



State Board for Certification of
Water and Wastewater Systems Operators
P.O. Box 8454
Harrisburg, PA 17105-8454
June 13, 2008

717-772-5158

Secretary Kathleen McGinty
Chairman
Environmental Quality Board

Dear Ms. McGinty:

For the past few years, the State Board for Certification of Water and Wastewater Systems Operators (Board) has worked closely with Department of Environmental Protection (Department) program staff to finalize a draft version of Chapter 302, Administration of the Water and Wastewater Systems Operators' Certification Program. After careful review of the latest draft, we support this version with the following comments:

Nutrient Removal:

Based on the results of the study done by the Department, we agree that separate certification requirements for nutrient removal are not necessary. To insure operators certified in Activated Sludge have the necessary knowledge, skills and abilities; we will be working very closely with the Department to insure the Activated Sludge examination includes the "basics" for nutrient removal.

Statute Compilation and Strict Liability Issue:

After careful consideration of the Department's proposal and the comments raised to us from a number of constituents, the Board interprets the intent of the Water and Wastewater Systems Operators' Certification Act (Act 11) and the Chapter 302 regulations is to insure the protection of public health and the environment through the licensure of those individuals responsible for making process control decisions at either a water or wastewater system. With that license comes the recognition that the operator has a responsibility to operate the water or wastewater system to insure compliance with all applicable federal and state laws, rules and regulations. It is also our interpretation that Act 11 intends to provide protection to the operator through a number of different provisions including:

1. The list of duties in Section 13 clarifies how the operator will meet his or her responsibilities to insure compliance. It requires the operator to maintain the system in compliance utilizing "available resources". In addition, it also requires the notification of all potential violations to the owner, with any suggestions as to options for resolution of the problem.
2. The Whistleblower Protection in Section 15 insures the operator can not be fired or otherwise penalized by the owner for complying with the requirements of notification of wrong doing.

3. The penalty provisions in Section 14 require the Department to first issue an order. The Department can assess civil penalties only after the operator has violated this order. Act 11 is the ONLY environmental statute that requires the Department to take this additional step. The Department's addition to Chapter 302 to rectify the compilation error in the statute further insures this extra step is taken.

Therefore, based on our interpretation of the intent of Act 11 and the Department's suggested language for Chapter 302, the Board feels there is a sufficient amount of protection for the operator, while protecting public health and the environment.

Fee Language:

- In Section 302.202(e), change the word "increase" to "modify". As a result of the Department's analysis, a decrease in fee may be warranted. The current language prevents this.
- In Section 302.202(e), we are assuming that any change in fees would be assessed by the Department at the beginning of the operator's next renewal cycle, regardless of when the Department completes its analysis. If this is not the case, wording to this effect needs to be added.
- In Section 302.202(a), change "must" to "should" and eliminate the wording, "If the applicant is a certified operator". The sentence would then read, "The applicant's client ID should be printed on the check or money order." We want to eliminate the absolute requirement to have the applicant's client ID on the check, since it would not be fair for an operator to lose his or her license just because of an oversight.

Collection Systems:

The intent of the statute is to require certified operators for all satellite collection systems. We disagree with Section 302.1209 to differentiate between publicly and privately owned satellite collection systems and recommend this section be eliminated.

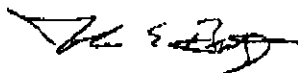
Reciprocity

As part of the regulatory review process we would like to solicit public comment and reaction to a change we would like to make to the existing framework for the issuance of an operator's certificate based on reciprocity, where an operator is certified to operate a water or wastewater system in another state. Currently, a certified operator in another state can become certified in Pennsylvania as long as the applicant's existing license from the other state is valid and he or she can demonstrate operating experience in one or more of the treatment technologies we have defined. We determine the size of the system that the applicant can operate based on the years of documented experience at different systems with similar design capacities as those we have defined here. We do not require the applicant to complete any additional examination requirements. We would like to change that; and only allow reciprocity for our General Examination and experience. This would define the Class an operator can obtain, but not the treatment technologies. The operator would need to successfully pass one or more of our treatment technology examinations in order to become certified in Pennsylvania. There are a number of reasons for this:

1. The recognized standard for question and examination development is the Association for Boards for Certification (ABC). We are members of ABC and do take advantage of their question bank in developing examinations for Pennsylvania. In reviewing our methodology and our certification framework, ABC has stated their examination is only equivalent to our General Examination. The content of our treatment technology examinations is not covered under their examination framework.
2. We disagree with ABC's framework, which is based on a point system where systems are classified based on a number of factors including; the size of the system, various treatment technologies utilized at the system and the management and administrative framework for the system. The more points a system has, the higher Class examination an operator must pass to be certified to operate the system. What this does is require an operator to pass an examination that contains a lot of material that the operator may not be familiar with, and does not need to effectively operate a system in Pennsylvania. This was the biggest problem we heard from operators when we were first soliciting comments on the program many years ago. This is why we have changed our examination framework to be treatment technology based.
3. It is almost impossible to determine if an examination in another state has similar content to an examination in Pennsylvania. Based on ABC's review, we can be reasonably certain that our General Examination has content similar to that on the majority of examinations offered by the other states. However, the level of detail for specific treatment technology examinations that we have developed does not exist elsewhere. The framework we have developed has been very successful, and most operators have reacted positively to it. They only have to know the material relative to the treatment technology at their system.
4. It is almost impossible to correlate operating experience in another state as demonstrated competence to operate a specific treatment technology. We could look at compliance records of the system, but there are a number of factors not under the direct control of the operator that can be impacting the system's compliance record. To penalize an operator for bad management of a system when it is not the operator's fault is not fair. The only way we feel we can measure competence for a specific technology is through the successful completion of one or more of our treatment technology examinations.

Thank you for the opportunity to comment. We look forward to continue to working with you as these regulations move forward. If you have any questions concerning these comments, please don't hesitate to contact me.

Sincerely,



John Brutz
Chairman