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NATIONAL ASSOCIATION OF WATER COMPANIES PENNSYLVANIA CHAPTER

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ENVIRONMENTAL QUALITY BOARD

Environmental Quality Board
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RE: Administration of the Water and Wastewater Systems Operators,
Certification Program, Document Number: 7-433

Dear Environmental Quality Board:

Enclosed for filing please find the National Association of Water
Companies, Pennsylvania Chapter's comments and one-page summary
in the matter referenced above.

The National Association of Water Companies (NAWC)
www.nawc.org/ represents all aspects of the private water service
industry including ownership of regulated drinking water and
wastewater utilities and the many forms of public-private partnerships
and management contract arrangements. The Pennsylvania Chapter
consists of 10 member companies that provide safe and adequate
drinking water service to approximately 3.1 million Pennsylvanians in
485 communities over 38 counties. In addition, three of our member
companies provide wastewater service to approximately 155,000
Pennsylvanians in 24 communities over 7 counties.

Very truly yours,

Kathy L. Pape
Chair

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BOARD

NATIONAL ASSOCIATION OF WATER COMPANIES

PENNSYLVANIA CHAPTER

Kathy L. Pape, Chair – 717-531-3200 – Kathy.Pape@amwater.com

Comment Summary

Administration of the Water and Wastewater Systems Operators' Certification Program, Document Number 7-433

The NAWC generally supports the proposed rulemaking; however, we have some concerns that need further clarification:

§302.202. Operator Certification Program Fees

The NAWC would like to see the Department clarify that the proposed fees for “Approved Examination Providers” are one-time fees on an annual basis. Specifically, the language should clearly indicate that the fee for a conference covers the entire conference, not individual sessions within the conference. Moreover, the course approval fee should specify that it is a one-time approval for that particular course, and not an annual approval for the course.

In addition, further clarification is needed regarding the proposed fees for “Owners” to specify that the Annual Service Fee for Class A through E Systems is based on Public Water System ID (PWSID) for water systems or National Pollutant Discharge Elimination System (NPDES) permit numbers for wastewater systems, with the maximum fee a trainer or owner will be charged is \$10,000 per year.

§302.304. Issuance of Certificate through Reciprocity

With the majority of the workforce in water and wastewater treatment facilities fast approaching retirement age, the NAWC believes the proposed rulemaking should allow for greater flexibility with respect to reciprocity by not requiring a certified operator from another state to take the treatment technology specific examinations before being granted certification in this Commonwealth. Operators from other states should be granted the licenses in Pennsylvania that they have valid in other states. For example, the operator at the time of transfer/hire would hold the certification for that particular system that they operate. However, if new technologies are added in the future or if technology changes occur, the NAWC believes the operator should then take the treatment technology specific examinations in this Commonwealth.

§302.705. Accelerated Certification Requirements for System Modifications

The NAWC believes §302.705 (b) should also waive the one year additional experience requirement when there is a change in treatment processes and the operator has completed the manufacturer's training course and the Part II Treatment Technology Specific Examination. Otherwise, the operator would have to take the Part II Treatment Technology Specific Examination and wait one year.

§ 302.1006. Laboratory Supervisor Certification

To be consistent with the Environmental Laboratory Accreditation regulations at 25 Pa. Code § 252.302(h), the NAWC believes the requirements of § 302.1006 should clearly indicate that they will not take effect until 12 months after a certificate for laboratory supervisor in the appropriate water or wastewater subclassification becomes available from the DEP.

Subchapter L. System Operation

The NAWC believes the proposed regulation is not very clear in what may be a possible potential for violation and needs to be clarified, as well as eliminate the requirement for registered mail notification. Once clarification is made in the regulation, we recommend that the DEP prepare a guidance document to outline and describe the type of scenarios that should be reported to the system owner and establish a menu of notification options, such as e-mail or documenting concerns in logs.

**Before the
Environmental Quality Board (EQB)**

In Re: Administration of the Water and
Wastewater Systems Operators'
Certification Program

Document Number: 7-433

**Comments of
National Association of Water Companies, Pennsylvania Chapter**

The National Association of Water Companies, Pennsylvania Chapter (NAWC) represents all aspects of the private water service industry including ownership of regulated drinking water and wastewater utilities and the many forms of public-private partnerships and management contract arrangements. The Pennsylvania Chapter consists of 10 member companies that provide safe and adequate drinking water service to approximately 3.1 million Pennsylvanians in 485 communities over 38 counties. In addition, three of our member companies provide wastewater service to approximately 155,000 Pennsylvanians in 24 communities over 7 counties.

