

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

RECEIVED

2009 JUN 30 PM 12:43

INDEPENDENT REGULATORY
REVIEW COMMISSION

SECTION I: PROFILE

(1) Agency:

State Board for Certification of Water and Wastewater System Operators (Certification Board)
Department of Environmental Protection (Department)

(2) Agency Number:

Identification Number: #7-433

IRRC Number: 2774

(3) Short Title:

CHAPTER 302. Administration of the Water and Wastewater Systems Operators' Certification Program

(4) PA Code Cite:

25 Pa. Code § Chapter 301, et seq.
25 Pa. Code § Chapter 303, et seq.
25 Pa. Code § Chapter 305, et seq.
25 Pa. Code § Chapter 302, et. seq. (proposed new chapter)

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Michelle Tate, 783-8727
Secondary Contact: Kelly Heffner, 783-8727

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

Veronica Kasi
DEP -- BWSFR
P. O. Box 8467
Harrisburg, PA 17105-8467
717-772-4053 FAX: 717-772-4474
Email: vbkasi@state.pa.us

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This proposed rulemaking eliminates Chapters 301, 303, and Chapter 305. The new Chapter 302 establishes the administrative requirements for:

- Conducting the State Board for Certification of Water and Wastewater Systems Operators (Certification Board) administrative hearings.
- Processing certification, certification renewal and recertification applications,
- Administering certification examinations.
- Reviewing and acting on an operator's criminal history records.

Chapter 302 also defines the:

- Classification and subclassification method for approximately 10,000 system operators and their treatment systems.
- Minimum education, experience and examination requirements for all operators to become certified.
- Requirements and conditions that must be met to maintain certification.
- Duties and responsibilities of operators and owners related to the operation of a community or nontransient noncommunity water system, water distribution system, wastewater treatment system treating more than 2,000 gallons per day, and a satellite wastewater collection system with a pump station.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days after notice of the proposed rulemaking is published in the PA Bulletin.
- B. The date or dates on which public meetings or hearings will be held: None planned
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: December 2009
- D. The expected effective date of the final-form regulation: Spring 2010
- E. The date by which compliance with the final-form regulation will be required: See below
- F. The date by which required permits, licenses or other approvals must be obtained: October 1, 2002

NOTE: To meet federal requirements, the Act gave the Department the authority to implement provisions of this program through the development of technical guidance. The Department finalized these guidelines in July of 2002. Revisions have been made twice to these guidelines. The final guidelines, as revised, were published in the Pennsylvania Bulletin on June 25, 2005. Compliance with many of the provisions of this proposed rulemaking has been required since October 1, 2002. EPA

Regulatory Analysis Form

requires a permanent operator certification program established in regulation be put in place for long-term program approval. The Certification Board has also made revisions to its guidelines, "Operator Certification Program Guidelines," Document ID: 150-0200-002, published as final in the *Pennsylvania Bulletin* on January 31, 2004. These revisions were completed in July 2007 and merged into the latest version of the proposed regulations. This proposed rulemaking provides additional program enhancements needed to insure continued federal approval of Pennsylvania's program by the U.S. Environmental Protection Agency.

(10) Provide the schedule for continual review of the regulation.

A comprehensive external review of the entire program including regulations is required by the US Environmental Protection Agency once every three to five years. In addition, periodic internal reviews are suggested on an annual basis. These internal reviews may, or may not, include a review of the regulations. Finally, the regulations require the Department to review the fee structure every three years to insure the fees continue to cover program costs. The Department must submit this review, along with any changes in fees, to the Environmental Quality Board for promulgation as a revision to these regulations.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Water and Wastewater Systems Operators' Certification Act (63 PS § 1001 et seq.)

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This proposed rulemaking is required by both state and federal legislation. The Pennsylvania Sewage Treatment Plant and Waterworks Operator's Certification Act, (P.L. 790, No.112) was amended February 21, 2002 (P.L 134, No. 11); known as the Water and Wastewater Systems Operators' Certification Act (Act). These legislative amendments and proposed rulemaking are in response to the federal requirements established by the 1996 Amendments to the Federal Safe Drinking Water Act, Section 1419 (SDWA). The US Environmental Protection Agency (EPA) administrator was directed by the SDWA to establish requirements for a drinking water operator certification program. EPA published these requirements in the "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Water Systems, FRL-6230-8, Federal Register/Vol. 64. No. 24/ Friday, 5, 1999." States not implementing a program that meets these requirements will lose 20 percent of their federal grant funding for the State Revolving Loan Fund. This is approximately \$5.8 million per year for Pennsylvania. EPA approved an "Interim Program for Operator Certification" established by guidelines in lieu of this proposed rule making. This interim program will be eliminated when this proposed rule making is finalized.

Regulatory Analysis Form

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Pennsylvania has invested billions of dollars into its drinking water and wastewater treatment system infrastructure. The certified operator is the key component that directs the treatment process for these systems. The certified operator's process control decisions impact the environment, aquatic life and the public health and safety of Pennsylvania's citizens. Pennsylvania does not have a sufficient number of certified operators to meet the current and future needs of the Commonwealth. Many systems do not have qualified operators making these complex decisions. The previous training and examination framework for operators no longer met the needs of the program to insure compliance with new federal requirements and needed to be enhanced to insure sufficient, relevant training was available to all operators across the state. These issues are further complicated by the need to protect our water and wastewater treatment system infrastructure from internal and external terrorism. The certified operator is the first line of defense against terrorist attacks on our drinking water and wastewater treatment systems. This proposed rulemaking will formalize the restructuring of the operator certification program that has been done to address these issues. Training opportunities have been expanded through privatization. New technology-based certification classes and subclassifications allow operators to train and test for the types of treatment technology they choose to operate. This has streamlined the entire training and examination process and is producing operators that are more qualified in a shorter time. Certified operators are required to continually upgrade their abilities by participating in continuing education. With the finalization of these regulations, all certified operators in Pennsylvania will also be required to successfully take and pass a basic system security-training program. This core training increases their awareness of possible vulnerabilities to a terrorist attack at their system.

In addition, a significant number of Pennsylvania's water and wastewater treatment systems do not have appropriately certified operators making process control decisions. Process control decisions are defined as any decision that changes or maintains water quantity or quality to protect public health and the environment. This shortfall represents a significant public health and environmental risk for Pennsylvania's citizens. Further complicating this problem, a recent survey of the age of existing certified operators indicates the shortage of certified operators will dramatically increase in the next five to ten years. Over 80% of the state's certified operators are over the age of 42. These factors, plus the ever-increasing complexity of drinking water and wastewater treatment, demands more certified operators be available to make daily process control decisions. An improper process control decision made in a public water system can have a serious impact on public health. Customers can become ill as highlighted by a number of well-publicized waterborne outbreaks. In addition, when a wastewater treatment system fails to meet their discharge permit requirements, the consequences for down stream industrial and drinking water users can be serious. Failure to put these regulations in place will negatively affect the national effort to protect our water and wastewater infrastructure. This proposed rulemaking is the last step in implementing an improved and streamlined operator certification program to meet these needs.

The biggest beneficiary of this proposed rulemaking is the public. The benefits of improved, effective

Regulatory Analysis Form

water and wastewater treatment impact everyone. Benefits to the operator include the establishment of a standard process for certification testing, experience and security review and the application of consistent standards and requirements for certification, reciprocity, certificate upgrade and certificate renewal. System owners will have more qualified certified operators available to make process control decisions for their systems. Further cost savings may be realized by owners through the more effective, efficient operation of their systems by qualified, certified operators.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

Pennsylvania's 10,000 certified operators will be required to successfully take continuing education and security training as a condition of certification renewal. The cost of this continuing education will be borne by the individual or the water or wastewater system owner. Approximately 1,169 nontransient noncommunity water systems (schools, factories and shopping malls) are now required to employ a certified operator for the first time. All wastewater collection systems with at least one pump station that depend upon some other entity to provide treatment services must also have a certified operator for the first time. Both of these types of systems were able to have their existing operators "grandparented" into the certification program without passing an examination. However, less than half of the eligible systems took advantage of this provision by the deadline.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

The following are an estimate of the number of different groups impacted by this proposed rulemaking:

- 1,169 nontransient noncommunity water systems
- 2,089 community water systems
- 2,544 wastewater treatment systems
collection systems with pump stations
- 10,000 certified operators
- non-certified operators

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The following is an approximation of the costs for certified operators. All certified operators are

Regulatory Analysis Form

responsible to obtain continuing education from the private sector or their industry associations.

Initial certification	\$100 - \$150	(depending on level of certification)
Registration fee	\$25 - \$75	(depending on the Approved Examination Provider)
Examination fee	\$35	(per examination session)
Criminal History	\$10	(one time fee)
Certification renewal	\$60	(every three years)
Continuing education	\$240 - \$900	(depends upon provider)

There are additional costs for owners. These regulations propose to charge an annual service fee for system owners, based on the amount of flow the system is permitted to treat as follows:

Class A Systems	Greater than 5 mgd	\$500
Class B Systems	1 mgd to 5 mgd	\$150
Class C Systems	100,000 gpd to 1 mgd	\$100
Class D Systems	Less than 100,000 gpd	\$ 65
Class E Systems	Distribution and Collection Systems	\$ 65

The assessment of this fee is tied to the classification of the system and the certification class needed by the system owner's designated available operator(s). The maximum fee that any one owner of more than one system pays is \$10,000. The only other cost for compliance for the owner is the actual costs for hiring a certified operator. The average cost to hire a certified operator is between \$30,000 and \$80,000 per year, based on a limited survey of operators completed in 2003. Efforts to update this survey are planned for 2009. It is strongly advised that owners hire more than one certified operator. However, unless there are problems at the system, this responsibility is left to the owner. If necessary, the Department does have the authority to order the owner to hire additional certified operators, to address specific environmental compliance problems. In addition, the owner may choose to cover the operator's costs for obtaining continuing education contact hours. This is an arrangement negotiated between the owner(s) and their certified operator(s).

There may be a cost savings to owners and customers as the result of better process control decision-making by qualified and trained certified operators. Better quality drinking water and wastewater has a value. An owner may also benefit by being in compliance with federal and state permit requirements, thus avoiding fines. A long-term benefit of these regulations is to provide more qualified, certified operators in the state. Based on the survey of operator's age distribution, the availability of certified operators could have a significant impact on operator's salaries in the near future.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

All owners of community water systems, water distribution systems and wastewater treatment systems treating more than 2,000 gallons per day have been required to employ certified operators since 1971. There should be no additional cost for owners of these systems, unless they currently aren't in compliance with this requirement or their existing certified operator does not have the correct level of

Regulatory Analysis Form

certification for the system. Owners of nontransient, noncommunity systems and satellite wastewater collection systems with pump stations may incur an increase in costs, due to the fact they will now need a certified operator(s). Many of these owners are local governments, such as school districts or municipal authorities. The proposed fee structure proposes to distribute the costs of this program between the operator, the system owners and the training providers and approved examination providers. While some owners may wish to pay for all or some of the costs of their operator to maintain their current certification, it is not required by these regulations. In some cases, these issues will be resolved as a condition of accepting employment, or a union/management contract.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no additional costs to the state for the implementation of this regulation above the existing costs to maintain this program; however, it should be noted that continued state compliance with federal program guidelines is necessary for the state to continue to receive approximately 20% or \$5.8 million in federal Clean Water State Revolving Funds. A significant savings to the program will be realized when refinements to the data management systems used for program administration are completed and a costly contract with the Association for Boards of Certification is closed in 2009.

NOTE:

- * Increase in costs assumes passage of regulations within three years.
- ** Decrease in costs in two years assumes less dependence on costly contracts for eFACTS program development and the scoring and maintenance of examinations.

Figures do NOT include funds received from the US Environmental Protection Agency for the administration and delivery of this program.

Current Fee Structure:

Fees Paid to the Department:

Operator:

580 licenses issued x \$40 (\$20 fee for each examination session, average 2 sessions) =	\$23,200
275 upgrades and reciprocity licenses x \$20 (\$20 application fee) =	\$ 5,500
3200 renewals x \$15 (processing fee) =	\$48,000
210 Department Online Course Registrations x \$30 per hour x 2.5 hours avg. length	\$15,750
240 Department Classroom Course Registrations x \$10 per hour x 5 hours avg. length	<u>\$12,000</u>
SUBTOTAL:	\$104,450

Fees Paid to Another Entity:

Operator:

1420 operators tested x \$50 (average fee charged by approved examination provider) =	\$71,000
10,000 operators x 5 hours continuing education x \$30 (average fee charged) =	<u>\$1,500,000</u>
SUBTOTAL:	\$1,571,000
TOTAL:	\$1,675,450

Regulatory Analysis Form

Proposed Fee Structure:

Fees Paid to the Department:

Operators:

1420 examination session fees x \$35 per session =	\$49,700
580 initial certification fees x \$150 =	\$87,000
3200 renewals x \$60 (processing fee) =	\$192,000
210 Department Online Course Registrations x \$30 per hour x 2.5 hours avg. length	\$15,750
240 Department Classroom Course Registrations x \$10 per hour x 5 hours avg. length	<u>\$12,000</u>
SUBTOTAL:	\$356,450

Training Providers/Examination Providers

15 Training Provider Approval Applications x \$90 =	\$1,350
50 Full Course Approval Applications x \$300 =	\$15,000
250 Brief Course Approval Applications x \$115 =	\$28,750
131 Conference Approval Applications x \$70 =	\$9,170
21,900 Course Roster Names x \$1 per name =	\$21,900
Approved Examination Provider Fees (based on number of sessions offered)	<u>\$ 5,600</u>
SUBTOTAL:	\$81,770

Drinking Water and Wastewater Treatment System Owners:

Drinking Water Systems Service Fees (Fee prorated by Certification Class)	\$282,785
Wastewater Treatment Systems Service Fees (Fee prorated by Certification Class)	<u>\$240,365</u>
SUBTOTAL:	\$523,150
TOTAL TO DEPARTMENT:	\$961,370

Fees Paid to Another Entity:

Operator:

1420 operators tested x \$50 (average fee charged by approved examination provider) =	\$71,000
10,000 operators x 5 hours continuing education x \$30 (average fee charged) =	<u>\$1,500,000</u>
SUBTOTAL:	\$1,571,000
TOTAL:	\$ 2,532,370

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	\$300,000	\$300,000	\$300,000
Total Savings	0	0	0	\$300,000	\$300,000	\$300,000

Regulatory Analysis Form

COSTS:						
Regulated Community*	\$1,700,000	\$1,700,000	\$1,700,000	\$2,500,000	\$2,500,000	\$2,500,000
Local Government	0	0	0	0	0	0
State Government **	\$1,200,000	\$1,200,000	\$1,200,000	\$900,000	\$900,000	\$900,000
Total Costs	\$2,900,000	\$2,900,000	\$2,900,000	\$3,400,000	\$3,400,000	\$3,400,000
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Environmental Program Management (#161-10382)	\$37,049,000	\$36,868,000	\$39,909,000	\$41,800,000

Costs include:

- 3.5 FTEs for administrative support in the office of general business administration funded with general funds
- 3 FTEs for training development and support funded with general funds. An additional 4 FTEs are federally funded.
- 1 FTE for technical support in the Division of Technical and Financial Assistance. An additional FTE is federally funded.
- Outreach assistance to systems to promote compliance and the development and delivery of wastewater training courses. Drinking water courses are covered with federal funds.
- Contracts for eFACTS support and the scoring of examinations.
- Salaries for wage payroll staff who serve as proctors.
- Administrative support to the State Board for Certification of Water and Wastewater Systems Operators and the Certification Program Advisory Committee.

Figures do NOT include funds received from the US Environmental Protection Agency for the administration and delivery of this program.

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Regulatory Analysis Form

This costs incurred to implement this program are essential to insure long-term compliance with federal and state statutory requirements. Failure to remain in compliance with the federal requirements will result in the US Environmental Protection Agency being forced to withhold up to 20% of the Federal State Revolving Loan Fund, or approximately \$5.8 million per year. This funding is essential for the upgrade, repair and replacement of the Commonwealth's drinking water systems. This loss in funding is double the costs incurred by the regulated community and the state for the implementation of this program.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

This proposed rulemaking had extensive public input during its development. Early in the development process, numerous statewide meetings were held throughout the state as part of different industry association conferences and workshops. In addition, over 400 system owners attended 9 workshops designed to highlight how this proposed rulemaking will impact them. In addition, over 1,000 operators attended over 10 workshops held across the state designed to highlight those provisions that impact operators, both certified and non-certified. Finally, another 8 workshops were held specifically to explain the grandparenting provisions to operators and owners of nontransient noncommunity water systems and wastewater collection systems. The Department and the Certification Board have had extensive input over a ten -year period from the Small Systems Technical Assistance Center Advisory Board and later the Certification Program Advisory Committee. A few of the other associations that provided input included the American Water Works Association (Pennsylvania section), the Pennsylvania Rural Water Association, the Pennsylvania Water Environment Association, the Water Works Operators Association of Pennsylvania, the Society of Professional Engineers, and the Pennsylvania Municipal Authorities Association.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There were a number of regulatory and legislative schemes considered during program development. The basic program schemes included:

- Program Funding (self funded with a restricted account vs. funded by general revenue funds)
- Program Coverage (drinking water vs. drinking water and wastewater certification)
- Program Training (state providers vs. private sector providers)
- Program Examination Methods (single national recognized examination vs. technology-based examinations)

Program Funding

The cost of administering the operator certification program could have been very significant. With thousands of operators and owners, each requirement could have created a tremendous resource commitment for the state.

The program is designed to be self-supporting. These rules and regulations reflect no increase in funding from the state general fund. The proposed fees will cover the cost of this program. Revisions to the

Regulatory Analysis Form

business processes of the program have significantly reduced the cost for administering this program. The proposed fees also reflect national averages of cost of similar sized programs in other states.

