01; A, 11-15-06]

20.7.4.29 UTILITY OPERATORS CERTIFICATION ADVISORY BOARD:

A. Pursuant to Section 61-33-4(G) of the act, a board shall be appointed by the commission to function with the commission to establish qualifications of operators, classify systems and facilities, adopt rules and advise the department on the administration of the act.

B. The commission shall properly notify the board of all matters brought before the commission to which the act is applicable.

C. The board shall consist of seven certified operators. The commission shall also appoint two certified operators to serve as alternates to board members in their absence. All alternates appointed prior to the effective date of this part will be allowed to serve out the remainder of their three-year terms.

D. Appointments to the board shall be for three-year terms. The commission shall appoint new board members at its first meeting of each fiscal year. The terms shall overlap so that no more than three terms shall expire in any one year.

E. At the first meeting of each fiscal year, the board shall elect from its membership a chairman, a vice chairman, and two members to sit as commission members on all matters to which the act is applicable.

F. A quorum shall consist of a least four members.

G. The duties of the board shall include:

(1) reviewing proposed rules, regulations and guidelines regarding the administration of the act for action by the commission including:

(a) the basis for classifying public water supply systems and public wastewater facilities;

(b) qualifications for the various classifications of operators;

(c) proposing criteria for the evaluation of the minimum number of certified operators needed to operate a public water supply system or public wastewater facility; and

(d) developing criteria for the classification of wastewater laboratory technicians based on the complexity of analytical work performed;

(2) reviewing proposed examinations for each level and type of certification;

(3) proposing criteria for the evaluation of applicant qualifications;

(4) reviewing applications for issuance of certificates by reciprocity or endorsement;

(5) proposing criteria for the evaluation of proposed training programs;

(6) making recommendations to the commission for replacement when a board vacancy occurs; and

(7) performing any other function in regard to the act as directed by the commission.

H. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board. The commission may remove any member of the board for neglect of any duty required by law, for incompetence or for unprofessional conduct and shall remove any board member who violates any provision of the act. The commission shall fill any vacancies on the board.

[20.7.4.29 NMAC - Rp, 20 NMAC 7.4.209, 1-26-01; A, 11-15-06]

HISTORY of 20.7.4 NMAC:

Pre-NMAC History:

WQC 67-2, Regulations Governing Water Pollution Control in New Mexico, filed 12-5-67
WQC 72-1, Water Quality Control Commission Regulations, filed 8-4-72
WQC 72-1, Amendment No. 5, Regulations for the Classification of Utility Systems and Certification of Utility Operators, filed 3-18-74
WQCC 77-1, Amended Water Quality Control Commission Regulations, filed 1-18-77
WQCC 77-1, Amendment No. 1, filed 9-21-79
WQCC 81-2, Water Quality Control Commission Regulations, filed 6-2-81
WQCC 82-1, Water Quality Control Commission Regulations, filed 8-19-82
WQCC 82-1, Amendment No. 2, filed 10-18-84
WQCC 82-1, Amendment No. 3, filed 7-23-85
WQCC 82-1, Amendment No. 5, filed 5-19-86
WQCC 82-1, Amendment No. 10, filed 7-20-93
WQCC 82-1, Amendment No. 12, filed 9-28-94

History of the Repealed Material:

20 NMAC 7.4, Wastewater and Water Supply Facilities - Utility Operator Certification, Repealed effective 1-26-01

Other History:
WQCC 82-1, Water Quality Control Commission Regulations, Replaced in part by 20 NMAC 7.4, filed 10-25-95