

EXECUTIVE SUMMARY

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

Background

This proposed rulemaking deletes Title 25, Chapter 301, 303 and 305 and creates a new Chapter 302. These regulatory revisions implement provisions of the Water and Wastewater Systems Operators' Certification Act (Act), passed by the state legislature February 21, 2002. The Act restructured Pennsylvania's Operator Certification Program to meet federal guidelines. In addition, the Act applied the federal requirements for an Operator Certification Program to wastewater treatment system operators, required completion of system security training for all certified operators and the submittal of a criminal history report from the Pennsylvania State Police as a requirement for certification.

The Department met the federal deadline to have a program in place for the certification of all operators of community and nontransient noncommunity water systems by October 1, 2002 by adopting guidelines, "Pennsylvania's Interim Program for Operator Certification," Document ID: 383-2300-001. These final guidelines were published in the *Pennsylvania Bulletin* at 32 Pa. B. 3557 and were effective on July 1, 2002. Revisions were made to the guidelines in the summer of 2003 and again in the fall of 2004. Final revisions to the guidelines were published in the *Pennsylvania Bulletin* on June 25, 2005 at 35 Pa. B. 3601. The provisions in these guidelines are incorporated into the proposed regulations.

The State Board for Certification of Water and Wastewater Systems Operators (Certification Board) has also made significant 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 are incorporated into the proposed regulations.

This proposed rulemaking also provides additional program enhancements needed to ensure continued federal approval of Pennsylvania's program by the U.S. Environmental Protection Agency (EPA). Approval of the final regulations by EPA is also required.

Purpose

The purpose of this proposed rulemaking is 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. It also establishes the administrative requirements for:

- Conducting the 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 also 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 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.

Regulated Community

The regulated community impacted by this proposed rulemaking includes the owners and operators of drinking water community systems, nontransient noncommunity water systems, water distribution systems, wastewater treatment systems treating more than 2000 gallons per day and satellite wastewater collection systems with pump stations. The following is an estimate of the numbers of systems and operators included in this regulated community:

- 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

Advisory Committees

The Certification Board and the Department worked with the Certification Program Advisory Committee (CPAC) to develop this proposed rulemaking. In addition, the Small Systems Technical Assistance Center Advisory Board (TAC) was involved in earlier efforts to draft these regulations and was given the opportunity to attend the meetings with CPAC and the Certification Board when this proposed rulemaking was discussed. Over the past six years, both advisory committees have worked on the proposed changes to the draft language. Extensive

comments and response documents were developed during the course of development of this proposed rulemaking. The Act requires that the proposed rulemaking include a comment and response document for comments submitted by the Certification Board. It also mandates that CPAC be given the opportunity to review and submit comments to the Department and the Certification Board on regulatory proposals or Department guidelines. Earlier comments from TAC were included due to the connection between the impact of this proposed rulemaking on small water systems and TAC's defined mission in this area. Final comments and letters of support from the Certification Board and CPAC are included in the submittal package to the Environmental Quality Board.

Regulatory Fees

When the proposed regulatory package was being finalized it became evident that the fee structure originally adopted by the Certification Board, TAC and CPAC would no longer cover program costs. Program activities can be divided into the following five categories:

1. Administration of the Program – Activities include the processing of applications for certification, certificate renewal and recertification.
2. Examination Development and Delivery – Activities include preparing examinations, scheduling and proctoring of examination sessions and processing examination results.
3. Technical Support and Compliance Assistance – Activities include the tracking of available operators, developing guidelines to insure compliance and providing assistance to operators and owners to insure compliance with program requirements.
4. Training and Continuing Education – Activities include approving different entities as training providers, reviewing and approving courses and conferences the providers want to deliver, processing course rosters to ensure operators get credit for completed courses and resolving discrepancies between the Department's training records and the operator's.
5. Course Development and Delivery – Activities include development and delivery of classroom and web-based training courses oriented around existing and new regulatory requirements and the maintenance and enhancement of Earthwise Academy, the Department's web-based training program.

The Department developed a new fee structure with input from TAC, CPAC, the Certification Board, and individual stakeholders. 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.

Public Comment Period

Because of the extensive outreach already completed, no public meetings or hearings are proposed. A 30-day written public comment period is proposed.