Program Coverage

The operator certification program is administered through the authority provided by the Act. Training, examination development and administration, operator qualification review, and certification actions were provided for both drinking water and wastewater system operators. The requirements of the SDWA set new standards for certifying the operators of drinking water systems. It did not require that wastewater operators meet the same standards. After careful consideration, it was decided to apply the federal standards to both drinking water and wastewater treatment system operators. The reasons for this decision includes:

1. The requirements for water and wastewater treatment system operators have been the same for over 35 years.
2. Different standards for water and wastewater system operator certification would require expensive and duplicative program elements such as different forms, account codes, and separate rules and regulations.
3. Two different and separate programs, one for drinking water system operators, and one for wastewater treatment system operators would significantly increase the cost of program administration.
4. Improvements to the drinking water operator certification program would be unfair to the wastewater operator certification program. Both programs needed to be restructured to meet current-day demands.

The EPA Set-Aside Grant provided by the SDWA funded the cost of developing most of the new administrative systems for this program. By simply piggy backing the wastewater elements of the program on to these administrative systems, the entire operator certification program improved. Wastewater costs do not qualify for federal funding, but some limited state funding has been provided.

Program Training

The requirements of the proposed regulations require approximately 80,000 person hours of training each year. The cost to the Department to provide for this additional training would be approximately \$2.4 million per year. This is based on a \$30/hour cost.

The Department decided the private sector must be used to meet this training demand. Through the creation of a Department-approved training program, individual training providers and their courses are now meeting this need. Training is being delivered by a combination of state colleges and universities, trade schools, industry associations, and for-profit companies. The free market is keeping the costs for this training at a reasonable rate. This alternative regulatory scheme greatly reduces the cost of program training for the state.

Due to the success of this effort Department staff has now been re-assigned to training development and the auditing of training programs, rather than the costly, ineffective delivery of training programs. However, certain regulatory training initiatives will have to remain as the responsibility of the

Regulatory Analysis Form

Department.

Program Examination Methods

The entire examination process for the operator certification program was completely revised in 2005. As a result, the cost of administering the exam has been reduced from \$250 per person to less than \$25 per person. This excludes staff costs associated with processing the application for certification, determining qualifications, and issuing the certification license. The new examinations allow the applicant to obtain training and take the examination for the specific technology(s) at their system. Training modules for use by approved training sponsors have also been finalized for each of the examination and certification classifications. This should improve the pass/fail rate of the examination. It should also reduce the training cost associated with enrolling in classes that cover unneeded material.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Yes, the federal standards only apply to the drinking water operator certification program. The Department and the Certification Board found it appropriate to also apply these standards to the wastewater operator certification program. These reasons were provided in Section 23.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

A nationwide survey of all state operator certification programs was used to develop this proposed rulemaking. Requirements for experience, training and continuing education were established based on national averages for these requirements. A comparison of the fee structure of other states with similar programs was utilized as a comparison tool to insure the fees are reasonable. This proposed rulemaking would not put Pennsylvania at a competitive disadvantage. It will actually be easier to keep certified operators from moving into neighboring states for employment.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes, there is some overlap between this proposed rulemaking and the rules and regulations for the Environmental Laboratory Accreditation Act. This overlap relates to the designation of a certified operator as a laboratory supervisor for a water or wastewater treatment system. Once these proposed regulations are put in place, a subclass for laboratory supervisor can be created as another tool for systems to insure compliance with the Environmental Laboratory Accreditation Act requirements.

There is also some overlap with the Department's regulations for Chapter 109, Safe Drinking Water Regulations. Revisions to Chapter 109 are now being developed to insure consistency between the two regulations. This proposed rulemaking will eliminate the requirement for training in corrosion control treatment in favor of operators becoming certified for this technology. Additionally, the specifications for

Regulatory Analysis Form

when a certified operator are required is being updated to insure consistency with federal guidelines for the Operator Certification Program.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

For the past three years, much of the record keeping and paperwork done to register applicants for the certification examination has been completed by universities and colleges, industry associations and private firms who have become Approved Examination Providers. For this service, the operator is charged a nominal fee to sit for the examination. Department staff previously did this work.

The new business processes developed for this program have significantly reduced the amount of paperwork required by an operator to become certified. Operators only have to document their experience and education once to become certified. They may apply for an upgrade in their license by simply documenting completion of the additional experience requirements or passing any required additional examinations.

Operators must obtain a Criminal History Record from the Pennsylvania State Police. This needs to be submitted with initial applications for certification or re-certification. The requirement to submit this paperwork for certificate renewal has been completed for all operators who were certified at the time the Act passed.

Operators must report to their owner any violation or potential violation. This report must be in writing, and include any recommendations the operator may have to address the problem.

It is recommended that the certified operator maintain records of their continuing education contact hours as a backup, just in case the state-approved training providers fail to provide such information to the Department. The training provider is required to provide a certificate of completion to the certified operator upon course completion. The provider is also required to submit a class roster of those who attended and completed the course to the Department.

Owners of treatment systems must annually identify their available, certified operators to the Department. Changes in employment must also be reported to the Department within 10 days.

Training providers must submit a one-time application for designation as an approved training sponsor. An application for approval of each course must also be submitted. This process and all the applicable forms are described in the Department's guidelines, "Training Provider Manual for the Pennsylvania Water and Wastewater System Operator Training Program," DEP ID: 383-2300-002.

Approved Examination Providers must submit a one-page application to schedule examinations. They must also comply with Board guidelines for the scheduling and administration of examinations.

Regulatory Analysis Form

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Special certification classifications and training for small water system operators is provided for in this proposed rulemaking.

FEE REPORT FORM

Department of Environmental Protection

Agency

December 31, 2008

Date

Veronica Kasi

Contact Person

717 772-4053

Phone Number

Program: Chapter 302. Administration of the Water and Wastewater Systems
Operators' Certification Program

Budget Year¹

	Prior Year FY 2007	Current Year FY 2008	Projected FY 2009	Projected FY 2010
Administrative	\$454,413	\$471,605	\$443,382	\$240,053 ²
Examination Delivery	\$ 40,000	\$ 45,000	\$ 50,000	\$ 55,000
Technical ³	\$369,570	\$369,570	\$369,570	\$369,570
Training	\$ 83,357	\$ 85,935	\$ 88,513	\$ 91,168
DEP Courses	\$166,714	\$171,870	\$177,026	\$182,337
TOTAL:	\$1,114,054	\$1,143,980	\$1,128,491	\$938,128

¹ Does not include funding from the US Environmental Protection Agency for technical support and training program development and implementation.

² Assumes the elimination of a costly contract for the scoring and preparation of examinations and reduced support for modifications to eFACTS.

³ **General** Fund appropriation for program development and technical support.

FEE COLLECTIONS:

Current	\$ 68,915 (Certification Fees)
	\$ 7,000 (Training)

Proposed \$ 328,700 (Operators)
 \$ 81,770 (Training Providers and Approved Examination Providers)
 \$ 282,785 (Drinking Water System Owners)
 \$240,365 (Wastewater Treatment System Owners)
 \$ 27,750 (DEP Course Fees)

\$961,370 (the difference in fees collected and program costs is to account for the approximate loss in funds resulting from the proposed ceiling of \$10,000 to be paid by any one person)

FEE TITLE AND RATE:

Current Certification Renewal Fee \$ 15 / 3 years
 Examination Fee \$ 20 per session
 Training Offered by DEP (dependent on format)

Proposed See Table 1.

Table 1. Summary of Proposed Fees

Fee	Entity Paying Fee	Amount
Training Provider Approval	Training Provider	\$90
Full Course Approval	Training Provider	\$300
Brief Course Approval	Training Provider	\$115
Conference Approval	Training Provider	\$70
Course Rosters (fee per name)	Training Provider	\$1
10 or more examination sessions per year	Approved Examination Provider	\$800
5 to 10 examination sessions per year	Approved Examination Provider	\$700
2 to 5 examination sessions per year	Approved Examination Provider	\$600
1 examination session per year	Approved Examination Provider	\$400

Table 1. Summary of Proposed Fees, cont.

Fee	Entity Paying Fee	Amount
New License (3 yr)	Operator	\$150
License Renewals (3 yr)	Operator	\$60
Exam Session (per 4 hrs)	Operator	\$35
Post-Presentation Credit Application Fee	Operator	\$250
Annual Service Fee **	Class A Systems (> 5 mgd)	\$500
	Class B Systems (1 to 5 mgd)	\$150
	Class C Systems (100,000 gpd to 1 mgd)	\$100
	Class D Systems (<100,000 gpd)	\$ 65
	Class E Systems	\$ 65
Department Classroom Courses	Course attendees	\$10 per hour
Department Web-based Courses	Course attendees	\$30 per hour
Department On-site Training	Systems asking for the training	\$1600 per course

FUND FEE IS DEPOSITED INTO: Safe Drinking Water Fund

FEE OBJECTIVE: The fee schedule established in proposed regulations is designed to cover the costs for administrative aspects of the program services and the costs for Department training course development and delivery not covered by federal funding. It is also designed to replace the general funds dedicated to this program since 2003 for technical support and compliance assistance.

FEE RELATED ACTIVITIES AND COSTS:

1. Initial certification, certification upgrade, reciprocity, certificate renewal

Activities: Department staff process applications for operator certification determining whether education, experience, Criminal History Record and examination score meet minimum requirements for certification. Where appropriate, a field investigation is carried out to assist in evaluating criminal activities as related to system operation and security. Fees are received, processed and appropriate eFACTS data input is provided. An operator certificate is mailed to the applicant after the State Board for Certification of Water and Wastewater Systems Operators (Certification Board) takes action to approve

the application for certification. Department staff determines if applicant qualifies for certification renewal based on meeting the continuing education requirement. Applicant is mailed an application for renewal, listing the continuing education hours the Department has on record. The applicant completes the application, defining any additional training that was taken that the Department does not have a record and sends the application to the Department, with the appropriate fee for processing. If the continuing education requirement is met and the operator has paid the certificate renewal fees, the operator is sent a new certificate; if not, the applicant and appropriate employer are notified of the applicant's loss of operator certification status after the Certification Board takes action to deny the application for certificate renewal.

Level of effort: 580 applications for certification
3200 applications for certificate renewal
8 Certification Board Meetings annually
10 Criminal investigations annually

Cost: \$240,053 (FY2010)

2. Examination Delivery

Activities: Department staff, in accordance with Certification Board protocols and procedures, coordinates with approved examination providers (AEPs) to deliver certification examinations to approximately 1420 applicants annually. Department staff process applications for examination, coordinates selection of examination sites, prints examinations, delivers and proctors examinations.

Level of effort: Process 40 applications for examination sessions
Collate examination packets for 1420 applicants
Deliver and proctor examinations
Score examinations and send results to examinees

Cost: \$ 55,000 (FY2010)

3. Technical Support

Activities: Department staff provides technical support to the administrative staff and compliance assistance to the regulated community. Central office Department staff direct and coordinate program implementation with the Department regional office staff to assure compliance with the legislation and regulations and provide the necessary training and testing opportunities in areas of the state where there is an identified need.

Level of effort: Provide technical assistance to aid administrative staff in the processing and qualification of 1000 applicants each year.
Prioritize certification compliance for each county in the state and coordinate program implementation with regional offices.
Coordinate and direct 40 training and testing efforts each year.

Provide one-on-one outreach assistance to 60 systems to insure compliance.
Develop training courses to facilitate effective system operation and regulatory compliance.
Process 5662 available operator forms

Cost: \$369,570

4. Training and Continuing Education

Activities: Department staff reviews and approves applications to become an approved training provider, applications for course approvals from approved training providers, applications from operators for post-presentation credit, processes roster reports from training providers and resolves discrepancies between the operators' and the approved training provider's records.

Level of Effort: Process 15 applications for training provider approval
Process 50 applications for full course approval
Process 250 applications for brief course approval
Process 131 applications for conference approval
Conduct 3 Training Program Audits
Process 160 discrepancy reports

Cost: \$91,168

5. Course Development and Delivery

Activities: While most of the training and continuing education need is fulfilled through training providers, the need for training oriented around existing and new regulatory requirements is still done by the Department. Depending on the scope of training needed, the format for this training could be either classroom or web-based.

Level of Effort: Develop and Deliver 5 classroom courses per year
Develop and deliver 6 web-based courses per year
Maintain Earthwise Academy

Cost: \$182,337

ANALYSIS: The proposed fee structure was developed with a significant amount of discussion with the Certification Board, the Certification Program Advisory Committee (CPAC) and the Small Systems Technical Assistance Center Advisory Board (TAC). The average cost to the operator to obtain an operator certificate is going to increase from \$20 to approximately \$325. When these fees were first evaluated in 2004, projections indicated that this significant increase would be sufficient to cover program costs. However, the original costs for developing and implementing the training and continuing

education components of this program were significantly underestimated. This includes the costs for staff time to approve different entities as a provider of training courses, review the different courses and conferences the providers want to deliver, the processing of the rosters to ensure the operators get credit for completion of a course and the resolution of discrepancies between the Department's training records and the operator's. It also includes costs to the Department for providing compliance assistance to operators and owners and the development of additional training courses. To facilitate the resolution of this issue, the Department met with TAC, CPAC and the Certification Board on December 1, 2 and 15, 2008 respectively. A letter was also sent to all the approved Training Providers inviting them to these meetings to provide input. At all three meetings there was some level of consensus that everyone should pay their fair share of the fees to support the program, based on the costs incurred by the Department to administer each component of the program. The final proposed fee structure summarized in Table 1 was developed based on the input received.

RECOMMENDATION AND COMMENT:

As the result of the Department's efforts to make the program self-sufficient, a "value added analysis" was conducted on all program activities in 2004. This analysis resulted in cutting costs of program administration by 39%. Significant reductions in program costs are also planned through the finalization of revisions to the data management systems used to administer the program and the elimination of a contract with the Association of Boards of Certification for the management of the examination question bank and the scoring of examinee score sheets.

In order to also cut down on staff time processing post-presentation credit applications and to encourage operators to make sure the training they complete is approved by the Department ahead of time, a fee for the processing of the application for post-presentation credit is also proposed. Since the goal behind this fee is to decrease the number of these applications, the income generated from the collection of this fee was not included in this fee analysis.

Because of the high level of outreach already completed on this proposal, it is recommended that this fee proposal move forward as summarized in Table 1.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

(Pursuant to Commonwealth Documents Law)

RECEIVED

2009 JUN 30 PM 12:43

INDEPENDENT REGULATORY
REVIEW COMMISSION
DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General

By: 
(Deputy Attorney General)

JUN 18 2009
DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

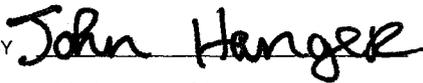
Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-433

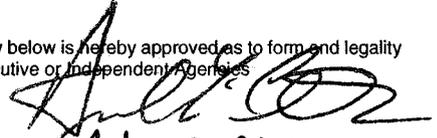
DATE OF ADOPTION APRIL 21, 2009

BY 

TITLE JOHN HANGER
ACTING CHAIRPERSON

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY 
Andrew C. Clark
DATE OF APPROVAL **MAY 7 2009**

(Deputy General Counsel)
(Chief Counsel - Independent Agency)
(Strike inapplicable title)

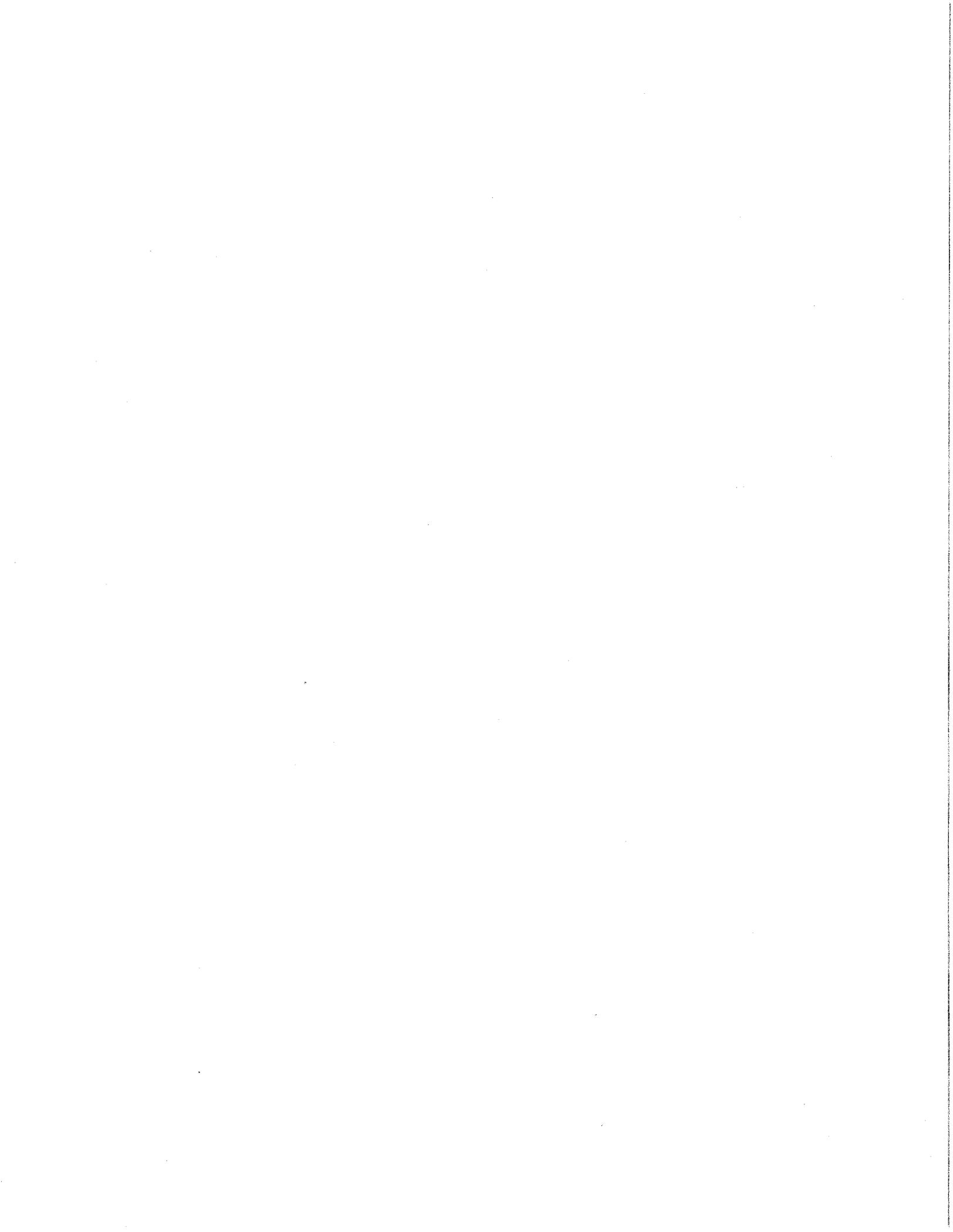
Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD**

Administration of the Water and Wastewater Systems Operators' Certification Program

25 Pa. Code, Chapters 301 – 303 and 305



Notice of Proposed Rulemaking
Department of Environmental Protection
Environmental Quality Board
(25 Pa. Code, Chapters 301 - 303 and 305)
Administration of the Water and Wastewater Systems Operators' Certification Program

Preamble

The Environmental Quality Board (Board) proposes to delete 25 Pa. Code, Chapter 301, 303 and 305 (relating to the certification of water and wastewater treatment system operators) and create a new Chapter 302. These regulations describe the process the State Board for Certification of Water and Wastewater System Operators (Certification Board) shall follow to administer the program and identify the duties and responsibilities of the Department of Environmental Protection (Department) and the operators and owners of the Commonwealth's drinking water and wastewater treatment systems. These regulations also establish standards for operator certification, re-certification, certification renewal and security training; define the certification renewal period and requirements for certification renewal; establish appropriate fees; and define classifications and subclassifications for certification.

