



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 8467

Harrisburg, PA 17105-8467

January 25, 2010

**Bureau of Water Standards and Facility Regulation**

717-787-0122

Re: Advanced Notice of Final Rulemaking (ANFR);  
Administration of the Water and Wastewater Systems Operators' Certification Program

Dear Commentators:

The Department of Environmental Protection (DEP) is soliciting comments on changes it recommends be made to Chapter 302; The Administration of the Water and Wastewater Systems Operator Certification Program proposed rulemaking published in the *Pennsylvania Bulletin* at 40 PaB.560 (January 23, 2010). ***The deadline for submission of comments is February 26, 2010.***

The draft final-form rulemaking describes the policies and procedures the State Board for Certification of Water and Wastewater Systems Operators and DEP will follow to implement its responsibilities and duties under the Drinking Water and Wastewater Systems Operators' Certification Act (63 P.S. §§1001 – 1015.1), hereafter referred to as the Certification Act. This rulemaking ensures that Pennsylvania's Operator Certification Program continues to meet the federal requirements established in the 1996 Amendments to the Federal Safe Drinking Water Act and state requirements as established by the Certification Act. This proposed rulemaking is more stringent than the federal guidelines in that the Certification Act requires that the federal requirements for drinking water system operators also apply to wastewater system operators.

In response to comments received during the official public comment period on the proposed rulemaking for Chapter 302; The Administration of the Water and Wastewater Systems Operator Certification Program, DEP has prepared a draft final-form rulemaking for public comment. The draft final-form rulemaking contains significant changes in several areas. These changes include:

**Definitions** - As suggested by the commentators a number of definitions were revised. In addition, the definitions for conventional filtration, membrane filtration and ground water were revised to ensure continued consistency with DEP regulations for the Safe Drinking Water Program.

**Operator Liability** – A new Section 1209 (Assessment of Fines and Penalties) has replaced the previous Section 1209 (Satellite Collection Systems). Section 1209 was added to require DEP's assessment of a penalty be based on a person's failure to comply with an order. This has always been the intention of DEP and the way the program has been implemented since 2002.

**Laboratory Supervisor Subclassification** – Sections referring to this subclassification were revised to ensure consistency between Chapter 302 and provisions of Chapter 252, Laboratory Accreditation.



**Duties of Operators** – The duties of operators were revised to parallel statutory language. Additional language to further clarify the statutory requirement for a report from the operator to an owner regarding violations and potential violations was deleted.

**Process Control Decisions** – Language pertaining to DEP staff making process control decisions under specific situations was deleted.

**Process Control Plans** – Language was added to clarify when DEP would ask for the development of these plans and who would be responsible for their development.

**Collection Systems** – The Section distinguishing the requirement for a certified operator based on ownership was deleted. The definitions for single entity and satellite collection systems were revised to parallel statutory language.

**Fees** – While the actual fee structure did not change, further clarification as to how the fees would be applied was added.

This ANFR procedure is optional as it is not required by the Regulatory Review Act however; this procedure enables DEP to solicit comments on actual draft final-form rulemaking prior to presenting a final rulemaking to the Environmental Quality Board (EQB). Comments submitted to DEP on the draft final-form rulemaking, as a result of this ANFR, will be summarized and responded to by DEP in both the preamble and in a separate comment and response document and submitted to the EQB as part of the final rulemaking. While there is no legal requirement to provide an opportunity to comment upon DEP's recommendations for final rulemaking, DEP believes further discussion would serve the public interest in this instance.

For further information or to request a copy of the draft final-form rulemaking, contact Veronica Kasi, Division of Technical and Financial Assistance, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467 or by email at [ra-opcert@state.pa.us](mailto:ra-opcert@state.pa.us) or by phone at 717-787-0122. Persons with a disability may use the Pennsylvania AT&T Telecommunications Relay Service by calling 1-800-654-5984 (TTY/TDD users) or 1-800-654-5988 (voice users). The draft final-form rulemaking is available electronically through the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Select: Public Participation, then Select: Public Participation Center, then Select: Proposals Currently Open for Comment).

Electronic or written comments should be sent to Veronica Kasi at the previous address. *Again, comments must be received by February 26, 2010.* A subject heading of the rulemaking and a return name and address must be included in each letter or transmission. Comments will not be accepted by facsimile or voice mail.

Sincerely,



Veronica B. Kasi

Chief

Division of Technical and Financial Assistance