



## COLORADO

Water & Wastewater Facility  
Operators Certification Board

Department of Public Health & Environment

### NOTICE OF PUBLIC RULEMAKING HEARING

BEFORE THE

### WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION BOARD

#### SUBJECT:

For consideration of proposed revisions to Regulation No. 100, "Water and Wastewater Facility Operators Certification Requirements" (5 CCR 1003-2). The revisions to Regulation No. 100 proposed by the Water Quality Control Division, along with proposed Statement of Basis, Statutory Authority and Purpose, are attached to this notice as Exhibit 1. Proposed new language is shown with double-underlining and proposed deletions are shown with ~~strikeouts~~.

#### HEARING SCHEDULE:

DATE: Tuesday, June 30, 2015  
TIME: 9:30 a.m.  
PLACE: Florence Sabin Conference Room  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

#### WRITTEN AND ORAL COMMENTS:

The Operators Certification Board encourages all interested persons to provide their opinions or recommendations regarding the matters to be addressed in this rulemaking hearing. Oral comments on the proposed rule will be received at the hearing. Depending on the number of people wishing to speak, a time limit for oral comments may be established.

In order to enhance the Board members' ability to review and consider public comments on the proposal, the submission of written comments in advance of the hearing is strongly encouraged. Initial written comments are due by April 22, 2015. Any written responsive comments must be received by May 20, 2015 and any written rebuttal comments must be received by June 17, 2015.

Anyone providing written comments should deliver

- 1) an electronic copy to [cdphe.wwfocb@state.co.us](mailto:cdphe.wwfocb@state.co.us) and
- 2) 20 paper copies to the Board office or the Colorado Department of Public Health and Environment's mail room by the due date.

Anyone for whom the expense of providing these copies presents an economic hardship should contact the Board Office to make alternative arrangements. All written comments will be available to the public on the Board's website.

SPECIFIC STATUTORY AUTHORITY:

The provisions of C.R.S. 25-9-101 through 25-9-110 provide the specific statutory authority for consideration of the regulatory provisions proposed by this notice. Should the Operators Certification Board adopt the regulatory language as proposed in this notice or alternative provisions, it will also adopt, in compliance with section 24-4-103(4) C.R.S., an appropriate Statement of Basis, Specific Statutory Authority, and Purpose.

Dated this 27th day of January 2015 at Denver, Colorado.

WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION BOARD

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Trisha Oeth, Administrator

**EXHIBIT 1**  
**WATER QUALITY CONTROL DIVISION**

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION**  
**REQUIREMENTS**

**REGULATION NO. 100**

**5 CCR 1003-2**

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- (10) "OPERATOR" means any person who performs activities and/or tasks pertinent to the operation of a water or wastewater facility. An operator may or may not be certified.
- (11) "OWNER" means (a) the supplier of water as defined in 5 CCR 1002-11; (b) the person or persons required to apply for a discharge permit in accordance with 5 CCR 1002-61; or (c) the person with legal responsibility for a wastewater collection system. For purposes of this definition, "person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, tribal agency, state agency, municipality, commission, or interstate body.
- ~~(11)~~ (12) "PLANT DESIGN FLOW" means the maximum flow rate (water) or the hydraulic capacity (wastewater) approved for a water or wastewater treatment facility by the Division.
- ~~(12)~~ (13) "TRAINING UNIT" means the credit given for an increment of training approved as applicable to the fulfillment of certificate renewal requirements. Ten contact hours shall be required to equal one training unit. A "contact hour" means a classroom or supervised hour of attendance or hour of participation recognized by the Board as a training unit.
- ~~(13)~~ (14) "VALIDATED EXAMINATION" means an examination that is independently reviewed by subject matter experts to ensure that the examination is based on a job analysis and is related to the classification of the system or facility.
- ~~(14)~~ (15) "WASTEWATER COLLECTION SYSTEM" means a system of pipes, conduits, and associated appurtenances that transports domestic wastewater from the point of entry to a domestic wastewater treatment facility. The term does not include collection systems that are within the property of the owner of the facility.
- ~~(15)~~ (16) "WASTEWATER TREATMENT FACILITY" means either a domestic wastewater treatment facility or an industrial wastewater treatment facility.

(4617) "WATER AND/OR WASTEWATER FACILITY" means a water treatment facility, domestic wastewater treatment facility, industrial wastewater treatment facility, water distribution system, or wastewater collection system.

(4718) "WATER DISTRIBUTION SYSTEM" means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to a consumer.