This proposal was adopted by the Board at its meeting of April 21, 2009.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information contact Veronica Kasi, Chief, Division of Technical and Financial Assistance, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 787-0122, or Marc Roda, Attorney, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site at www.depweb.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under the authority of Section 4(c) of the Water and Wastewater Systems Operators' Certification Act (63 P.S. § 1001 et seq) (Act), which directs the adoption of such rules and regulations necessary to implement the provisions of the Act.

D. Background and Purpose

This proposed rulemaking describes the policies and procedures the Certification Board will follow to implement their responsibilities and duties under the Act. This includes the procedures to be followed by applicants to become certified for the first time, to renew their certification, and to apply for reciprocity based on certification received from another state. The regulations also describe the procedure the Certification Board will follow for the review of all applications for certification, including the review of criminal history records. The regulations also define requirements for the suspension or revocation of an operator's certification, upon petition by the Department of Environmental Protection (Department) and for the review of Department decisions related to operator training programs and courses.

The proposed rulemaking also establishes the standards and requirements for operators of water and wastewater systems to become certified and maintain their certification. It also establishes the duties and responsibilities of operators and owners related to the operation of a community or nontransient noncommunity water system, water distribution system, wastewater treatment system treating more than 2000 gallons per day and a satellite wastewater collection system with a pump station. The role and responsibilities of the Department and the procedures it must follow to implement these duties are also defined. Finally, the procedure for establishing fees for program administration is established.

The proposed rulemaking ensures that Pennsylvania's Operator Certification Program continues to meet the new federal requirements established in the 1996 Amendments to the Federal Safe Drinking Water Act (SDWA) for all state drinking water programs. This proposed rulemaking is more stringent than the federal guidelines in one area. The federal guidelines apply only to drinking water system operators; this proposed rulemaking also applies to wastewater system operators. The decision to include wastewater system operators in the new requirements was made early in the process by the State Board for Certification of Water and Wastewater Systems Operators (Certification Board) and the Department of Environmental Protection (Department) after significant public input. This was done to improve program consistency and implementation.

The Department and the Certification Board worked very closely with the Small Systems Technical Assistance Center for Small Systems (TAC) and the Certification Program Advisory Committee (CPAC) to draft Chapter 302. All elements of the overall structure of the Operator Certification Program were discussed in-depth with the respective committees. This resulted in consensus on the essential requirements and standards for certification and the roles and responsibilities of operators and system owners.

E. Summary of Regulatory Requirements

The proposed rulemaking deletes Title 25, Chapters 301, 303 and 305 and replaces them with new language in Chapter 302. It also establishes the administrative requirements for:

- Conducting the State Board for Certification of Water and Wastewater Systems Operators (Certification Board) administrative hearings.
- Processing certification, certification renewal and recertification applications.
- Administering certification examinations.

- Reviewing and acting on an operator's criminal history records.

This proposed rulemaking ensures that Pennsylvania's Operator Certification Program meets the new federal requirements established in the 1996 Amendments to the Federal Safe Drinking Water Act (SDWA) for all state drinking water programs. This proposed rulemaking is more stringent than the federal guidelines in one area. The federal guidelines apply only to drinking water system operators; this proposed rulemaking also applies to wastewater system operators. The decision to include wastewater system operators in the new requirements was made early in the process by the State Board for Certification of Water and Wastewater Systems Operators (Certification Board) and the Department of Environmental Protection (Department) after significant public input. This was done to improve program consistency and implementation. Consistent with these federal guidelines, this proposed rulemaking defines the:

- Classification and subclassification method for approximately 10,000 system operators and their treatment systems.
- Minimum education, experience and examination requirements for all operators to become certified.
- Requirements and conditions that must be met to maintain certification.
- Duties and responsibilities of operators and owners related to the operation of a community or nontransient noncommunity water system, water distribution system, wastewater treatment system treating more than 2,000 gallons per day, and a satellite wastewater collection system with a pump.

To support the administration of the Operator Certification Program, the proposed rulemaking includes fees for system owners, training providers, approved examination providers and operators. The Department developed the new fee structure with input from TAC, CPAC, the Certification Board, and individual stakeholders. A major focus of the discussions that was incorporated into the structure was the necessity for all entities to pay a fair share of the program costs. The comments received from these meetings are attached, as well as written comments submitted by the Pennsylvania Rural Water Association and the Eastern Pennsylvania Water Pollution Control Operators Association. The final proposed fee structure is summarized in Table 1.

Table 1. Summary of Fees

Fee	Entity Paying Fee	Amount
Training Provider Approval	Training Provider	\$90
Full Course Approval	Training Provider	\$300
Brief Course Approval	Training Provider	\$115
Conference Approval	Training Provider	\$70
Course Rosters (fee per name)	Training Provider	\$1
10 or more examination sessions per year	Approved Examination Provider	\$800
5 to 10 examination sessions per year	Approved Examination Provider	\$700
2 to 5 examination sessions per year	Approved Examination Provider	\$600
1 examination session per year	Approved Examination Provider	\$400
New License (3 yr)	Operator	\$150
License Renewals (3 yr)	Operator	\$60
Exam Session (per 4 hrs)	Operator	\$35
Post-Presentation Credit Application Fee	Operator	\$250
Annual Service Fee	Class A Systems (> 5 mgd)	\$500
	Class B Systems (1 to 5 mgd)	\$150
	Class C Systems (100,000 gpd to 1 mgd)	\$100
	Class D Systems (<100,000 gpd)	\$ 65
	Class E Systems	\$ 65
Department Classroom Courses	Course attendees	\$10 per hour
Department Web-based Courses	Course attendees	\$30 per hour
Department On-site Training	Systems asking for the training	\$1600 per course

NOTE: To insure no person is covering a large percentage of the total costs, a maximum fee of \$10,000 is proposed. This fee structure results in 37% of the program costs covered by operators, 53% by systems and 10% by the training and examination providers.

The Board is specifically seeking public comment on one aspect of the Operator Certification Program, relating to reciprocity. The Board is proposing to grant reciprocity for only the Part 1 General Examination to operators certified in other states. This would require any certified operator from another state to take the treatment technology specific examinations before being granted certification in Pennsylvania.

F. Benefits, Costs and Compliance

Benefits

The intended results of these regulations are to protect the environment, ensure the public's health and safety and promote the long-term sustainability of the Commonwealth's drinking water and wastewater treatment systems by ensuring that certified operators with the appropriate knowledge, skills and abilities are available to make the necessary process control decisions. Therefore, the biggest beneficiary of these regulations is the general public.

The classification and subclassification framework more accurately reflects what the operator needs to understand to operate a system effectively and successfully. This framework was developed in partnership with representatives of the regulated community to meet their needs. In addition, in some instances, once certified, many operators will receive an increase in pay. Finally, the system owners may also benefit from cost savings realized through more effective and efficient operation of their water or wastewater system.

Implementation of these regulations will ensure continued approval of Pennsylvania's Operator Certification Program by EPA. This approval is reviewed on an annual basis. If the EPA chooses not to approve the program, the state stands to lose approximately \$5.8 million per year in federal funding for the State Revolving Loan Fund, administered by the Pennsylvania Infrastructure Investment Authority.

Compliance Costs

Any individual responsible for making process control decisions at a drinking water or wastewater treatment system in Pennsylvania must be appropriately certified for that system. A process control decision is any decision that changes or maintains water quality or water quantity to protect public health or the environment. All owners of a drinking water community or nontransient noncommunity water system, drinking water distribution system, wastewater treatment system treating more than 2000 gallons per day or a satellite wastewater collection system with a pump station must designate at least one certified operator to make all the process control decisions for the system.

The estimated costs to the operator to comply with provisions of these regulations are summarized in Table 2.

Table 2. Estimated Costs to the Operator

Requirement	Cost	Description / Comments
Initial certification	\$150	Paid to the Department, this fee is incurred when a person submits an application to become a certified operator. This certification is valid for 3 years.
Certification Renewal	\$60	Paid to the Department, this cost is incurred once every 3 years after the initial certification period.
Examination fee: for both initial certification and certain upgrades to license	\$35 per examination session	Paid to the Department. Operators are allowed to take as many examinations as they think they can complete in four hours. Most operators are able to complete the necessary examinations needed for the more common treatment systems within one or two sessions.
Examination Provider Registration fee	Varies	Paid to the Approved Examination Provider. These fees are not established by the Department, however, we recommend less than \$100. Fees are designed to allow the Approved Examination Provider the ability to recover incurred costs.
Criminal History Record	\$10	One time fee charged by the Pennsylvania State Police.
Continuing Education	\$240 – \$900	Paid to one of the Department’s Approved Training Providers. Depends on number of hours needed and average cost per hour for training

These regulations propose to charge an annual service fee for system owners, based on the amount of flow the system is permitted to treat. The assessment of this fee is tied to the classification of the system and the certification class needed by the system owner’s designated available operator(s). The maximum fee that any one owner of more than one system pays is \$10,000. This fee structure is summarized in Table 1. The only other cost for compliance for the owner is the actual costs for hiring a certified operator. The average cost to hire a certified operator is between \$30,000 and \$80,000 per year (based on a limited survey of operators completed in 2003). It is strongly advised that owners hire more than one certified operator. However, unless there are problems at the system, this responsibility is left to the owner. If necessary, the Department does have the authority to order the owner to hire additional certified operators, to address specific environmental compliance problems. In addition, the owner may choose to cover the operator’s costs for obtaining continuing education contact hours. This is an arrangement negotiated between the owner(s) and their certified operator(s).

Compliance Assistance Plan

The Department is implementing a comprehensive training and compliance assistance strategy to assist operators and owners who are required to comply with provisions of the Operator Certification Program. This includes web-based training through the Department’s EarthWise Academy, additional classroom training as needed, a comprehensive training approval process and packaged training programs. This comprehensive strategy is designed to take advantage of existing training expertise in

the industry; and promote a market for training providers to meet the training needs of this program. Additional compliance assistance is available through the Drinking Water Capability Enhancement Program, the Wastewater Diagnostics Program and the Drinking Water and Wastewater Outreach Assistance Provider Programs.

Paperwork Requirements

The following is a list of paperwork requirements for the operator as established in Chapter 302. Beyond the operator's time and the program fees identified above, there are no additional costs for this paperwork.

1. Certification Examination Registration Form (to register to take an examination)
2. Application for Certification Action (for certification, re-certification, certification upgrade, or certification through reciprocity)
3. Application for Certification Renewal (done once every three years)
4. Criminal History Report from the Pennsylvania State Police
5. Application for Exemption (only needed if operator will not be able to complete requirements for initial certification or certification renewal due to extenuating circumstances such as military service or health problems)
6. The development and approval of Standard Operating Procedures, if the operator and owner choose to utilize this tool to ensure all process control decisions are made by an available operator.
7. The development and approval of a Process Control Plan that describes all the operational procedures for a drinking water or wastewater treatment system. This will only be required by the Department on a case-by-case basis; depending on the level of non-compliance at the system and the existence of equivalent plans, such as an Operation and Maintenance Plan, an Emergency Response Plan or Standard Operating Procedures.
8. The development of a Management Plan, if an operator wants to serve as a circuit rider, where he or she is responsible for more than one drinking water or wastewater treatment system. The Management Plan identifies the systems, their characteristics, points of contact, and the number of visits the operator will complete in a designated time frame. System specific plans must also be developed for each system to include procedures to be followed by personnel at the system when the circuit rider isn't at the system.
9. The operator must notify the owner in writing of any violations or potential violations at the system. Recommendations, if the operator has any, for resolving the problem should also be included.

The owner will need to report the names, addresses and level of certification of all operators designated as available operators for the system on an annual basis. Changes in available operators must be reported within ten days. If the owner(s) chooses to designate an operator(s) in responsible charge in order to utilize standard operating procedures, the name(s), addresses and level of certification of these operators must also be reported to the Department on an annual basis.

Any training provider who would like to provide training to operators to meet the training or continuing education requirements must become an approved training sponsor, and have all courses approved. This process is documented in the "Training Provider Manual for the Pennsylvania Water and Wastewater System Operator Training Program," DEP ID: 383-2300-002.

Any entity who would like to become an Approved Examination Provider must become approved and comply with the Certification Board guidelines for the scheduling of examinations and the registration of applicants.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a national policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This regulation has incorporated the following pollution prevention incentives:

By ensuring that qualified, certified operators are making all operational decisions in Pennsylvania's drinking water and wastewater treatment systems, pollution prevention efforts will be enhanced. The water and wastewater treatment system operator is the key element in overall process control. By improving the certified operator's capabilities, more effective treatment and removal of pollutants and better use of available resources will result. Testing and training programs are designed to focus on different ways the operator can more effectively operate his or her system to minimize and prevent pollution and conserve energy.

H. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 30, 2009, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department provided

IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

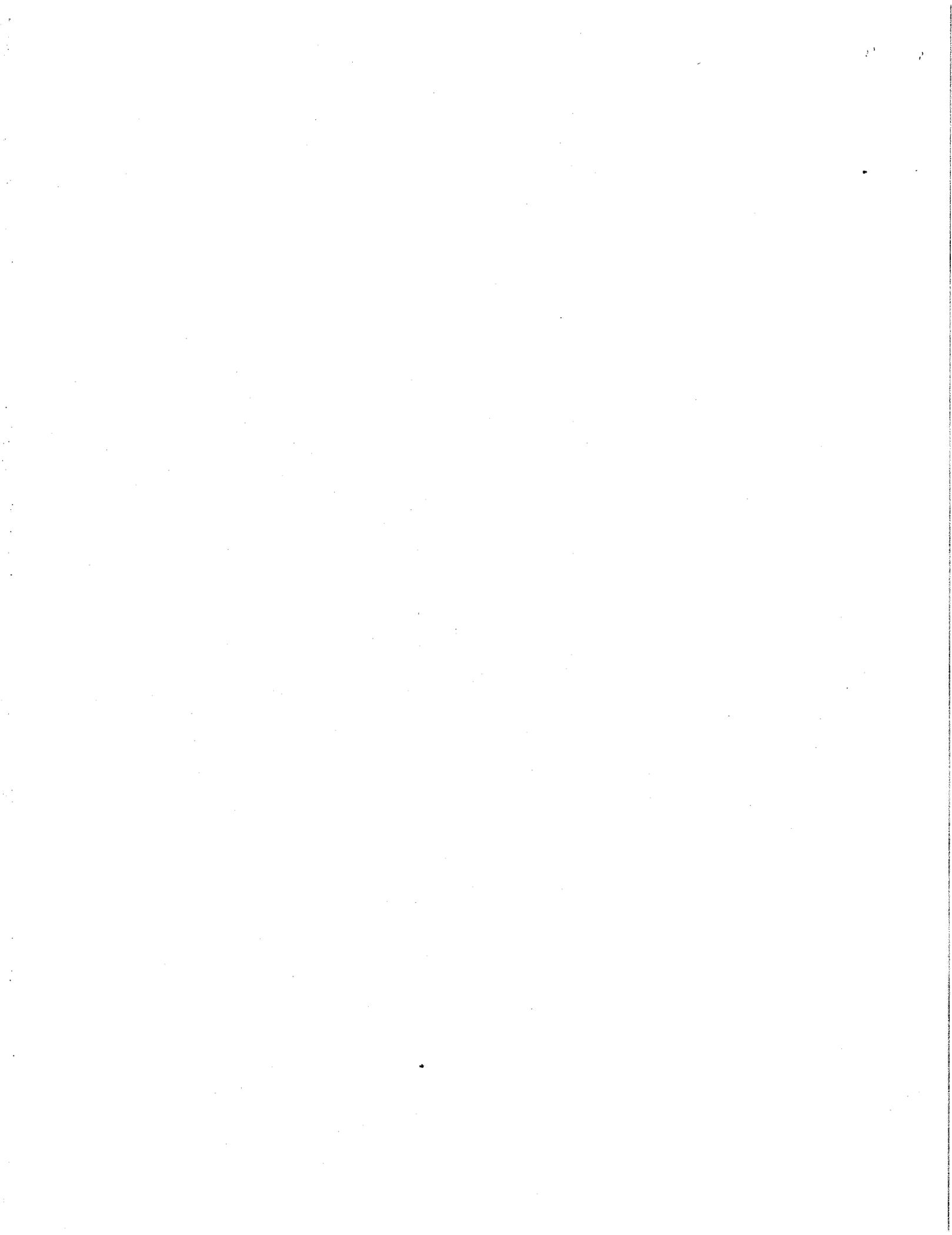
J. Public Comments

Written Comments – Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive any comments, suggestions or objections by August 10, 2009. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by August 10, 2009. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments – Comments may be submitted electronically to the Board at RegComments@dep.state.pa.us and must also be received by the Board by August 10, 2009. A subject heading of the proposal and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within two working days, the comments should be retransmitted to ensure receipt.