I. Introduction

The Environmental Quality Board (EQB) proposes to rescind Chapters 301, 303 and 305 (relating to general provisions; certification of operators; and plant requirements) and create a new Chapter 302 (relating to administration of the water and wastewater systems operations' certification program). These regulations describe the process the State Board for Certification of Water and Wastewater System Operators (Certification Board) will follow to administer the program and identify the duties and responsibilities of the Department of Environmental Protection (DEP) and the operators and owners of this Commonwealth's drinking water and

wastewater treatment systems. These regulations also establish standards for operator certification, recertification, 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.

The NAWC generally supports the proposed rulemaking; however, we have some concerns that need further clarification and welcome this opportunity to offer the following comments to the EQB.

II. Comments

1. §302.202. Operator Certification Program Fees.

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 DEP developed the new fee structure with input from the Small Systems Technical Assistance Center for Small Systems (TAC), the Certification Program Advisory Committee (CPAC), the Certification Board and individual stakeholders.

The NAWC would like to see the Department include additional information in the proposed rulemaking to clarify that the proposed fees for “Approved Examination Providers” are one-time fees on an annual basis. Specifically, the language should clearly indicate that the fee for a conference covers the entire conference, not individual sessions within the conference. Moreover, the course approval fee should specify that it is a one-time approval for that particular course, and not an annual approval for the course.

In addition, further clarification is needed regarding the proposed fees for “Owners” to specify that the Annual Service Fee for Class A through E Systems is based on Public Water System ID (PWSID) for water systems or National Pollutant Discharge Elimination System

(NPDES) permit numbers for wastewater systems, with the maximum fee a trainer or owner will be charged is \$10,000 per year.

Finally, under §302.202 (f) and (g), the proposed rulemaking contains a typo in each paragraph by referring to subsection (b) instead of subsection “(d).”

2. §302.304. Issuance of Certificate through Reciprocity.

The EQB is specifically seeking public comment on one aspect of the Operator Certification Program, relating to reciprocity. The EQB 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 this Commonwealth.

With the majority of the workforce in water and wastewater treatment facilities fast approaching retirement age, the NAWC believes the proposed rulemaking should allow for greater flexibility with respect to reciprocity by not requiring a certified operator from another state to take the treatment technology specific examinations before being granted certification in this Commonwealth. Operators from other states should be granted the licenses in Pennsylvania that they have valid in other states. For example, the operator at the time of transfer/hire would hold the certification for that particular system that they operate. However, if new technologies are added in the future or if technology changes occur, the NAWC believes the operator should then take the treatment technology specific examinations in this Commonwealth.

3. §302.705. Accelerated Certification Requirements for System Modifications.

Under §302.705 (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.

Moreover, under §302.705 (b), when a different treatment technology is added to the system, the existing available operators may qualify for an accelerated certification upgrade under certain conditions.

However, §302.303 (Issuance of upgraded certificate) requires the applicant to pass the Part II Treatment Technology Specific Examination that corresponds to a subclassification and completes one year additional experience requirement, if applicable, as defined in §§302.703 and 302.704 (relating to experience requirements; and determining qualifying experience). The NAWC believes §302.705 (b) should also waive the one year additional experience requirement when there is a change in treatment processes and the operator has completed the manufacturer's training course and the Part II Treatment Technology Specific Examination. Otherwise, the operator would have to take the Part II Treatment Technology Specific Examination and wait one year.

4. § 302.1006. Laboratory Supervisor Certification.

Under § 302.1006 (a) and (b), there will be a laboratory supervisor subclassification for individuals responsible for the supervision of the testing or analysis of environmental samples and reporting of analytical data for water supply or wastewater systems in a Pennsylvania-accredited environmental laboratory operated by a water or wastewater system. An applicant 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.

The NAWC seeks clarification on the establishment of this laboratory supervisor subclassification with respect to the provisions established under Act 90 of 2002 (Environmental Laboratory Accreditation). Specifically, under Act 90 of 2002, § 4104 (powers and duties) provides the DEP with the power to “establish, administer and enforce an environmental laboratory accreditation program which shall include accreditation standards necessary for a State certification program. The program shall also include The National Environmental Laboratory Accreditation Program (NELAP) for those laboratories seeking this certification. The program may also include any other specific broad-based Federal or State accreditation program for certification.”

Moreover, § 4105 (d) (Unique needs) of Act 90 provides: “To the extent possible, the EQB shall establish requirements and procedures that address the unique needs of small businesses, municipalities, municipal authorities and in-house laboratories.” Under § 4106 (c) (Laboratory supervisor) of Act 90, “Testing, analysis and reporting of data by an accredited laboratory shall be under the direct supervision of a laboratory supervisor. The laboratory supervisor shall certify that each test or analysis is accurate and valid and that the test or analysis was performed in accordance with all conditions of accreditation. The DEP may disqualify a laboratory supervisor who is responsible for the submission of inaccurate test or analysis results.”