(4819) "WATER TREATMENT FACILITY" means the facility or facilities within the water distribution system that can alter the physical, chemical, or bacteriological quality of the water.

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#### **100.10 APPLICATION TO SIT FOR CERTIFICATION EXAMINATION**

100.10.1 A person desiring to be certified to operate a water or wastewater facility shall first file an application to sit for examination with the Board or its designee.

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#### **100.13 CERTIFICATES**

The Board or its designee shall award to the applicant a certificate designating the appropriate certification level upon satisfactory fulfillment of the requirements of section 100.13.1, 100.13.2 or 100.13.5, as appropriate, and payment of all applicable program fees listed in section 100.19.2.

New operator certificates shall be valid for three (3) years from the date of the certification eligibility notification letter. Renewal certificates shall be valid for three (3) years from the date of expiration of the prior certificate, not from the issue date of the renewed certificate.

##### 100.13.1 Application for New Certificates

- (a) After receiving written notification of eligibility to apply for the certificate, the applicant must complete and submit the certificate application. Applicants must meet all certification requirements and shall submit ~~Upon written notification that they have passed the certification examination and are eligible for certification, successful examinees must pay the required administration and applicable late fees as listed in section 100.19.2 and complete the following, where applicable:~~
- (i) ~~demonstrate fulfillment~~ verification of the experience requirements for Class D, Class 1, Class S and Class T certification pursuant to section 100.9.9;
  - (ii) ~~submit~~ a copy of a high school diploma pursuant to section 100.9.3(c); ~~and~~
  - (iii) ~~provide~~ a current mailing address, telephone number and email address (if available); and
  - (iv) verification of lawful presence in the United States in accordance with section 24-76.5-101 et.seq, C.R.S.

- ~~(b) Upon satisfactory fulfillment of the requirements of section 100.13.1, the Board or its designee shall award to the applicant a certificate designating the appropriate certification level.~~
- ~~(c) Newly awarded operator certificates shall be valid for three (3) years from the date of the certification eligibility notification letter unless revoked or suspended as provided in section 100.23 of these regulations.~~
- ~~(d) An applicant shall complete the certification process by paying the administration and applicable late fees as listed in section 100.19.2 within three (3) years from the date of the certification eligibility notification letter.~~

100.13.2 Application for Renewal of Certificates

- (a) Certified operators must submit a written application for renewal to the Board or its designee six to eight weeks prior to the expiration date of the certificate, in order to avoid expiration of a certificate under section 100.13.3.
- ~~(b) Renewed certificates shall be valid for three (3) years from the date of expiration of the prior certificate, not from the issue date of the renewed certificate.~~
- (e) Renewal applications must demonstrate that the certified operator satisfies the requirements of this regulation including meeting the renewal training unit requirements stated in section 100.14.
- ~~(c) Renewal applications must include verification of lawful presence in the United States in accordance with sections 24-76.5-101 et.seq, C.R.S.~~
- (d) The Board or its designee shall provide all application forms for renewal of certificates.

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100.13.5 Application for Certificates by Reciprocity

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- (b) Operators must submit a written application for certification by reciprocity to the Board or its designee.
- ~~(c) Upon~~ After receiving written notification of approval by the Board for certification in Colorado, applicants shall ~~pay the administration and applicable late fees as listed in section 100.19.2~~ follow the instructions provided in the approval letter to complete the certification process.
- (ed) Certificates by reciprocity shall be considered “new” certificates subject to all requirements of sections 100.13.1 and 100.19.

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**100.15 CERTIFIED OPERATOR DUTIES**

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100.15.2 Certified operators shall protect the public health and the environment by properly performing and/or supervising the activities pertinent to controlling the operation of a water or wastewater facility in accordance with a written operating plan as described in section 100.16.6 as appropriate to their level of certification, including but not limited to the following:

....

- (f) ~~controlling the operation and maintenance of~~ operating valves and/or gates ~~either manually or by remote control;~~
- (g) ~~controlling the operation and maintenance of~~ starting and/or stopping pumps;
- (h) maintaining logs and/or records; ~~or~~
- (i) collecting and/or analyzing process control samples; ~~and~~
- (j) ~~reporting instances of non-compliance or situations that could result in non-compliance to the certified operator in responsible charge.~~

100.15.3 Certified operators shall conduct themselves in a professional manner when acting in the capacity of a certified operator. "Professional manner" is defined as exhibiting dignified and respectful behavior towards regulators, the regulated community and the public.