BY:

JOHN HANGER
Chairman
Environmental Quality Board



ANNEX A

TITLE 25: ENVIRONMENTAL PROTECTION
Part I Department of Environmental Protection
Subpart C Protection of Natural Resources
Part II State Board for Certification of Sewage Treatment Plant and Waterworks Operators
Chapter 302. Administration of the Water and Wastewater Systems Operators' Certification Program

Editor's Note: As part of this proposal, the Environmental Quality Board is proposing to delete the existing text of Chapters 301, 303 and 305, which currently appear in 25 Pa Code pages 301-1 – 301-4, 303-1 – 303-11, and 305-1 – 305-3, serial pages (228347) to (228350), (252853), (252854), (281973), (281974), and (252857) – (252867). The following text is for a new Chapter 302.

301.1 – 301.3 (Reserved)
301.11 – 301.3 (Reserved)
303.1 – 303.3 (Reserved)
303.11 – 303.14 (Reserved)
303.21 – 303.28 (Reserved)
303.31 – 303.34 (Reserved)
305.1 – 305.7 (Reserved)

CHAPTER 302.
ADMINISTRATION OF THE WATER AND WASTEWATER SYSTEMS OPERATORS'
CERTIFICATION PROGRAM

Subchapter

A. GENERAL PROVISIONS.....	302.101
B. GENERAL REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION ACTIONS	302.201
C. BOARD PROCEDURES AND ACTIONS	302.301
D. CRIMINAL HISTORY RECORDS	302.401
E. ADMINISTRATIVE HEARINGS OF THE BOARD.....	302.501
F. PREPARATION AND ADMINISTRATION OF CERTIFICATION EXAMINATIONS	302.601
G. EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS	302.701
H. CONTINUING EDUCATION AND TRAINING	302.801

I. SYSTEM CLASSIFICATION AND SUBCLASSIFICATIONS.....	302.901
J. OPERATOR CLASSES AND SUBCLASSIFICATIONS.....	302.1001
K. PROFESSIONAL ENGINEERS	302.1101
L. SYSTEM OPERATION.....	302.1201

Subchapter A. GENERAL PROVISIONS

Section

302.101. Definitions.

302.102. Purpose.

302.103. Scope.

§ 302.101. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accelerated certification – A method of upgrading a system’s available operators’ certificates to accommodate a change in the system’s capacity or treatment technology.

Act - The Water and Wastewater Systems Operators' Certification Act. (63 P.S. §§1001 – 1015.1).

Activated carbon adsorption – A water treatment process designed to improve the quality of water being treated by using activated granular or powdered carbon to remove specific organic chemical compounds by adsorption.

Activated sludge – The treatment technology that mechanically introduces air into wastewater to achieve microbiological suspended growth treatment such as extended aeration, sequential batch reactors, contact stabilization, conventional, step fed or oxidation ditch.

Administrative Code –The Administrative Code of 1929 (71 P. S. §§51 – 732).

Administrative hearing – A meeting of the Board, or Board-designated agent, held upon petition of the Department to revoke, suspend, modify or reinstate an operator’s certificate in accordance with 2 Pa. C.S. Chapter 5 Subchapter A and Chapter 7 Subchapter A (relating to Administrative Agency Law).

Aeration – A water treatment process designed to improve the quality of water being treated by introducing air or oxygen into water to remove undesirable dissolved gases, to remove volatile organic compounds or to oxidize inorganic compounds so they can be removed as particulates.

Applicant – A person seeking certification as a water or wastewater system operator.

Application for certification action – A written request for the Board to take a certification action using approved Department forms.

Available operator – A certified operator who is on-site or able to be contacted as needed to make process control decisions in a timely manner to protect public health and the environment.

Bioperable operator – A certified operator who holds a valid certificate for both water and wastewater systems.

Bioperable training – Department-approved continuing education training that has content that is applicable to both water and wastewater systems.

Board – The State Board for Certification of Water and Wastewater Systems Operators.

Board-designated agent – A Board, or committee member who completes certain duties on behalf of the Board.

Board guidelines – The guidelines established to carry out the powers and duties of the Board. These guidelines are documented in the State Board for Certification of Water and Wastewater Systems Operator's Guidelines, "Operator Certification Program," DEP ID: 150-0200-002.

Board Secretary – A Department recommended staff member who acts on behalf of the Board to implement administrative aspects of the program.

CHR - Criminal History Record – A report of criminal history record issued by the Pennsylvania State Police under 18 Pa. C.S. Chapter 91 (relating to criminal history record information).

Cartridge or bag filtration – For drinking water, a process for the purpose of substantial particulate removal by straining with bag or cartridge filters manufactured of various materials and pore sizes.

Certificate program – A type of Department-approved training.

Certification – The process by which an individual obtains a water or wastewater system operator's certificate.

Certification action – Any action taken by the Board related to a certification examination or re-certification or the issuance of an initial certificate, certificate renewal, or certificate through reciprocity.

Certification Program Advisory Committee – The advisory committee created by the act.

Certified operator – Any operator who holds a valid certificate in accordance with the act.

Chemical addition – A water treatment process designed to improve the quality of the water being treated through the addition of chemicals such as lime, soda ash, caustic soda and permanganate.

Circuit rider – A management program in which a certified operator may make process control decisions at more than one system of different ownership.

Class – An alphabetic letter assigned by the Department to a water or wastewater system based upon the classification of a system or an alphabetic letter assigned to an individual's certificate.

Classification – The size or type of a water or wastewater system.

Clean Streams Law – The Clean Streams Law (35 P. S. §§ 691.1 – 691.1001.)

Collection system – A system of pipelines or conduits, pumping stations and force or gravity mains used for collecting and conveying wastes to a point of treatment and disposal.

Community water system – A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Consecutive system –

- (i) A public water system that obtains all of its water from another public water system and resells the water to a person, provides treatment to meet a primary maximum contaminant level or provides drinking water to an interstate carrier.
- (ii) The term does not include bottled water and bulk water systems as defined in § 109.1 (relating to definitions).

Contact hour – The standard unit of measure for participation in a Department-approved education experience.

Continuing education – Approved activities to include training, outreach programs, contact hours, meetings, presentations and other activities designed to increase the knowledge, skills and abilities of system operators.

Conventional filtration – For drinking water, a series of processes implemented for the purpose of substantial particulate removal consisting of coagulation, flocculation, sedimentation and filtration.

Corrosion control and sequestering – A water treatment process designed to mitigate the adverse effects of corrosion in drinking water.

Department – The Department of Environmental Protection of the Commonwealth.

Diatomaceous earth filtration – For drinking water, a process for the purpose of substantial particulate removal, in which a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is filtered by passing through the cake on the septum, additional filter media, known as body feed, is continuously added to the feed water, to maintain the permeability of the filter cake.

Direct filtration – For drinking water, a series of processes implemented for the purpose of substantial particulate removal consisting of coagulation and filtration. The term normally includes flocculation after coagulation, but does not include sedimentation.

Distribution system – Pipelines, appurtenances, devices and facilities that convey potable water under pressure to customers.

Drinking water environmental laboratory supervisor – An individual having the knowledge, skills and abilities necessary to supervise laboratory procedures and the reporting of analytical data for an environmental laboratory operated by a drinking water system in accordance with industry, State and Federal standards.

Environmental Hearing Board – The board established under the Environmental Hearing Board Act (35 P. S. § 7511 – 7516).

Environmental laboratory – A facility engaged in the testing or analysis of environmental samples.

Environmental Quality Board – The board established under section 1920-A, The Administrative Code (71 P. S. § 510 – 20).

Environmental sample – A solid, liquid, gas or other specimen taken for the purpose of testing or analysis as required by an environmental statute.

Environmental statute – A statute administered by the Department relating to the protection of the environment or protection of public health; safety and welfare.

Examination – A test module or grouping of test modules administered by the Board or its designated agent used in part to determine the competency of applicants for certification or re-certification.

Fee – A nonrefundable cost charged to an applicant assigned to cover the expenses of the program.

Fixed film treatment – A wastewater treatment technology that uses a fixed contact media to achieve treatment such as trickling filters and rotating biological contactors.

Gaseous chlorine disinfection – A water treatment process designed to inactivate pathogenic organisms from water being treated utilizing gaseous chlorine.

GED – General equivalency diploma.

Grandparented – The temporary exemption for an existing operator of an existing system, as of February 21, 2002, from the initial educational and examination requirements for certification where a system was not required by prior law to have a certified operator. A grandparented operator may be the operator in responsible charge.

Groundwater – Water beneath the surface of the ground that exists in a zone of saturation.

Hydraulic design capacity – The maximum monthly design flow at which a drinking water or wastewater system is expected to consistently provide the required treatment or at which a distribution or collection system is expected to properly function without creating a backup, surcharge or overflow.

Industrial wastewater treatment system – Any system that treats industrial waste or pollution, but not sewage, as those terms are defined in The Clean Streams Law, section 1 (35 P.S. § 691.1).

Ion exchange and greensand – A water treatment process such as greensand filtration, ion exchange or activated alumina designed to improve the quality of water being treated by removal of inorganic constituents.

Investigation – A detailed inquiry as to the nature, circumstances and official records regarding an applicant or certified operator's criminal conviction as identified in a criminal history record.

Master certificate – A certificate authorizing an operator to make process control decisions at any water or wastewater system of a specific size, regardless of the treatment technology subclassifications used by that system.

Membrane filtration – For drinking water, a process that uses a thin film that acts as a selective barrier (semipermeable) to the transport of matter to remove contaminants from water and includes such processes as electrodialysis, reverse osmosis, nanofiltration, ultrafiltration, microfiltration or other similar technologies.

NPDES – The National Pollutant Discharge Elimination System as authorized under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342).

Nongaseous chemical disinfection – A water treatment process designed to inactivate pathogenic organisms from water being treated utilizing nongaseous chemical elements or compounds.

Noncommunity water system – A public water system which is not a community water system.

Nontransient noncommunity water system – A noncommunity water system that regularly serves at least 25 of the same persons over 6 months per year.

Operator – An individual who works with water or wastewater system processes or portions thereof. The term includes, but is not limited to, an individual who may be gaining experience to obtain certification in appropriate sub-classifications within classifications of certification. These individuals will have a working knowledge of system operation.

Operator-in-responsible-charge – An individual designated by the owner to be the certified operator who makes the process control decisions that directly impact the quality and or quantity of water.

Operator-in-training – An applicant for certification who has passed the certification examination but does not meet the experience requirements.

Order of the Department - An order of the Department issued under 4(b)(2) ,of the act , 63 P.S. § 1004(b)(2) and also include orders of the Department issued pursuant to 4(b)(1.1)

Owner – A person who owns or is the holder of an applicable permit for the operation of a water or wastewater system.

Ozonation – The water treatment process designed to inactivate pathogenic organisms from water being treated utilizing ozone.

Permitted average daily discharge flow – The hydraulic design capacity of a wastewater treatment system.

Person –

- (i) An individual, company, corporation, political subdivision, municipality, municipal authority, partnership, firm, association, trust, estate, public or private institution, or any agency of federal or state government.
- (ii) The term also includes the officers, directors, employees and agents of any partnership, firm, association, company, corporation, municipality, municipal authority, public or private institution or any agency of Federal or State government.

Petition – A written request from the Department to the Board to take an action to modify, suspend, revoke or reinstate a certified operator's certificate.

Political subdivision – Any county, city, borough, town, township, school district, institution or any authority created by any one or more of the foregoing.

Post-presentation credit – Pre-certification or continuing education credit for a training course not previously approved by the Department. An operator may obtain post-presentation credit upon application to the Department.

Process control decision – A decision that maintains or changes the water quality or quantity of a water system or wastewater system in a manner that may affect the public health or environment.

Process control plan – A plan developed by an operator in responsible charge that outlines the facilities, methods, activities and treatment alternatives necessary to meet permit requirements and provide long term and reliable system operations.

Professional engineer – An engineer registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148 – 158.2), who has been examined in civil, sanitary or environmental engineering and determined proficient.

Psychometrics – The analytical methodology and design of tests to evaluate and measure psychological variables such as intelligence and aptitude.

Recertification – The process by which an individual's water or wastewater system operator certificate, previously certified under the act, obtains a new certificate following expiration, suspension or revocation of the previous certificate.

Renewal of certification – The process by which an individual extends for another period of time an existing, valid water system or wastewater system operator's certificate under the act.

Satellite collection system – A wastewater system, with at least one pump station, which is designed to convey in excess of two thousand gallons per day of untreated wastewater to a wastewater system owned by a different entity.

Serving an average – The hydraulic design capacity of a water system.

Single entity collection system – A wastewater collection system where the collection system relies on treatment from a wastewater treatment system owned by the owner of the collection system.

Site-specific – A certificate to allow a grandparented operator to make process control decisions for an identified system or part thereof, which is not transferable and is not valid if treatment methods change or the grandparented operator no longer works at a system.

Slow sand filtration – For drinking water, a process for the purpose of substantial particulate removal by physical and biological mechanisms during the passage of raw water through a bed of sand at low velocity, generally less than 0.4 meters per hour.

Subclassification – A number assigned by the Department to a water or wastewater system based upon the treatment process used by that system or the number assigned to an operator's certificate based upon meeting the certification requirements for a specific treatment process.

System – A water or wastewater system.

Track – A combination of approved education and experience requirements necessary to qualify for operator certification.

Training approval process guidelines – Department guidelines authorized by the act that set standards for training sponsors, courses, course content, training approval criteria and training provider approval criteria.

Training provider – A person who designs or delivers any type of education or training activities, courses or programs.

Training sponsor – A training provider approved by the Department to provide training to Pennsylvania water and wastewater system operators in accordance with the Department's training approval process guidelines.

Treatment – The physical, chemical or biological process necessary to change, modify or maintain the chemical or biological nature of water.

Treatment ponds and lagoons – A wastewater treatment technology that utilizes a pond, lagoon or wetlands with anaerobic or facultative biological processes for the treatment of wastewater and meets all of the following criteria:

- (i) A design hydraulic detention time in the treatment process of 15 days or greater,
- (ii) A biological treatment process that does not have any return activated sludge system,
- (iii) A biological treatment process that is impacted by diurnal fluctuations as a result of photosynthesis.

Trigger parameter – A set-point for a designated biological, chemical or physical parameter that requires a response by the operator in responsible charge

Ultraviolet disinfection – A water treatment process that inactivates pathogenic organisms using light with a wavelength range of 4000 to 40 angstroms.

Upgrade – The certification process an existing certified operator follows to increase the operator's authority to make process control decisions at a system of a specific flow or a system with specific treatment technologies.

Wastewater – A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the

public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or which constitutes pollution under The Clean Streams Law.

Wastewater environmental laboratory supervisor – An individual having the necessary knowledge, skills and abilities necessary to supervise laboratory procedures and reporting of analytical data for an environmental laboratory operated by a wastewater or industrial waste system in accordance with industry, State and Federal standards.

Wastewater system – A structure designed to collect, convey or treat wastewater and from which effluent in excess of 2,000 gallons per day is discharged into waters of this Commonwealth.

Water system – A community water system or a nontransient noncommunity water system as those terms are defined in section 3 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.3).

§ 302.102. Purpose.

(a) The purpose of this chapter is to protect the environment and the public's health and safety by ensuring that certified operators with the appropriate knowledge, skills and abilities make appropriate process control decisions during the operation of water and wastewater treatment systems, water distribution systems and wastewater collection systems.

(b) This chapter establishes the training, education, experience and examination standards necessary for operator certification.

(c) This chapter also establishes the administrative processes and procedures the Board will follow to implement the Board's duties and responsibilities under the act.

§ 302.103. Scope.

(a) A person may not make a process control decision at a water or wastewater system unless that person is Board-certified with a valid certificate with the appropriate class and subclassifications for the size and treatment technologies of a water or wastewater system and is designated by the owner as the available operator.

(b) To become certified by the Board, the applicant shall:

- (1) Apply for certification in accordance with § 302.201 (relating to form of application).
- (2) Pass the appropriate examinations as defined in § 302.702 (relating to examination requirements) or an equivalent examination as defined in § 302.304 (relating to issuance of a certificate through reciprocity).

(3) Meet minimum education requirements as defined in § 302.701 (relating to minimum education requirements).

(4) Meet the experience requirements as defined in § 302.703 (relating to experience requirements).

(c) The following are exempt from the requirements of this chapter:

(1) A wastewater treatment system with a permitted average daily discharge flow of less than 2,000 gallons per day.

(2) A wastewater treatment system regulated under Chapter 73 (relating to standards for onlot sewage treatment facilities). An industrial wastewater system used to treat, recycle or impound industrial or agricultural wastes within the boundaries of the industrial or agricultural property.

(3) An industrial waste pretreatment system in which treated wastewater is released to a collection system of a wastewater treatment plant that is regulated by this chapter.

(4) An industrial waste treatment system that is an NPDES permitted point source discharge.

(5) A water treatment device that serves a single private residence.

(6) A system designed to only collect and treat stormwater.

(7) Other systems that are exempted by the Department by rules and regulations, guidelines or policy.

(d) Operators of industrial wastewater treatment facilities may voluntarily obtain a wastewater system operator's certificate consistent with this chapter.

**Subchapter B. GENERAL REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION
ACTIONS**

Section

302.201. Form of application.

302.202. Operator certification program fees.

§ 302.201. Form of application.

(a) An applicant for examination or a certification action will submit a complete application with required documentation using the appropriate Department-approved forms to the Board's Secretary.

(b) In addition to the forms described in subsection (a), an application for certification action for either certification or recertification must include:

(1) An original or copy of the applicant's Pennsylvania State Police criminal history record, issued no more than 90 days prior to the date the application is received by the Board Secretary.