Finally, the Environmental Laboratory Accreditation regulations at 25 Pa. Code § 252.302(h) reads as follows:

(h) Notwithstanding any other provision of this section, an employee of a drinking water, wastewater or industrial waste treatment facility meeting the following requirements will be deemed qualified as a laboratory supervisor of an environmental laboratory:

(1) The employee holds a valid treatment plant operator's certificate under the Water and Wastewater Systems Operators' Certification Act (63 P. S. §§ 1001—1015.1) in the appropriate water or wastewater subclassification for the facility.

(2) The employee holds a valid certificate under the Water and Wastewater Systems Operators' Certification Act for laboratory supervisor in the appropriate water or wastewater subclassification.

(3) Until 12 months after a certificate under the Water and Wastewater Systems Operators' Certification Act for laboratory supervisor in the appropriate water or wastewater subclassification becomes available from the Department, 2 years of experience performing testing or analysis of environmental samples using the methods and procedures currently in use by the environmental laboratory may be substituted for a laboratory supervisory certificate.

(i) Approval as a laboratory supervisor under subsection (h) will be limited to the fields of accreditation required by the scope of that facility's regulatory permit.

Therefore, under the water and wastewater systems operators' program, it is our understanding that a certified operator, including those holding a master certificate, will not be qualified by the DEP for a laboratory supervisor certificate without meeting the requirements of § 302.1006 even in the case where the water or wastewater system maintains an in-house laboratory.

To be consistent with the Environmental Laboratory Accreditation regulations at 25 Pa. Code § 252.302(h), the NAWC believes the requirements of § 302.1006 should clearly indicate that they will not take effect until 12 months after a certificate for laboratory supervisor in the appropriate water or wastewater subclassification becomes available from the DEP.

5. Subchapter L. System Operation.

The NAWC is concerned with § 302.1201 (Duties of operators) (c) requiring certified operators to 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 DEP regulation or permit conditions or requirements. The NAWC understands the operator's desire to protect

themselves from situations beyond their control by reporting such conditions to the system owner. However, we believe this section has been drafted too broadly and has confused many operators and owners as to their responsibilities and reporting requirements, particularly with respect to operator liability. Written reports sent by registered mail to system owners may delay the timely process control decision making necessary to prevent or correct potential violations. The time for an operator to fill out the registered letter and deliver it to the post office would greatly impact their time addressing the normal operations at a plant, and that lost time would certainly not be beneficial to anyone.

Since available operators making process control decisions are responsible for those decisions and consequences, we believe the proposed regulation should clarify the intent of this provision and establish a menu of notification options, such as e-mail or documenting concerns in logs. Throughout the entire day, operators find items that could “potentially” cause violations. They address these issues all the time, typically verbally to their supervisor. Having to address all these issues in writing would create an unnecessary burden on operators in the performance of their duties.

In addition, we understand that the DEP and operators are occasionally frustrated with system owners who do not react to operations issues, but the proposed requirements will certainly be detrimental to the majority of those systems that are performing proper operations, and hamper their ability to perform their operations by the communications they have in place.

Moreover, the NAWC believes the proposed regulation is not very clear in what may be a possible potential for violation and needs to be clarified, as well as eliminate the requirement for registered mail notification. Once clarification is made in the regulation, we recommend that the DEP prepare a guidance document to outline and describe the type of scenarios that should be

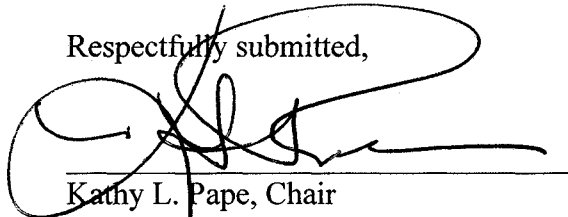
reported to the system owner and establish a menu of notification options, such as e-mail or documenting concerns in logs. "

Finally, under § 302.1203 (Process control decisions) (e), it is not clear why an action taken by the DEP to protect the environment and public health during designated emergency situations, to obtain compliance with permit requirements, rules and regulations or to address permit requests and compliance issues is not considered a process control decision? The NAWC seeks clarification of the meaning of this section and what actions of the DEP would not fall under the definition of "process control decision."

III. Conclusion

The NAWC appreciates the opportunity to present comments on this Proposed Rulemaking for the Administration of the Water and Wastewater Systems Operators' Certification Program and respectfully requests that the EQB consider its comments on these issues. We also appreciate and acknowledge the DEP for their outreach efforts and collaboration with advisory committees and the statewide water and wastewater related associations on the drafting of this regulation and fee schedule.

Respectfully submitted,



Kathy L. Pape, Chair

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