#### **100.16 CERTIFIED OPERATOR IN RESPONSIBLE CHARGE DUTIES**

100.16.1 Certified operator(s) in responsible charge are designated by the owner of the water or wastewater facility and have supervisory responsibility for the operation of the facility and for the operational activities and functions of other facility operators.

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100.16.4 Certified operator(s) in responsible charge of a water or wastewater facility must hold a valid certificate equal to or greater than the classification of the water or wastewater facility they operate.

100.16.5 Certified operator(s) in responsible charge shall protect the public health and the environment in the conduct of their duties. The certified operators in responsible charge are accountable for the operation and maintenance of the water or wastewater facility and are responsible for understanding the requirements of the applicable permits, laws and regulations. These duties shall include the following:

- (a) ~~the management or administration of the operation of the water or wastewater facility;~~
- (b) ~~the accountability for the proper operation and maintenance of the water or wastewater facility for compliance with applicable regulations and/or permit requirements, including monitoring and reporting requirements;~~
- (e~~a~~) ~~the control of, supervision over, or active participation~~ controlling, supervising or actively participating in the daily planning, operation ~~or~~ and maintenance of a water or wastewater facility;

- ~~(db)~~ ~~authority to make~~ making day-to-day process control and system integrity decisions on the operation and maintenance of the water or wastewater facility;
- ~~(ec)~~ ~~the availability to make~~ making decisions and ~~initiate~~ initiating actions regarding the operation of the water or wastewater facility in a timely manner;
- ~~(fd)~~ ~~ensuring proper inspection~~ inspecting and testing of new, modified, or repaired facilities prior to placing or returning such facilities into service;
- ~~(ge)~~ ~~developing and implementing~~ preventative maintenance programs ~~and performing routine maintenance functions for facilities~~;
- ~~(f)~~ developing and maintaining the written operating plan as described in section 100.16.6;
- ~~(h)~~ ~~overseeing compliance with laws and regulations and~~
- ~~(g)~~ reporting instances of non-compliance or situations that could result in non-compliance as appropriate to facility owners and the Department; and
- ~~(ih)~~ ~~the performance of~~ performing other functions of direct responsibility, including those enumerated in section 100.15.

100.16.6 Certified operator(s) in responsible charge of a water or wastewater facility may delegate tasks or activities to other facility operators when delineated by a written operating plan.

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- (d) Certified operator(s) in responsible charge remain accountable for the consequences of the performance of such tasks by other facility operators under their charge.

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## **100.18 RESPONSIBILITIES OF WATER AND WASTEWATER FACILITY OWNERS**

### 100.18.1 Supervision by a Certified Operator in Responsible Charge

- (a) No owner of a water or wastewater facility shall allow the facility to be operated without the direct supervision of one or more certified operators in responsible charge.
- ~~(b)~~ ~~For purposes of this regulation, "direct~~ Direct supervision" means that the certified operator(s) in responsible charge have supervisory responsibility and authority with respect to the operation of the water or wastewater facility and for the activities and functions of other facility operators.
- ~~(b)~~ The owner designates the certified operators in responsible charge of the water or wastewater facility by completing and submitting the appropriate division contact update form.

- (c) Owners shall ensure that their agreement(s) with the certified operator(s) in responsible charge are sufficiently detailed and formal to reflect all the duties as outlined in section 100.16.
- (d) Contracts for limited services do not fulfill the owner's obligation, under section 100.18.1(a), to place the facility under the supervision of one or more certified operators in responsible charge. Contracts for limited services, such as compliance sampling, do not rise to the level of a contract for a certified operator in responsible charge.

#### 100.18.2 Decisions Reserved to Certified Operator in Responsible Charge

Each owner of a water or wastewater facility shall ensure that all process control and/or facility integrity decisions about water quality or quantity or wastewater effluent quality or quantity that may affect public health or the environment are made by either a certified operator in responsible charge or by another operator certified at a level equal to or above the classification of the facility he or she is operating in accordance with the facility's written operating plan as described in section 100.16.6.

#### 100.18.3 Availability of Certified Operator in Responsible Charge

- (a) ~~Each owner of a water or wastewater facility shall ensure that a certified operator in responsible charge, or another operator certified at a level equal to or above the classification of the facility, is available~~ or ensure that operators are conducted in accordance with the facility's written operating plan as described in section 100.16.6 whenever the facility is in operation.
- (b) ~~For purposes of this regulation, "available"~~ "Available" means either on-site or able to be contacted as needed to make decisions and to initiate appropriate actions in a timely manner.