(2) For education purposes, one of the following:

(i) A copy of the applicant's high school diploma or GED or a statement of completion of high school or achievement of GED.

(ii) Written verification by the applicant's supervisor or another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.

(3) Documentation of the applicant's experience as defined in § 302.704 (relating to determining qualifying experience) and verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.

(4) An official copy of the applicant's college transcripts, if applicable.

(5) Copies of certificates of completion of Department-approved training courses if applicable.

(6) The applicant's signature, affirmed by a notary public.

(7) The applicable fees as specified in § 302.202 (relating to operator certification program fees).

(c) In addition to the forms described in subsection (a), an application for certification action for certificate upgrade must include:

(1) An official copy of the applicant's college transcripts, if applicable.

(2) Documentation of the applicant's additional experience for the additional class or subclassification as defined in § 302.703 (related to experience requirements) and § 302.704 (related to determining qualifying experience), verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.

(3) Copies of certificates of completion of Department-approved training courses, if applicable.

(4) The applicant's signature, affirmed by a notary public.

(5) The applicable fees as specified in § 302.202.

(d) In addition to the forms described in subsection (a), an application for certification action for certificate renewal must include:

(1) Proof of completed continuing education.

(2) The applicant's signature, affirmed by a notary public.

(3) The applicable fees as specified in § 302.202.

(e) In addition to the forms described in subsection (a), an application for certification action for reciprocity must include:

(1) An original or copy of the applicant's Pennsylvania State Police criminal history record, issued no more than 90 days prior to the date the application is received by the Board Secretary.

(2) A copy of the applicant's operator certificate issued by another state, territory or Board-approved register as defined in § 302.305 (relating to Board-approved reciprocity register).

(3) For education purposes, one of the following:

(i) A copy of the applicant's high school diploma or GED or a statement of completion of high school or achievement of GED.

(ii) Written verification by the applicant's supervisor or another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.

(4) Documentation of the applicant's experience as defined in § 302.704 (relating to determining qualifying experience) and verified by the applicant's supervisor or another certified operator with the knowledge of the applicant's experience.

(5) A copy of the applicant's official transcripts from college, if applicable.

(6) Copies of certificates of completion of Department-approved training courses if applicable.

(7) The applicant's signature, affirmed by a notary public.

(8) The applicable fees as specified in § 302.202.

§ 302.202. Operator certification program fees.

(a) An application for a certification action or post-presentation credit must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania." The applicant's client ID should be printed on the check or money order.

(b) Applications to become an approved training provider, course and conference approvals, course rosters and requests for examination sessions must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania".

(c) Annual reports as described in § 302.1202(b) (relating to the duties of owners) must be accompanied by a nonrefundable check or money order payable to the "Commonwealth of Pennsylvania." The system(s) Public Water Supply ID or NPDES Permit Number should be printed on the check or money order.

(d) The fees are as follows:

Operators:

Initial Certification Class A, B, C, D	\$150
Initial Certification Class Dc, Dn, Class	\$100
Certification through Reciprocity Class A, B, C, D	\$150
Certification through Reciprocity Class Dc; Dn, Class E	\$100
Certificate Renewal	\$60
Examination Session	\$35
Replacement of Certificate or Pocket Card	\$25
Post-Presentation Credit Application	\$250

Training:

Training Provider Approval Application	\$90
Brief Course Approval	\$115
Full Course Approval	\$300
Conference Approval	\$70
Course Rosters	\$1 per name

Classroom Courses offered by the Department are \$ 10.00 per contact hour maximum per person.

Web-based Courses offered by the Department are \$ 30.00 per contact hour maximum per person.

On-site Training offered by the Department is \$1600 per event.

Approved Examination Providers:

Ten or more examination sessions per year	\$800
Five to ten examination sessions per year	\$700
Two to five examination sessions per year	\$600
One examination session per year	\$400

Owners:

Annual Service Fee Class A System	\$500
Annual Service Fee Class B System	\$150
Annual Service Fee Class C System	\$100

(e) The maximum fee a training provider or owner will be charged is \$10,000 per year.

(f) An operator holding a valid certificate as of _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking), is not required to pay the certification fees identified in subsection (b). The operator is subject to all other fees in this section.

(g) The fees identified in subsection (b) are in addition to any fees charged by an approved examination provider as defined in § 302.605 (relating to approved examination providers)

(h) No person regulated by this act shall pay more than a total of \$10,000 annually to the Commonwealth of Pennsylvania for operator certification fees specified under this act.

(i) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the Environmental Quality Board. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to modify fees to eliminate the disparity, including recommendations for regulatory amendments to modify program fees.

Subchapter C. BOARD PROCEDURES AND ACTIONS

Section

- 302.301. Board procedures for certification action.**
- 302.302. Issuance of certificate for certification or re-certification.**
- 302.303. Issuance of upgraded certificate.**
- 302.304. Issuance of certificate through reciprocity.**
- 302.305. Board-approved reciprocity register.**
- 302.306. Certificate renewal.**
- 302.307. Extensions.**
- 302.308. Suspensions, revocation or modification of an operator's certificate.**
- 302.309. Board review of Department training decisions.**

§ 302.301. Board procedures for certification action.

(a) The Department, under the supervision of the Board Secretary, will review the application for certification action for completeness.

(b) If the application is not complete, the applicant will be notified, in a timely manner from receipt of the application, of the specific information required to make the application complete.

(c) When an application is complete, the Board Secretary will review the application using policy and procedures defined by the Board in guidelines and make a recommendation for action to the Board designating the appropriate class and subclassification. The Board will make the final determination on the appropriate class and subclassification.

(d) The Board will take an action on a complete application within two scheduled Board meetings after the Board Secretary has completed the review of the application, provided the application is complete and contains sufficient information for the Board to make a decision.

(e) The Board Secretary will issue the operator's certificate within 60 days of Board action. A certificate will include the issuance and expiration dates, class and subclassifications, client ID and certification identification numbers and pocket card for identification purposes.

(f) The issuance date on the certificate corresponds with the date of Board action and the operator is assigned to the current 3-year renewal cycle (either the first day of January, April, July or October). The certificate is valid for a 3 year period and will expire on the date indicated unless suspended, modified or revoked by the Board prior to expiration.

(g) The Board will deny an application for certification action for failure to meet the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system.

(h) The Board authorizes the Board Secretary to deny an application for certification action without Board review for failure to:

(1) Meet the requirements for reciprocity as defined in § 302.304 (relating to issuance of certificate through reciprocity).

(2) Meet processing deadlines.

(3) Successfully pass an examination for certification.

(i) When the Board denies an application for certification action, the Board Secretary will notify the applicant in writing within 60 days of the Board decision, describing the applicant's right to appeal the action to the Environmental Hearing Board.

(j) Within 4 weeks of receiving a written request of a certified operator and payment of a fee as established in § 302.202 (relating to operator certification program fees) for the replacement of a certificate or wallet card, the Board Secretary will fulfill the request.

§ 302.302. Issuance of certificate for certification or re-certification.

The Board may approve a complete application for certification action for either certification or recertification with a designated class and subclassification when the applicant has met the requirements

for certification as defined in § 302.103 (relating to scope). The Board will also complete the review of the applicant's criminal history record in accordance with § 302.402 and 302.403 (relating to criminal history record investigation; and review of criminal history records by the Board) before approving a complete application for certification action for certification or recertification.

§ 302.303. Issuance of upgraded certificate.

(a) The Board will approve a complete application for certification action to upgrade an existing certificate to the appropriate class when the applicant meets the additional experience requirements defined in § 302.703 (relating to experience requirements) for the upgrade in class. The Board will also approve a complete application for certification action to upgrade an operator-in-training as defined in § 302.1004 (relating to operator-in-training status) when the operator-in-training has met the minimum experience requirements for certification defined in § 302.703.

(b) The Board will approve a complete application for certification action to upgrade an existing certificate to add another subclassification when the applicant passes the Part II Treatment Technology Specific Examination as defined in § 302.601 (relating to general provisions) that corresponds to a subclassification defined in §§ 302.1002 and 302.1003 (relating to the certification classes and subclassifications of water system operators; and certification classes and subclassifications of wastewater system operators) and completes 1 year additional experience requirement, if applicable, as defined in § 302.703 and § 302.704 (relating to determining qualifying experience).

(c) The Board will replace the applicant's existing certificate with an upgraded certificate that maintains the operator's current 3 year renewal cycle. Those applicants that were upgraded from the operator-in-training status will be issued a certificate in accordance with procedures defined in § 302.301 (relating to Board procedures for certification action).

(d) Additional changes in continuing education requirements as defined in § 302.803 (relating to phased schedule for continuing education requirements) resulting from an upgrade will not be enforced until the certified operator's next full 3 year renewal cycle.

(e) Class Dc, Dn and grandparented certificates will not be upgraded.

§ 302.304. Issuance of certificate through reciprocity.

(a) The Board may issue a certificate to an applicant holding a valid water or wastewater, or both, operator certificate from another state, territory, the District of Columbia or a Board-approved reciprocity register, when the applicant meets the requirements for certification defined in § 302.103 (relating to scope) and demonstrates the out-of-State certificate was issued as the result of passing an examination comparable to one administered by the Board.

(b) The Department will determine whether the content of the examination is comparable to an examination prepared by the Department and obtain confirmation from the state, territory or Board approved registry that issued the applicant's certificate that the applicant holds a valid certificate, and is in compliance with applicable laws, regulations and other requirements.

(c) Operators previously certified in Pennsylvania are not eligible to apply for reciprocity if:

(1) The Board revoked, suspended or modified their certificate in accordance with § 302.308 (relating to suspensions, revocation or modification of an operator's certificate).

(2) The operator failed to meet the continuing education requirements for their most recent three year renewal cycle.

§ 302.305. Board-approved reciprocity register.

(a) The Board recognizes the Association of Boards of Certification Registry and United States Military or Coast Guard discharge papers documenting water or wastewater operation as reciprocity registers.

(b) The Board may recognize additional certification registers upon request by a certified operator or the entity maintaining the register.

§ 302.306. Certificate renewal.

(a) Certified operators meeting the requirements of the act, the regulations promulgated under the act, other Department rules and regulations related to the operation of a water or wastewater system, and Department and Board guidelines will be eligible for certificate renewal without further examination.

(b) The Board will attempt to notify certified operators when renewal is due at least 60 days prior to certificate expiration. Failure to receive a renewal application from the Board does not release a certified operator from the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system.

(c) Certified operators shall meet the continuing education requirements as defined in § 302.803 (relating to phased schedule for continuing education requirements) as a condition of renewal.

(d) Continuing education must be successfully obtained during the certified operator's 3 year certification period. A certified operator who fails to complete the continuing education requirements within the 3 year cycle shall apply for recertification.

(e) The Board will not renew a certificate for an operator who fails to meet the continuing education requirements, unless the operator has applied for and been granted, an extension in accordance with § 302.307 (relating to extensions).

(f) A certificate will not be deemed expired if the Board Secretary has received a complete application for certification action for renewal before the expiration date of the certificate. This provision will be in force until the Board takes action on the application. If approved, the certificate will be issued with an expiration date that maintains the operator's prior 3 year cycle.

(g) A certificate renewal issued by the Board after the certificate has expired will have the effective issuance date of the first day of the month in the next quarter (January, April, July or October)

following Board action. The expiration date will be 3 years after the expiration date of the lapsed certificate.

(h) Within 24 months following the date of expiration, an operator who has completed the continuing education, but whose certificate has expired, may renew the certificate by submitting a complete application for certification action for renewal. A certified operator who fails to renew the certificate within 24 months of the expiration date shall apply for recertification.

(i) The Board Secretary will submit a listing of applicants for certificate renewal to the Board that the Department has determined have not met the continuing education requirements as defined in § 302.802 (relating to continuing education requirements for certificate renewal). The listing will include the applicants' name, their class(es) and subclassifications of certification and the number of approved hours of continuing education completed.

(j) An operator must submit any post-presentation credit applications for training that was not pre-approved by the Department in accordance with training approval process guidelines within 90 days after certificate expiration.

(k) After the Board has taken action to deny an application for certificate renewal due to lack of continuing education, the Board Secretary will send a certified letter to the operator notifying them of the Board's decision. If possible, the Board Secretary will send a copy of this letter to the appropriate Department Regional Program Manager and the owner(s) of any system(s) where the operator is identified by the owner(s) as an available operator for the system(s).

(l) The operator has 14 days from receipt of the certified letter to submit any additional documentation of completed continuing education for review by the Department to the Board Secretary. If the Department approves the additional documentation showing compliance with the requirement for continuing education, the Board Secretary will issue a valid certificate to the operator. If not, the operator is no longer certified, and must apply for re-certification.

§ 302.307. Extensions.

(a) The Board may grant a time extension to a certified operator to meet the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system provided that:

(1) The certified operator requests an extension in writing with appropriate justification no later than 90 days after certificate expiration, except in extenuating circumstances.

(2) The certified operator agrees to meet all the requirements within a specific time period established by the Board.

(3) Any Board extension is consistent with only those specific powers and duties granted to the Board.

(b) The Board Secretary will provide an explanation of the Board's decision and any requirements for compliance in writing to the certified operator.

(c) Circumstances that justify an extension include:

(1) Military service that curtails an operator's ability to access continuing education, mandated training or Board testing,

(2) Health related circumstances that curtail an operator's ability to participate in continuing education, mandated training or Board testing

(3) Other extreme circumstances.

§ 302.308. Suspensions, revocation or modification of an operator's certificate.

(a) The Board may take action to suspend, revoke, modify or reinstate an operator's certificate upon petition by the Department.

(b) The Board may suspend, revoke or modify a certificate for misconduct for reasons including:

(1) Negligence in operating a system.

(2) Fraud.

(3) Falsification of State, local or Federal documents or records.

(4) Failure to use reasonable care and professional judgment in performing the duties of a certified operator.

(5) Violation of State or Federal laws and the rules and regulations promulgated thereunder associated with the operation of a water or wastewater treatment system.

(6) Creating a clear or potential threat to public health, safety or the environment.

(7) Failure to comply with the duties assigned to a certified operator.

(c) Suspension, revocation, modification or reinstatement of an operator's certificate will become effective immediately upon the Board's action.

(d) The Board may suspend or modify a certificate for a specific time period or require additional education, training or reexamination as a condition of reinstatement.

(e) Within 5 days of the Board taking an action to suspend, revoke, modify or reinstate an operator's certificate, the Board Secretary will notify the Department, the certified operator and the certified operator's employer in writing of the Board action to suspend, revoke or modify an operator's certificate.

§ 302.309. Board review of Department training decisions.

(a) A training provider or sponsor may request the Board to review a Department action to do the following:

(1) Approve, disapprove, revoke or suspend a training provider's status as an approved sponsor of training for certification and continuing education.

(2) Approve, deny, revoke or suspend the approval of any course for certification and continuing education.

(3) Assess an instructor's qualifications.

(4) Assign appropriate continuing education contact hours.

(b) Within 75 days of receiving notification from the Department, a training provider or sponsor will submit a request to the Board to review the Department's decision. The request must include the following:

(1) The reasons for the Department's decision.

(2) The reasons why the Board review is necessary.

(3) Any circumstances that merit consideration by the Board to reverse or modify the Department's decision.

(4) The desired action from the Board.

(c) The Board will take action on any training decision request within 120 days of completion of a scheduled Board meeting dealing with the training action.

Subchapter D. CRIMINAL HISTORY RECORDS

Section

302.401. Submission of CHRs.

302.402. CHR investigation.

302.403. Review of CHRs by the Board.

302.404. Board actions as the result of its review of a CHR.

§ 302.401. Submission of CHRs.

(a) The Board requires a CHR to accompany an application whenever an applicant does one or more of the following:

- (1) Submits an application for certification. A CHR is not required for subsequent renewals.
- (2) Submits an application requesting certification by reciprocity.
- (3) Submits an application for recertification.

(b) An applicant holding a bioperable certification shall meet the requirements in subsection (a) for each separate water and wastewater certificate.

(c) The date of issuance on a CHR must be no more than 90 days before the date when the application is received by the Board Secretary.

§ 302.402. CHR investigations.

(a) The following criminal activities require further investigation:

- (1) A felony.
- (2) A misdemeanor that appears to be related directly to activities associated with carrying out duties and responsibilities as a certified operator.
- (3) A misdemeanor that appears to pose a threat to public health, safety or the environment.

§ 302.403. Review of CHRs by the Board.

(a) The Board will review all CHRs submitted with applications for certification action in accordance with the act and this chapter.

(b) A preliminary review committee will conduct a review, and if necessary, conduct appropriate investigations and make a recommendation to the Board for action. The membership of this committee will include:

- (1) A Board member.
- (2) A Department employee.
- (3) Board legal counsel.

(c) The Board or Board designated agent will conduct an evaluation of all applicants with a conviction noted on their CHR to determine the appropriate category in this section. Convictions meeting the criteria in § 302.402 (relating to CHR investigations) require the Department to conduct an investigation and submit a written report to the Board or Board designated agent.

(d) If the preliminary review committee feels the conviction may be related to the operation of a drinking water or wastewater treatment system, they will instruct the Board Secretary to send the applicant a certified letter notifying them of this potential and offering them the opportunity to appear at the next regularly scheduled Board meeting to present any information they feel is relevant or related to the conviction. The Department employee on the committee will also solicit further information from the appropriate regional office as it relates to the circumstances that resulted in the conviction and the applicant's record as an operator.

(e) The preliminary review committee will provide reasons for their recommendation and any associated documentation.

(f) These recommendations will be assigned into the following two categories:

- (1) Recommend approval of the application for certification action.
- (2) Recommend that the full Board review the CHR and investigation findings.

(g) A certified operator will not be denied a temporary certification for renewal pending a final action of the Board on a CHR. In this case a letter will be sent extending the certified operator's existing certificate until the Board takes final action.

(h) An applicant for certification will not be denied admittance to the certification exam pending a final action on a CHR.

(i) The Department will complete the investigation in a timely manner based on circumstances related to the necessary collection of information needed to make a recommendation.

§ 302.404. Board actions as the result of a CHR.

(a) The Board will act on all CHRs submitted with an application for certification action.

(b) The Board will find no further action is necessary when an applicant's CHR shows no convictions.

(c) Based on the Board's authority under 18 Pa. C.S. Chapter. 91, the Board may deny an application for certification action based on a conviction of either:

(1) A felony related to the trade, occupation or profession for which the certification is sought.

(2) Any misdemeanor related to the trade, occupation or profession for which the certification is sought.

(d) The Board will review the recommendations of the preliminary review committee before taking action. Based on this review the Board will do one of the following:

(1) Agree with the preliminary review committee and take action on the CHR accordingly.

(2) Disagree with the preliminary review committee and take action on the CHR accordingly.

(e) The Board Secretary will notify an applicant in writing of the Board's decision to deny an application for certification action based on the applicant's CHR.

(f) If an application for certification action is denied, the Board will identify the reasons for the decision, since this decision prohibits the individual from practicing as a certified operator in this Commonwealth.

(g) An applicant wishing to appeal a Board action shall petition the Environmental Hearing Board.

Subchapter E. ADMINISTRATIVE HEARINGS OF THE BOARD

Section

302.501. General requirements.

§ 302.501. General requirements.

(a) The Department may file with the Board Secretary a written petition under section 4 (b) (1) of the act, by submitting a written request containing the following information:

(1) The factual basis of the petition including the dates, times and places of the occurrences and the names of the responsible parties with sufficient specificity that the respondent can file an answer and prepare a defense to the allegations.

(2) The statutes or regulations, or both, allegedly violated and underlying the petition.

(3) The relief requested.

(4) Identification of the Department attorney or contact person, including the address and telephone number, who can receive service on behalf of the Department.

(b) Upon receipt of a petition, the Board Secretary will:

(1) Provide a copy of the petition to the operators named in the petition, sent by certified mail.

(2) Schedule the petition for hearing before the Board or a hearing officer appointed by the Board. As necessary, the Board Secretary may schedule prehearing conferences and issue orders needed to dispose of prehearing issues.

(c) Requests to reschedule or cancel a hearing must be in writing and be received by the Board Secretary at least 14 days prior to the date of the hearing. Continuance of a hearing is at the discretion of the Board. The Board may continue a hearing upon its own motion.

(d) The hearings of the Board will be in accordance with 2 Pa.C.S.A. Chapter 5 Subchapter A and Chapter 7 Subchapter A *et seq.*, (related to Administrative Agency Law).

(e) The Chairperson of the Board is authorized to sign decisions and orders on behalf of the Board.

(f) Any order of the Board will be effective immediately unless otherwise indicated within the order.

(g) Decisions on the petition may be appealed to the Environmental Hearing Board.

**Subchapter F. PREPARATION AND ADMINISTRATION OF CERTIFICATION
EXAMINATIONS**

Section

302.601. General provisions.

302.602. Approved examination providers.

302.603. Examination eligibility.

302.604. Examination administration.

302.605. Use of materials and electronic devices by the applicant during examination.

§ 302.601. General provisions.

(a) The Department will prepare and the Board will administer valid certification examinations using general psychometric principles to measure the applicant's knowledge, skills and abilities necessary to make process control decisions that meet permit requirements, maintain system reliability and ensure the protection of the environment, public health and safety.

(b) Certification and recertification examinations will consist of a two part examination. Part I of the examination will measure the applicant's knowledge, skills and abilities common to all water or wastewater systems regardless of size. Part II of the examination will measure the applicant's knowledge, skills and abilities necessary to operate specific treatment technologies or system components.

(c) There will be separate stand-alone examinations for wastewater collection systems, either satellite or single entity; water distribution or consecutive systems without treatment and Dc or Dn systems.

(d) There will be a Part II examination for laboratory supervisor for a water system and a Part II examination for laboratory supervisor for a wastewater system.

(e) There will be a master examination for either water or wastewater systems for operators wanting a master certificate to operate all available treatment technologies and system components.

(f) The Department will annually review examinations for relevancy. The Department may use third party contractors, members of the Board or the Certification Program Advisory Committee,

Department staff or any other qualified individuals as subject matter experts for the content and validation of the examinations.

(g) The Board may use third-party examination proctors for administration of examinations, provided the proctors have completed the necessary training defined by Board guidelines.

(h) Paper and test materials remain the property of the Board.

(i) Individual examination scores will be confidential and will not be disclosed to the public.

§ 302.602. Approved examination providers.

(a) The Board may use consultants, nonprofit water and wastewater industry associations and organizations, the Department or educational institutions to assist in the administration of the examinations for certification. The Board Secretary will approve all examination providers in accordance with Board guidelines.

(b) Approved examination providers may charge a fee to an applicant to cover the cost of personnel, facility rental and other incurred costs related to the registration and administration of the examination.

(c) Approved examination providers will not at any time be in possession of any Department-developed examination materials or examination content.

(d) Approved examination providers will administer examinations in accordance with Board guidelines.

§ 302.603. Examination eligibility.

(a) An applicant for examination must submit a request for examination using approved Board forms to one of the Approved Examination Providers. The applicant must also pay any fees defined by the Approved Examination Provider for processing this request.

(b) No individual is required to meet experience requirements of the Act, regulations or guidelines as a condition for examination.

(c) No individual is required to successfully attain any training as a condition for examination.

(d) Any individual that attends five or more examination sessions without applying for certification must pay the examination session fees as defined in § 302.202 (relating to operator certification program fees) before being allowed to attend any additional examination sessions.

(e) A certified operator shall not be required to re-take an examination already successfully passed unless:

(1) The individual fails to renew their certification within 2 years from the expiration date of the certification.

(2) The individual fails to complete the required amount of continuing education within the 3-year renewal cycle.

(3) The Board takes action to suspend or modify their certification. A certified operator whose license is revoked may not apply to become re-certified or to re-examine.

§ 302.604. Examination administration.

(a) The proctors and Department staff shall follow all procedures for the administration of an examination as defined in Board guidelines.

(b) The examination proctor will provide a written report to the Board regarding any applicant violating provisions of this section or Board guidelines.

(c) The Board may make exceptions to a written examination or other examination requirements when an applicant or representative makes a "reasonable accommodation" request under the Americans with Disabilities Act of 1990 (42 U. S. C. A §§ 12101 – 12213) in written form to the Board, the request documents the reason for such an accommodation and the request is submitted to the Board Secretary in writing at least 15 days before the date of the examination.

(d) The Board may make exceptions to the scheduled date and location of an examination upon written request by an applicant based on religious preference, jury duty, or other compelling reasons.

§ 302.605. Use of materials and electronic devices by the applicant during examination.

(a) The use of nonprogrammable calculators by applicants during the examination is permitted.

(b) The use of hand held computers or other devices that can store technical information, electronic communication devices, personal music players or any other memory storage devices or printed materials other than the materials provided by the examination proctor during the examination is not permitted during the examination.

(c) An applicant may use special electronic devices, if the applicant has submitted a written request to the Board Secretary for approval and has received written approval from the Board.

Subchapter G. EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS

Section

302.701. Minimum education requirements.

302.702. Examination requirements.

302.703. Experience requirements.

302.704. Determining qualifying experience.

302.705. Accelerated certification requirements for system modifications.

§ 302.701. Minimum education requirements.

(a) An applicant for certification will obtain a high school diploma or a GED to meet one of the minimum education requirements.

(b) The Board may grant an education exemption to the requirements in subsection (a) if the applicant provides written verification by the applicant's supervisor or another certified operator with direct knowledge of the applicant's experience working as an operator in a water or wastewater system before February 21, 2002.

(c) Experience used to meet the equivalency for a high school diploma or GED cannot be used as experience for certification.

§ 302.702. Examination requirements.

(a) An applicant for certification in wastewater will obtain a passing score on a Part I General Examination and one or more of the Part II Treatment Technology Specific Examinations, a Master Examination or a Collection System Examination.

(b) An applicant for certification in drinking water will obtain a passing score on a Part I General Examination and one or more of the Part II Treatment Technology Specific Examinations for Class A, B and C, a Part I General Examination for Class D, a Master Examination, a Dc or Dn Small System Examination or a Distribution Examination.

(c) An applicant will obtain a minimum numerical score of correctly answered questions based on general psychometric principles to pass an examination for certification.

(d) An applicant's score on an examination is independent and not conditional on the results of any other type of certification examination.

(e) Test results are valid indefinitely, unless the applicant must apply for recertification as determined by the Board.

§ 302.703. Experience requirements.

(a) To meet the requirements for certification, the Department will provide an applicant with two different experience tracks.

(b) Track I identifies the experience requirement necessary to qualify for certification when the applicant meets the basic educational requirement in § 302.701 (relating to minimum education requirements).

(1) Track I experience requirements for wastewater treatment system operators.

Class	Minimum Experience
A	4 years
B	3 years
C	2 years
D	1 year
E	1 year

(2) Track I experience requirements for water system operators.

Class	Minimum Experience
A	4 years
B	3 years
C	2 years
D	1 year
E	1 year
Dc	6 months
Dn	6 months

(c) An applicant for operator certification using Track I may supplement up to 50% of the required experience by successfully completing additional education beyond the minimum education requirement defined in § 302.701 (related to minimum education requirements). One month of experience can be credited for the successful completion of every 10 contact hours of Department-approved training courses in water or wastewater, as applicable, or 1.5 months experience may be credited for the successful completion of one college credit in water or wastewater from an accredited college or university.

(d) Track II provides a reduction in the experience requirements defined in subsection (b) when the applicant has successfully earned one of the following:

(1) A certificate of completion of a Department-approved certificate program in water or wastewater, or both (CP).

(2) An associate degree in a water or wastewater, or both, operation approved by the Department (ASP).

(3) An associate degree in environmental sciences, physical sciences, engineering or engineering technology not approved by the Department (AS).

(4) A bachelor's or graduate degree in biology, chemistry, environmental sciences, physical sciences, sanitary or environmental engineering or engineering technology from a nationally accredited college or university (BS/BA).

(e) The required experience under Track II is:

(1) Track II experience requirements for wastewater treatment system operators.

Class	CP	ASP	AS	BS/BA
A	2 years	1 year	3.5 years	2 years
B	1 year	6 months	2.5 years	1 year
C	6 months	6 months	1.5 years	6 months
D	6 months	6 months	6 months	6 months
E	6 months	6 months	6 months	6 months

(2) Track II experience requirements for water system operators.

Class	CP	ASP	AS	BS/BA
A	2 years	1 year	3.5 years	2 years
B	1 year	6 months	2.5 years	1 year
C	6 months	6 months	1.5 years	6 months
D	6 months	6 months	6 months	6 months
E	6 months	6 months	6 months	6 months
Dc	0	0	6 months	0
Dn	0	0	6 months	0

(f) When education is applied to meet the experience requirements for certification under Track II, the credit can only be applied once and is not cumulative.

§ 302.704. Determining qualifying experience.

(a) The Board will determine if the applicant's experience meets the experience requirements as defined in § 302.703 (relating to experience requirements).

(b) Experience for certification is achieved by participating in a combination of activities related to process control under the supervision of a certified operator who holds the appropriate subclassifications.

(c) The Board will consider the following activities for qualifying experience:

- (1) Operating mechanical equipment related to process control.
- (2) Maintaining mechanical equipment related to process control.
- (3) Collecting and analyzing chemical and biological samples related to process control and regulatory compliance activities.
- (4) Performing calculations related to process control.
- (5) Preparing or standardizing chemical and biological solutions.
- (6) Interpreting, compiling and completing monitoring data.
- (7) Recommending appropriate process control measures.
- (8) Participating in onsite assessment, inspection or evaluation of plant processes.
- (9) Calibrating chemical feed systems.

(10) Using equipment to monitor and measure flows through a water or wastewater system.

(d) An applicant for a wastewater certificate may apply experience as defined in subsection (c) as follows:

(1) Experience working at an activated sludge wastewater system qualifies an applicant for an activated sludge wastewater certificate (Subclassification 1), the fixed film wastewater certificate (Subclassification 2) and the treatment pond and lagoon wastewater certificate (Subclassification 3).

(2) Experience working at a fixed film wastewater system qualifies an applicant for a fixed film wastewater certificate (Subclassification 2) and a treatment pond and lagoon wastewater certificate (Subclassification 3).

(3) Experience working at a treatment pond and lagoon wastewater system qualifies the applicant for the treatment pond and lagoon wastewater certificate (Subclassification 3).

(4) Experience working at a satellite collection system or a single entity collection system qualifies the applicant for a Class E Subclassification 4 wastewater certificate.

(5) Experience for class may be obtained at a wastewater system with the classification level requested or two classification levels alphabetically lower.

(e) An applicant for a water certificate may apply experience as defined in subsection (c) as follows:

(1) Experience working at a conventional filtration, direct filtration, diatomaceous earth filtration or slow sand filtration water system qualifies an applicant for any of the following:

(i) The filtration water certificates (Subclassifications 1, 2, 3, 4, 5 and 6).

(ii) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(iii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(2) Experience working at a cartridge or bag filtration or membrane filtration water system qualifies an applicant for any of the following:

(i) The cartridge or bag filtration and the membrane filtration water certificates (Subclassifications 5 and 6).

(ii) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(iii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(3) Experience working at a corrosion control and sequestering, chemical addition, ion exchange and greensand or aeration and activated carbon adsorption water system qualifies an applicant for any of the following:

(i) The chemical treatment water certificates (Subclassifications 7, 8, 9 and 10).

(ii) The gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(4) Experience working at a gaseous chlorine disinfection or nongaseous chemical disinfection water system qualifies an applicant for the gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(5) Experience working at an ultraviolet water system qualifies an applicant for the ultraviolet water treatment certificate (Subclassification 13).

(6) Experience working at an ozonation water system qualifies an applicant for the ozonation water treatment certificate (Subclassification 14).

(7) Experience for a class may be obtained at a water system at the classification level requested or two classification levels alphabetically lower.

(8) Experience working at a Dc water system qualifies an applicant for only the Class D water certificate with the gaseous chlorine and nongaseous chemical disinfection water treatment certificates (Subclassifications 11 and 12).

(9) Experience working at a Dn water system qualifies an applicant for only the Class D water certificate without any subclassifications.

(f) One year of experience is equal to 220 working days or 1,760 hours of employment.

(g) Experience will be prorated for time periods less than 1 year.

(h) Experience is counted up to the first day of the month after the applicant submits an application for certification action.

(i) An applicant's experience at a wastewater system may be used to meet no more than half the experience requirement for a drinking water certification of the same classification level or a level alphabetically lower. The remaining experience must be operating experience at a drinking water system as defined in § 302.704.(c).

(j) An applicant's experience at a water system may be used to meet no more than half the experience requirement of a wastewater certification of the same classification level or a level alphabetically lower. The remaining experience must be operating experience at a wastewater system as defined in § 302.704.(c).

§ 302.705. Accelerated certification requirements for system modifications.

(a) An operator certificate upgrade is required when an increase in treatment capacity of the system no longer qualifies the available operator to make process control decisions for that system. When the capacity of the system is increased, the existing available operators will qualify for an accelerated certification upgrade by applying for an upgrade in class before the larger system becomes operational. Additional experience or training is not required.

(b) An operator certificate upgrade is required when the addition of a different treatment technology to a system no longer qualifies the available operators to make process control decisions for that system. When a different treatment technology is added to the system, the existing available operators may qualify for an accelerated certification upgrade if:

(1) The owner obtains the appropriate NPDES, public water supply or Clean Streams Law permit from the Department with approval of the accelerated certification program.

(2) The operator successfully completes an onsite, Department-approved training program from the manufacturer or consulting engineer on the proper operation and maintenance of the new treatment technology.

(3) The operator passes the appropriate Part II Technology Specific examination for the new treatment technology.

(4) The manufacturer or consulting engineer provides the Board and the Department with written documentation that the available operators for the system have successfully completed the formalized startup training and assistance program and are competent in the operation of the treatment technology.

(c) The available operators of the system undergoing an upgrade may continue to make process control decisions for the system if the conditions for accelerated certification as defined in subsection (a) or (b) are met. If not, the owner of the system will find another available operator with the appropriate class and subclassifications to make process control decisions until the existing certified operators at the system meet the additional examination requirements defined in § 302.702 (relating to examination requirements) and any additional experience requirements defined in § 302.703 (relating to experience requirements).

Subchapter H. CONTINUING EDUCATION AND TRAINING

Section

302.801. Training and continuing education.

302.802. Continuing education requirements for certificate renewal.

302.803. Phased schedule for continuing education requirements.

302.804. System security training requirements.

§ 302.801. Training and continuing education.

(a) The Department will designate all approved training and continuing education into one of the following categories:

(1) Wastewater.

(2) Water.

(3) Bioperable.

(4) Security training as established in § 302.804 (relating to system security training requirements).

(b) The Department may approve, deny, suspend or revoke any training sponsor, training program, training course or conference session.

(c) The Department may audit, examine, inspect, and review the activities and documentation of approved training sponsors, training programs, approved instructors, courses, course content, conference sessions, teaching materials and facilities as related to water operator training and wastewater operator training and continuing education.

(d) The Department will develop training approval process guidelines that define the standards for the approval of training providers as training sponsors, training programs, instructors, courses and course content, conference sessions and other teaching materials and facilities used for the development and delivery of water and wastewater operator training and continuing education.

§ 302.802. Continuing education requirements for certificate renewal.

(a) Only contact hours for training approved by the Department will be used by a certified operator to meet the continuing education requirements for certificate renewal.

(b) A certified operator is required to successfully obtain the designated continuing education contact hours as defined in § 302.803 (relating to phased schedule for continuing education requirements) for certification renewal for the appropriate class.

(c) Bioperable operators will meet the continuing education requirements for each water and wastewater certificate held.

(d) A certified operator may not apply excess contact hours to a subsequent 3 year renewal cycle.

(e) For the purpose of meeting the continuing education requirement, the contact hours associated with a Department-approved course may only be applied once within an operator's 3 year renewal cycle.