#### 100.18.4 Reporting Requirement

Each owner of a water or wastewater facility shall submit ~~in writing to the appropriate Division~~ contact update form, no later than thirty (30) days following the date the facility is initially placed on-line and thereafter, no later than thirty (30) days after changes to any of the following information:

- (a) name, mailing address, phone number, and email address (if available) of the facility legal representative providing the information;
- (b) full legal name and operator identification number of the certified operator(s) in responsible charge ~~employed by the owner~~;
- (c) identification of the facility or facilities for which each certified operator in responsible charge ~~employed or contracted by the owner~~ has responsibility; or
- (d) the Public Water System Identification (PWSID) number, the Colorado Discharge Permit ~~s~~System (CDPS) permit number, or general permit certification number for all facilities listed.



## **WATER QUALITY CONTROL DIVISION PROPOSED**

### **100.51 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: JUNE 30, 2015 RULEMAKING ADOPTED AUGUST 25, 2015; EFFECTIVE SEPTEMBER 30, 2015**

Provisions of section 25-9-104, C.R.S., provide the specific statutory authority for the adoption of these amendments to the established regulatory provisions of Regulation 100 governing the requirements for water and wastewater facility operators (5 CCR 1003-2). The board hereby adopts, in compliance with section 24-4-103(4), C.R.S., the following statement of basis and purpose.

#### **BASIS AND PURPOSE**

The board held a rulemaking hearing on June 30, 2015. After receiving testimony from the division and members of the public, the board determined that it was necessary to revise Regulation 100 as follows:

Generally, the board made grammatical corrections, stylistic changes and used simple declarative sentences when possible to avoid confusion or ambiguity.

Based on the input received from stakeholders, no changes to the provisions regarding experience requirements of section 100.9.4 are being made at this time.

Section 100.2(11). The board added the definition for owner. Not all suppliers of water, permittees and co-permittees are the owners of the physical facilities. Defining owner in regards to Regulation 100 clarifies who is responsible for ensuring the facility is under the direct supervision of a certified operator in responsible charge when it is operating as required by section 100.18.1.

Sections 100.10. For clarification, the board changed the title and provisions of section 100.10 to clearly reflect that this section refers to the first of the two-step process of certification, to apply to sit for a certification examination.

Section 100.13. To ensure consistency, provisions of Regulation 100 that refer to the issuing of the certificate, payment of program fees and the period each certificate is valid were moved to section 100.13 "Introduction." For transparency, the board added the requirements to comply with section 24-76.5-101 et seq., C.R.S., often referred to as the lawful presence legislation when applying for new or renewed certificates.

Section 100.13.1, 100.13.2 and 100.13.5. For clarification, the board changed the headings and provisions of these three sections to clearly reflect they refer to the second of the two-step process of certification, the requirement to submit application for new or renewed certificates or to obtain certification by reciprocity.

Section 100.15.3. In August 2014, the board adopted revisions to section 100.20.1(j) to clarify that the board may take disciplinary action for failure to conduct oneself in a professional manner. In this proceeding, the board also adopted section 100.15.3 to include in the list of certified operators' duties the requirement to act in a professional manner. The board made this addition to clarify its expectations with respect to a certified operator's obligation to uphold the integrity of the CWP profession while acting in such capacity.

Section 100.16.5. The board removed responsibility from the certified operator in responsible charge duties for the management, administration, compliance with regulatory and permit requirements, and other responsibilities that require decision-maker action and approval, such as providing operational,

technical and financial resources necessary for proper operation and maintenance of the water or wastewater facility. These responsibilities are implicitly and explicitly identified in other applicable regulatory and permit requirements as belonging to the owner of the facility. The board wanted it clearly understood that the certified operator in responsible charge is responsible for the professional operation and maintenance of the facility as appropriate to their certification level and working with the resources provided by the owner.

Section 100.18.1(a) and (b). For consistency and clarity, the board combined these provisions so the definition for direct supervision immediately follows the requirement for direct supervision by a certified operator in responsible charge.

Section 100.18.1 (b). The board defined how an owner designates the certified operator in responsible charge.

Section 100.18.3(a) and (b). For consistency and clarity, the board combined these provisions so the definition for available immediately follows the requirement for a certified operator in responsible charge to be available to make decisions and initiate actions that are reserved to the certified operator in responsible charge.

Section 100.18.4. For clarity, the board defined how an owner reports changes to the certified operator in responsible charge to the division. The division requires that current update forms be used. In addition, the board removed reference to certified operators in responsible charge being employed or contracted by the owner from sections 100.18.4 (b) and (c). There are other relationships that may exist between the owner and certified operators in responsible charge.