(f) A Department-approved instructor holding an operator's certificate may be granted continuing education contact hours for teaching a Department-approved training course provided the instructor delivers the course within the instructor's 3 year renewal cycle and provides documentation to the Department that the course was completed, with the total amount of hours of training delivered. The contact hours for a specific course can be granted only once within the 3 year renewal cycle in which the course is taught.

(g) A certified operator is credited continuing education contact hours in the 3 year renewal cycle in which the training provider documents successful completion of the training.

(h) Certified operators that have successfully completed the Department's Drinking Water Corrosion Control Treatment Course or Bio-solids Management Course may be granted a one-time credit for the contact hours for continuing education during the initial renewal cycle, regardless of the date of completion.

§ 302.803. Phased schedule for continuing education requirements.

(a) The number of required contact hours of continuing education for certificate renewal is as follows:

(1) Contact hour requirements for wastewater system certified operators.

Operator Class	Contact Hours for First 3 Year Renewal Cycle	Contact Hours for Subsequent 3 Year Renewal Cycle
A	15	30
B	15	30
C	15	30
D	8	15
E	8	15
Grandparented	8	15

(2) Contact hour requirements for water system certified operators.

Operator Class	Contact Hours for First 3 Year Renewal Cycle	Contact Hours for Subsequent 3 Year Renewal Cycle
A	15	30
B	15	30
C	15	30
D	8	15
E	8	15
Dc	4	9
Dn	3	6
Grandparented	8	15

(b) The first 3 year renewal cycle is defined as either the first 3 year period in which a certified operator holds a valid certificate after being transferred from an annual renewal cycle, or the first cycle after receiving certification.

(c) The subsequent 3 year renewal cycle is every 3 year period after the operator's first three-year renewal cycle.

§ 302.804. System security training requirements.

(a) Every certified operator will successfully complete a Department-approved system security training course.

(b) A certified operator will meet the system security training requirement before the conclusion of the operator's first subsequent 3 year renewal period after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking).

(c) A certified operator will successfully demonstrate the knowledge, skills and abilities contained in the Department's system security training course using a Department-approved learning assessment method.

(d) The contact hours associated with the system security training also qualifies as approved continuing education within an operator's 3 year renewal cycle.

(e) A Department-approved training sponsor may, upon written agreement with the Department, deliver the Department's system security course that is approved to meet the requirements of this section.

(f) Bioperable operators need to successfully complete the Department-approved system security training course only once.

(g) The Department may require certified operators to attend and successfully complete additional Department-approved system security courses upon written notification.

Subchapter I. SYSTEM CLASSIFICATION AND SUBCLASSIFICATIONS

Section

302.901. Classification and subclassifications of water systems.

302.902. Classification and subclassifications of wastewater systems.

§302.901. Classification and subclassifications of water systems.

(a) Water systems will be classified into one of five classifications being designated as Classification A, B, C, D or E as follows:

(1) *Classification A* - Water systems serving an average of more than 5 million gallons a day.

(2) *Classification B* - Water systems serving an average of greater than 1 million gallons a day but less than or equal to 5 million gallons a day.

(3) *Classification C* - Water systems serving an average of greater than 100,000 gallons a day but less than or equal to 1 million gallons a day.

(4) *Classification D* - Water systems serving an average of less than or equal to 100,000 gallons a day.

(5) *Classification E* - Distribution and consecutive water systems, without treatment.

(b) Upon written request by the owner, the Department may reclassify a water system serving no more than 500 individuals or having no more than 150 connections, where the source of water for the system is exclusively groundwater, as a Dc or Dn water system. A water system that requires only disinfection will be classified as a Dc system, a water system that requires no treatment as a Dn system.

(c) Each water system Classification A, B and C must be assigned one or more of the following 14 treatment subclassifications that identifies the treatment methods used to process water at that system. Classifications D and E may have one or more of the following 14 treatment subclassifications if the system or operator uses the specified treatment methods to process drinking water at that system.

(1) Subclassification 1 – Conventional Filtration.

(2) Subclassification 2 – Direct Filtration.

- (3) Subclassification 3 – Diatomaceous Earth Filtration.
- (4) Subclassification 4 – Slow Sand Filtration.
- (5) Subclassification 5 – Cartridge or Bag Filtration.
- (6) Subclassification 6 – Membrane Filtration.
- (7) Subclassification 7 – Corrosion Control and Sequestering.
- (8) Subclassification 8 – Chemical Addition.
- (9) Subclassification 9 – Ion Exchange and Greensand.
- (10) Subclassification 10 – Aeration and Activated Carbon Adsorption.
- (11) Subclassification 11 – Gaseous Chlorine Disinfection.
- (12) Subclassification 12 – Nongaseous Chemical Disinfection.
- (13) Subclassification 13 – Ultraviolet Disinfection.
- (14) Subclassification 14 – Ozonation.

(d) Upon written notice provided to the owners and available operators of the system, the Department may change the classification or subclassification of a water system because of changes in the conditions or circumstances at the system.

§ 302.902. Classifications and subclassifications of wastewater systems.

(a) Wastewater systems will be classified into one of five classifications being designated as Classification A, B, C, D or E as follows:

(1) *Classification A* - Wastewater systems with a permitted average daily discharge flow greater than 5 million gallons a day or unlimited permitted discharge flows.

(2) *Classification B* - Wastewater systems with a permitted average daily discharge flow greater than 1 million gallons per day but less than or equal to 5 million gallons a day.

(3) *Classification C* - Wastewater systems with a permitted average daily discharge flow greater than 100,000 gallons a day but less than or equal to 1 million gallons a day.

(4) *Classification D* - Wastewater systems with a permitted average daily discharge flow equal to or less than 100,000 gallons.

(5) *Classification E* - A wastewater satellite collection system with at least one pump station.

(b) Each wastewater system Classification A, B, C and D must be assigned one or more of 4 treatment subclassifications that identifies the treatment or collection methods, or both, used to process wastewater at that system:

(1) Subclassification 1 – Activated Sludge.

(2) Subclassification 2 – Fixed Film.

(3) Subclassification 3 – Treatment Ponds and Lagoons.

(4) Subclassification 4 – Single Entity Collection Systems.

(c) Upon written notice provided to the owners and available operators of the system, the Department may change the classification or subclassification of a wastewater system because of changes in the conditions or circumstances at the system.

Subchapter J. OPERATOR CLASSES AND SUBCLASSIFICATIONS

Section

302.1001. General provisions.

302.1002. Certification classes and subclassifications of water system operators.

302.1003. Certification classes and subclassifications of wastewater system operators.

302.1004. Operator-in-training status.

302.1005. Grandparented operators.

302.1006. Laboratory supervisor certification.

§ 302.1001. General provisions.

(a) A certified operator may hold only one valid water certificate and one valid wastewater certificate. Each valid certificate may include one or more appropriate classes and subclassifications.

(b) A certified operator holding a valid Class A, B, C or D and the Class E water or wastewater certificate and all the water or wastewater treatment technology subclassifications, will be issued either a water or wastewater master certificate for that class.

§ 302.1002. Certification classes and subclassifications of water system operators.

(a) There are 7 water classes and 14 water treatment technology subclassifications that correspond to the water system classifications and treatment technology subclassifications defined in § 302.901 (relating to classification and subclassifications of water systems).

(b) To hold a valid Class A, B or C water certificate, the operator will meet all the certification requirements set forth in § 302.103 (relating to scope) for at least one water treatment technology subclassification defined in § 302.901 (relating to classification and subclassifications of water systems).

(c) To hold a valid Class D or E water certificate, the operator will meet the certification requirements in § 302.103 but is not required to have a subclassification, unless the operator is involved

in making process control decisions involving one of the subclassification treatment technologies defined in § 302.901.

(d) A Dc or Dn certificate is a stand-alone certificate and does not include any water treatment technology subclassifications.

(e) Water operators with a Class A, B, C or D water certificate that also make process control decisions in the distribution system will also have the Class E certificate.

§ 302.1003. Certification classes and subclassifications of wastewater system operators.

(a) There are 5 wastewater classifications and 4 wastewater treatment technology subclassifications that correspond to the wastewater treatment system classifications and treatment technology subclassifications defined in § 302.902 (relating to classifications and subclassifications of wastewater systems).

(b) Certified wastewater operators holding an A, B, C or D classification will have at least one wastewater treatment technology subclassification.

(c) The Class E wastewater classification will be combined with Subclassification 4 as a stand alone certificate for operators of wastewater collection systems who meet the requirements for certification as defined in § 302.103. (relating to scope).

(d) Wastewater operators with a Class A, B, C or D wastewater certificate that also make process control decisions in the collection system will also have the E4 certificate.

§ 302.1004. Operator-in-training status.

(a) The operator-in-training status will apply to an individual passing the certification examinations who has not yet met the minimum education and experience requirements in § 302.701 and § 302.703 (relating to minimum education requirements; and experience requirements).

(b) An operator-in-training status is valid until the individual demonstrates the education and experience requirements as defined in § 302.701 and § 302.703 have been met and the Board issues a certificate.

(c) An individual with operator-in-training status will not independently make process control decisions or serve as the available operator for a water or wastewater system.

(d) An operator-in-training may concurrently hold a water and wastewater operator-in-training status.

§ 302.1005. Grandparented operators.

(a) This section applies to those operators of nontransient noncommunity water systems, satellite wastewater collection systems containing a pump stations or single entity wastewater collection systems who were granted a grandparented certificate by the Board.

(b) Grandparented certificates are site, size and technology specific and not transferable to any other water or wastewater system.

(c) A grandparented certificate is temporary and will expire within 3 years of the date of issuance. A certified operator who was grandparented will meet the conditions for certification renewal including the submittal of an application for certification action for renewal as defined in § 302.201 (relating to form of application) and completion of the continuing education requirements as defined in § 302.802 (relating to continuing education requirements for certificate renewal).

(d) The grandparented certificate is no longer valid if one of the following applies:

(1) The certified operator moves to another water or wastewater system.

(2) The system subclassification changes because of a modification or addition, or both, of treatment technology.

(3) There are violations attributed to the operator that threaten the public health, the environment and public safety.

(e) If a grandparented certificate is no longer valid, the operator will meet all the requirements for certification as identified in § 302.103 (relating to scope).

§ 302.1006. Laboratory supervisor certification.

(a) There will be a laboratory supervisor subclassification (15) for individuals responsible for the supervision of testing or analysis of environmental samples and reporting of analytical data for water supply systems in a Pennsylvania-accredited environmental laboratory operated by a water system.

(b) There will be a laboratory supervisor subclassification (5) for individuals responsible for supervision of the testing or analysis of environmental samples and reporting of analytical data for wastewater systems in a Pennsylvania-accredited environmental laboratory operated by a wastewater or industrial waste system.

(c) A certified operator, including those holding a master certificate, will not be qualified by the Department for a laboratory supervisor certificate without meeting the requirements in this section.

(d) Laboratory supervisor certification is not required to qualify for a master certificate in water or wastewater.

(e) Applicants for laboratory supervisor's certification for drinking water or wastewater shall have 2 years of experience in the testing and analysis of environmental samples for water or wastewater systems.

(f) Applicants for laboratory supervisor's certification for drinking water or wastewater systems shall hold a valid operator's certificate and demonstrate the knowledge, skills and abilities needed to be a laboratory supervisor by obtaining a passing score on either the Part II Laboratory Supervisor for Water Systems or Part II Laboratory Supervisor for Wastewater Systems examination.

Subchapter K. PROFESSIONAL ENGINEERS

Section

302.1101. General provisions.

302.1102. Issuance of initial certification for a professional engineer.

302.1103. Experience requirements for professional engineers.

§ 302.1101. General provisions.

(a) This subchapter applies to a professional engineer registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148 – 158.2) who has been successfully examined in civil, environmental or sanitary engineering and is a certified operator, or an applicant for operator certification.

(b) A professional engineer applying for certification action will meet the same requirements as provided for by the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system, except for those provided for in this subchapter.

§ 302.1102. Issuance of initial certification for a professional engineer.

A professional engineer shall submit an application for certification action in accordance with § 302.201 (relating to form of application). The engineer shall also meet the requirements for certification set forth in § 302.103 (relating to scope). When requesting a certificate under this subchapter, the applicant shall provide written proof of a valid professional engineer's license.

§ 302.1103. Experience requirements for professional engineers.

In addition to those activities defined in § 302.704 (relating to qualifying experience), other activities specifically associated with the responsibilities and duties of a professional engineer may be eligible as qualifying experience for an applicant. These activities include the following:

- (1) Plant start-up activities.
- (2) Development of standard operating procedures.
- (3) An operation and maintenance plan, or an emergency response plan for a water or wastewater system.
- (4) Consulting activities associated with water or wastewater system operations.
- (5) Activities associated with testing pilot technology.
- (6) Activities related to operational inspections completed by a professional engineer.

Subchapter L. SYSTEM OPERATION

Section

§ 302.1201. Duties of operators.

§ 302.1202. Duties of owners.

§ 302.1203. Process control decisions.

§ 302.1204. Standard operating procedures.

§ 302.1205. Number of required certified operators.

§ 302.1206. Operator in responsible charge.

§ 302.1207. Operation of multiple treatment systems (Circuit Rider).

§ 302.1208. Programmable logic controls (PLCs) and supervisory control and data acquisition systems (SCADA).

§ 302.1209. Satellite collection systems

§ 302.1201. Duties of operators.

(a) A certified operator shall comply with applicable Federal and State laws, the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of water and wastewater systems to protect the environment and public health and safety. A certified operator shall provide for the suitable operation and maintenance of a water or wastewater system utilizing available resources needed to comply with applicable laws, rules and regulations and permit conditions or requirements. The Department will recognize the ability of the certified operator to meet these requirements is in part dependent upon the available resources and responsibilities assigned by the system owner.

(b) Available operator tasks necessary to control the operation and provide for the maintenance of a water or wastewater system may include:

- (1) Controlling the selection of, or flow from, an existing permitted source to a water system.
- (2) Controlling the selection of flow to a water distribution system.

(3) Controlling the flow from a wastewater system to the waters of the Commonwealth as defined in the NPDES or Clean Streams Law permit for the system.

(4) Controlling the processing of raw, treated or finished water or wastewater.

(5) Preparing and controlling chemical or biological, or both, addition for water or wastewater treatment.

(6) Observing and taking the necessary actions in response to variations in operating conditions.

(7) Adjusting system processes based on monitoring data.

(8) Performing calculations for process control.

(9) Operating valves or gates, or both, either manually or by remote control.

(10) Starting or stopping pumps or increasing or decreasing pump rates.

(11) Providing for proper source water protection.

(12) Directing the actions of certified and noncertified operators.

(13) Taking an action to maintain a system's equipment to prevent pollution or a permit violation.

(14) Overseeing or performing the collection, analysis and interpretation of all process control and self-monitoring samples of the water or wastewater systems.

(15) Preparing and submitting applicable reports to the appropriate persons or agencies.

(16) Developing, approving or using a process control plan that is specific to the treatment needs and conditions of the system.

(c) Certified operators shall submit a written report to the system owner documenting any known violations or system conditions that may potentially cause or are causing violations of any Department regulation or permit conditions or requirements. This written report shall be sent to the owner by registered mail with a return receipt requested, by hand carrying the report to the owner and receiving a signed receipt, or by any mail service with a receipt requested. The report must include the following:

(1) The name of the certified operator filing the report.

- (2) The date.
 - (3) The nature of the violation or system conditions.
 - (4) The suspected cause of the violation or system conditions, including the lack of needed resources.
 - (5) The degree of severity or threat to public health, safety or the environment of the violation or system conditions.
 - (6) Any actions or mitigating measures associated with process control necessary to prevent or eliminate a violation of applicable water or wastewater system laws, rules and regulations and permit conditions and requirements.
- (d) The available operators making process control decisions are responsible for those decisions and consequences, unless the owner fails to respond to a written report as required in subsection (c) or there is a deliberate action with malice or negligence on the part of an employee under the supervision of the available operator.

§ 302.1202. Duties of owners.

- (a) An owner of a water or wastewater system shall:
- (1) Comply with the applicable Federal and State laws.
 - (2) Comply with the rules and regulations and permits associated with a water or wastewater system to protect the environment, public health and safety.
 - (3) Insure all process control decisions at the systems are made by available operators with a valid operator's certificate with the appropriate classes and subclassifications.
 - (4) Post the names of the available operators in the treatment area of the system, including the method of contacting them if they are not onsite.
 - (5) Take appropriate action in a timely manner to written reports required by § 302.1201(c) (relating to duties of operators) from certified operators and make a "good faith" effort to address problems and concerns identified in these reports.

(6) Provide a copy of all current, relevant water and wastewater permits to all available operators.

(b) On an annual basis, a system owner will report to the Department:

(1) The system name, address, phone number and e-mail address (if available).

(2) The name and title of the system representative providing the information.

(3) The system owner name, address, phone number and e-mail address (if available).

(4) The Public Water System Identification number, NPDES permit numbers or Water Quality Management Part II permit numbers for the system.

(5) The name, client ID, address, phone number and email (if available) of all available operators employed by the owner at the system and the operators' classes and subclassifications.

(6) The designation of an operator in responsible charge if the owner chooses to develop and utilize standard operating procedures.

(c) A system owner shall notify the Department in writing within 10 calendar days of the addition, loss, change or replacement of an available operator. The owner shall provide at that time the name, client ID, and class and subclassification of all operator changes.

(d) Upon written request from an owner, the Department will provide current water and wastewater permits to the operator in responsible charge designated by the owner.

§ 302.1203. Process control decisions.

(a) An available operator shall make all process control decisions. These decisions may be made onsite, from a remote site, by the use of standard operating procedures approved by the operator in responsible charge, or by using a programmable logic control (PLC) system as provided by § 302.1208 (relating to programmable logic controls (PLCs) and supervisory control and data acquisition systems (SCADA)).

(b) A certified operator can make process control decisions for systems with a smaller hydraulic design capacity, provided they are certified with the appropriate treatment technology-based subclassifications.

(c) The Department may require a system to have a process control plan that includes, as necessary, the following:

- (1) A flow diagram of the entire treatment process.
- (2) The identification of individual treatment units by type.
- (3) A description of the treatment process provided by each treatment unit.
- (4) The anticipated level of treatment provided by each treatment unit.
- (5) The normal influent and effluent operating ranges for each wastewater or water treatment unit.
- (6) A description of the average and seasonal characteristics of the raw water or wastewater influent.
- (7) Any standard operating procedures.
- (8) The methods to be utilized to monitor and adjust treatment processes
- (9) The identification of the key processes and equipment associated with these processes.
- (10) An outline of how key processes and equipment will be monitored if the system is without staff during daily operations.
- (11) The trigger parameters for each unit that requires a process control decision.
- (12) A preventive and emergency maintenance plan for all process control-related equipment including a replacement parts inventory and emergency repair method.
- (13) The procedures for emergency operations when security has been breached or natural disasters threaten public safety, the environment and property.
- (14) The wastewater treatment methods and strategies to assure proper treatment during wet weather operations.

(15) A plan for wasting, treating and disposing of solids associated with wastewater treatment.

(d) Plans required under other Department rules and regulations applicable to the operation of a drinking water or wastewater system may satisfy the requirement for a process control plan as determined by the Department.

(e) The Department taking an action necessary to protect the environment and public health during designated emergency situations, to obtain compliance with permit requirements, and rules and regulations or to address permit requests and compliance issues is not considered a process control decision. Other actions not considered to be a process control decision include actions taken by:

(1) Local government to approve new residential, industrial or commercial land development creating additional treatment, collection or distribution demands upon a system or to comply with a pretreatment program.

(2) Emergency personnel to protect property and lives.

§ 302.1204. Standard operating procedures.

(a) Standard operating procedures are written documents outlining the actions necessary to make process control decisions given established operational quantitative and qualitative parameters for the system or treatment units within the system.

(b) Standard operating procedures must:

(1) Include the name of the operator in responsible charge.

(2) Identify the operators that may utilize the standard operating procedures to make process control decisions.

(3) Include the treatment processes covered by the standard operating procedures and the treatment processes that are not covered and require the operator to contact the operator in responsible charge for a decision on the appropriate process control.

(4) Identify the trigger parameters for the treatment processes and the appropriate actions to be taken for each treatment process.

(c) Standard operating procedures shall be approved in writing and dated by the operators in responsible charge, and available at the system for review.

(d) The use of standard operating procedures is an optional method, available to the operator in responsible charge, to allow operators under the operator in responsible charge's direct supervision to implement process control decisions. The decision to use standard operating procedures depends on the complexity and personnel of the system.

(e) An operator in responsible charge using standard operating procedures shall notify the system owner that these standard operating procedures are in use.

(f) The Department may request a copy of a system's standard operating procedures to determine the use of the procedures by the operators or the effectiveness of the procedures to insure compliance with appropriate permits, rules and regulations and laws.

(g) Standard operating procedures may be in an electronic form to facilitate searching for, and retrieval of, information by an operator. These standard operating procedures must be in an electronic form that cannot be changed without evidence of tampering. The standard operating procedures must also indicate where the original signed paper copy or copies are maintained and the name of the operator in responsible charge who signed them. The content of the electronic version of the standard operating procedures must be identical to the current signed paper standard operating procedures. If differences are found between the electronic form and the original signed paper copy of the standard operating procedures, the original signed paper copy will be considered the official version of the standard operating procedures.

§ 302.1205. Number of required certified operators.

(a) A system shall have the number of available operators necessary to comply with Federal and State laws, and rules and regulations associated with water or wastewater systems to protect the environment and public health and safety.

§ 302.1206. Operator in responsible charge.

(a) A system owner shall provide to the Department on an annual basis the name, client ID, and certificate number of any operators in responsible charge. The system owner shall notify the Department of any changes in the operators in responsible charge within 10 days of the change. System owners shall notify the operators in responsible charge of this designation in writing.

(b) An operator in responsible charge shall hold a valid certificate with the classes and subclassifications as defined in § 302.1002 and § 302.1003 (relating to certification classes and subclassifications of water system operators; and certification classes and subclassifications of wastewater system operators) that correspond to the system's classification and subclassification as defined in § 302.901 and § 302.902 (relating to classification and subclassifications of water systems; and classification and subclassifications of wastewater systems).

(c) A grandparented operator can be designated as the operator in responsible charge.

(d) The duties of the operator in responsible charge will include:

- (1) The approval of any standard operating procedures.
- (2) The development of a process control plan when requested by the Department.

(e) The operator in responsible charge, who is the approving authority for the standard operating procedures for a system, is accountable for any permit violations or violations of any applicable rules and regulations which may occur when an operator follows these standard operating procedures.

§ 302.1207. Operation of multiple treatment systems (Circuit Rider).

(a) An available operator may make process control decisions at more than one system. A circuit rider will meet all the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system.

(b) An owner may use the services of a circuit rider to meet the requirements of the act, the regulations promulgated under this act, and other Department rules and regulations related to the operation of a water or wastewater system.

(c) A system owner shall notify the Department within 10 days when a circuit rider is employed to operate the system.

(d) A circuit rider shall develop and submit a general work plan to the owner of each system that includes:

- (1) The name and location of the circuit rider's primary business.
- (2) The name and location of each system to be included in the circuit rider program.
- (3) The classification and subclassification of each system included in the circuit rider program.
- (4) The number of hours per week the circuit rider works at each system, with the method of documentation to be used for each visit.

(e) A circuit rider shall develop and submit a system specific management plan to the owner of each system describing the information relevant to the owner's system. This management plan must include:

- (1) The names and contact information of the available operators for that system, with a copy of the operators' certificate to be prominently displayed at the system.
- (2) Standard operating procedures and a process control plan for the system.
- (3) The name and method of contacting the circuit rider in case of an emergency.
- (4) An estimate of the response time necessary to be physically present at the system.

(f) An available operator may not make process control decisions at more than one system until the owner has approved the specific management plan for the system.

(g) The general work plan and the system specific management plans developed for a circuit rider program shall be made available to the Department upon request.

(h) The circuit rider shall report any changes to the general work plan and provide appropriate documentation within 10 days to the owners of all the participating systems.

(i) The circuit rider shall report changes to the system specific management plan and provide appropriate documentation within 10 days to the specific owner of the system identified in the management plan.

(j) The Department may require the circuit rider to be present at a system for the purposes of Department inspection or investigation.

(k) The Department may direct an owner or available operator to cease participation in a circuit rider program if one of the following applies:

(1) The system is in violation for failure to meet the requirements of the act, the regulations promulgated under this act, or other Department rules and regulations related to the operation of a water or wastewater system.

(2) There is a threat to public health, safety and the environment.

(3) Changes have occurred at the system that are not included in the system specific management plan.

§ 302.1208. Programmable logic controls (PLCs) and supervisory control and data acquisition systems (SCADA).

(a) An owner may use a PLC and SCADA system to monitor, maintain or make decisions regarding any process control activity within the water or wastewater system.

(b) A system shall have an available operator to interface with the PLC or SCADA system. The available operator will approve the operational strategy for the PLC and SCADA.

(c) A system utilizing PLC and SCADA systems shall have a backup emergency plan for making process control decisions when, or if, the PLC and SCADA system is inoperable.

(d) If an owner wants to have a PLC and SCADA system oversee more than one water or wastewater system simultaneously, the system specific management plan developed according to § 302.1207 (relating to the operation of multiple treatment systems) must also identify and demonstrate how process control decisions not performed by the PLC and SCADA system will be made and demonstrate how continual staffing and monitoring of systems controlled by a PLC and SCADA system will be maintained.

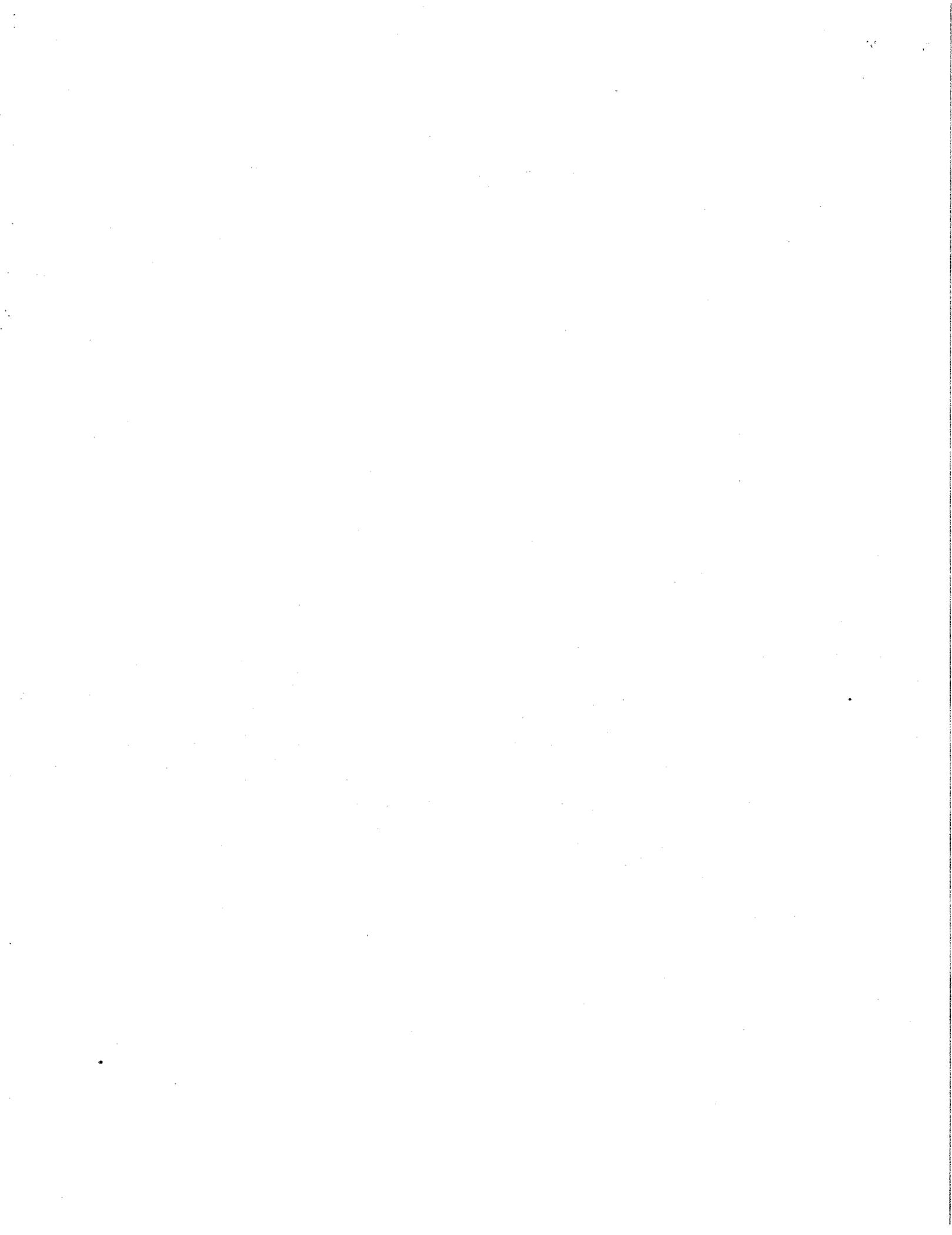
§ 302.1209. Satellite collection systems.

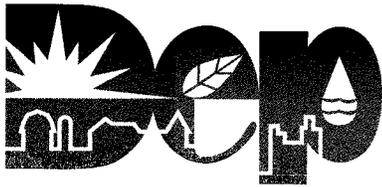
(a) A satellite collection system shall be required to retain the services of a Class E certified operator when:

(1) The satellite collection system is publicly owned.

(2) It is determined by the Department that a privately owned satellite collection system has in the past, or is not currently properly operated and/or properly maintained; or has in the past, or is currently, experiencing sanitary sewer overflows within any portion of the satellite collection system.

(3) The owner of a privately owned satellite collection system can petition the Department after demonstrating a period of compliance to have the requirement for a certified operator removed.





Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

June 30, 2009

Policy Office

717-783-8727

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

Re: Proposed Rulemaking: Administration of the Water and Wastewater Systems Operators' Certification Program (25 Pa. Code, Chapters 301-303 and 305)

Dear Mr. Kaufman:

Enclosed is a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposed rulemaking is scheduled for publication in the *Pennsylvania Bulletin* on July 11, 2009, with a 30-day public comment period. The Environmental Quality Board (EQB) adopted this proposal on April 21, 2009.

This proposed rulemaking deletes and reserves 25 Pa Code, Chapters 301, 303 and 305 and establishes a new Chapter 302 to implement provisions of the Water and Wastewater Systems Operators' Certification Act (Act 11), which was passed by the state legislature on February 21, 2002. The Act restructured Pennsylvania's Operator Certification Program to meet federal requirements and gave the Department the authority to implement provisions of the Operator Certification Program through the development of technical guidance, which was initially finalized in July 2002, and subsequently revised in June 2005. The proposed regulations comply with federal and state requirements and will, once promulgated, replace the technical guidance that was previously developed to operate the program.

The rulemaking establishes provisions to ensure that certified water and wastewater systems operators have the appropriate knowledge and skills to make process control decisions. The rulemaking establishes the minimum education, experience and examination requirements that must be met by all operators in the Commonwealth, as well as the requirements and conditions that must be met by operators to maintain certification. The rulemaking also establishes administrative requirements for operator certification examinations and for the processing of operator certification, renewal and recertification applications. The rulemaking includes a fee structure that equitably divides program costs by certified operators, water and wastewater systems and training and examination providers.

Throughout the development of this regulatory package, the Department undertook an extensive outreach effort to build consensus on the rulemaking. The Department worked closely with the State Board for the Certification of Water and Wastewater Systems Operators, the Certification Program





Advisory Committee, the Small Systems Technical Assistance Center Advisory Board, the Pennsylvania Rural Water Association and the Eastern Pennsylvania Water Pollution Control Operators Association.

The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(d) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendation or suggestions made by the Commission, as well as the Committees and public commentators, prior to final adoption of this rulemaking.

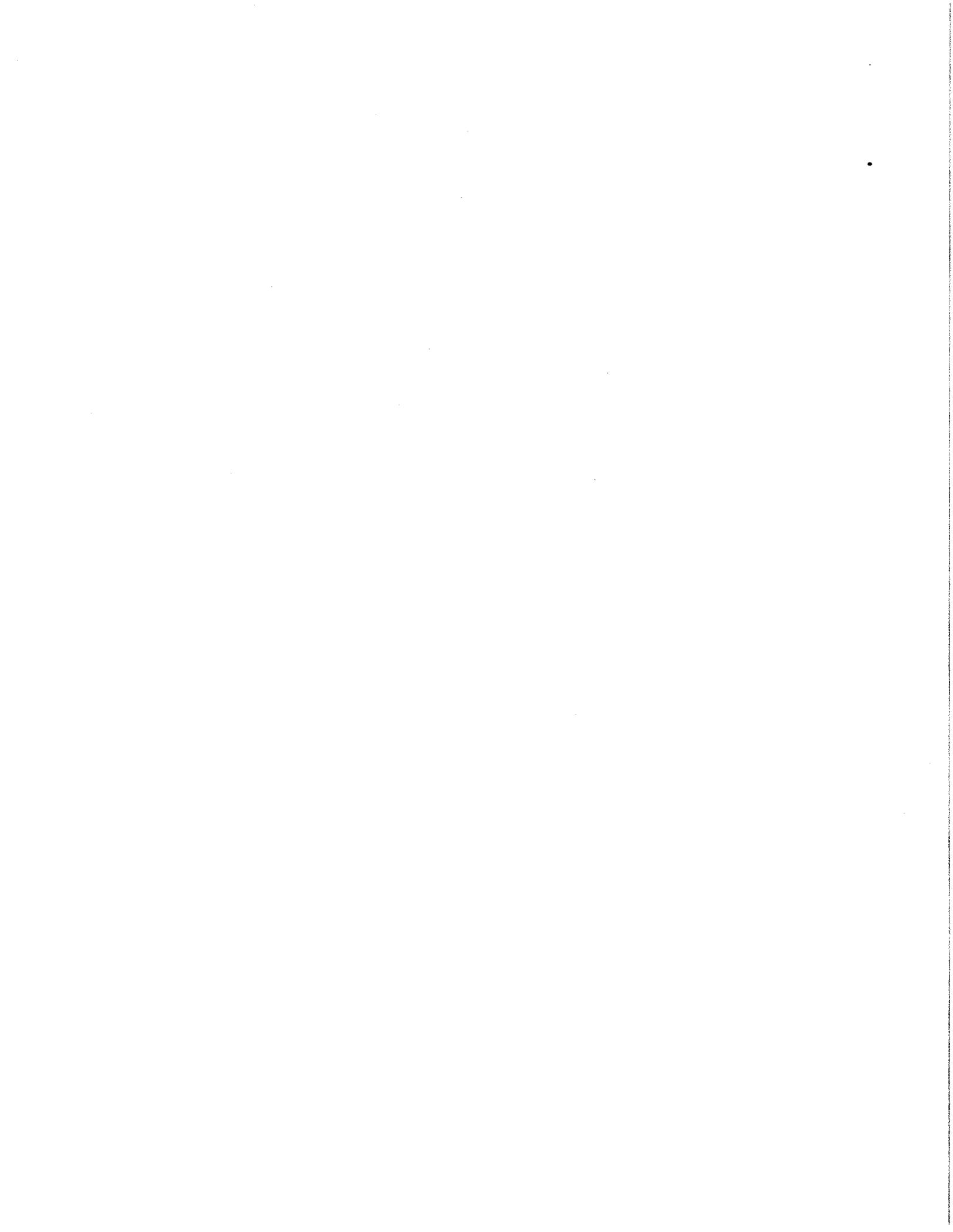
Please contact me at the number above if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Michele L. Tate".

Michele L. Tate
Regulatory Coordinator

Enclosures





**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO
THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-433

SUBJECT: Administration of the water and wastewater systems operators' certification program

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2009 JUN 30 PM 12:43
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6/30/09		Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
6/30/09		Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
6-30-09		Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
6/30/09		Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
6/30/09		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
6/30/09		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

