



## 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, September 25, 2018  
TIME: 9:00 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.

Initial written comments from the division must be received by July 25, 2018. Written responsive comments are due by August 22, 2018. The division may provide rebuttal comments no later than September 12, 2018. Anyone providing written comments should deliver an electronic copy to [cdphe.wwfocb@state.co.us](mailto:cdphe.wwfocb@state.co.us). 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 27<sup>th</sup> day of June 2018 at Denver, Colorado.

WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION BOARD

A handwritten signature in dark ink, appearing to read "Trisha Oeth", written in a cursive style.

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Trisha Oeth, Administrator

# EXHIBIT 1

## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Water and Wastewater Facility Operators Certification Board

#### REGULATION NO. 100 - WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION REQUIREMENTS

##### 5 CCR 1003-2

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#### 100.12 DISCIPLINARY PROCEEDINGS

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100.12.2 Certified Operators – In accordance with the procedures in sections 24-4-104 and 105, C.R.S., the Board may reprimand a certified operator, and/or suspend or revoke the certificate of any certified operator who violates the requirements of this regulation, including, but not limited to the following:

....

- (i) representing oneself as holding a valid operator's certificate after the expiration, suspension, or revocation of the certificate; ~~or~~
- (j) when acting in the capacity of a certified operator, behaving in a threatening, intimidating, demeaning or similar manner in verbal or written communications or in interactions with the public, the regulated community or regulators; ~~or~~
- (k) failure to follow the Colorado Certified Water Professionals Code of Conduct.

100.12.3 Certified Operators in Responsible Charge – In accordance with the procedures in sections 24-4-104 and 105, C.R.S., the Board may reprimand a certified operator in responsible charge, and/or suspend or revoke the certificate of any certified operator in responsible charge, who:

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#### 100.13 ~~APPLICATION TO SIT FOR~~ CERTIFICATION EXAMINATION, QUALIFICATIONS, EDUCATION, EXPERIENCE AND SUBSTITUTIONS

100.13.1 A person desiring to be certified ~~to operate a water or wastewater facility~~ shall ~~first file an application to sit for examination~~ apply for certification with the Board or its contractor. Applicants shall affirm agreement with the Colorado Certified Water Professionals Code of Conduct and submit the following materials:

- (a) copy of a high school diploma or general equivalency diploma (GED) pursuant to section 100.13.5(e);

~~(b) verification of lawful presence in the United States in accordance with section 24-76.5-101 et. seq., C.R.S., and~~

~~(c) verification of regulatory training course completion as described in section 100.13.5(b).~~

~~100.13.2 The Board shall designate the number of examination cycles during each calendar year.~~

~~100.13.3 For each examination cycle, the Board or its contractor shall specify an application deadline.~~

~~100.13.4 All applications for certification examinations shall be made on forms provided by the Board or its contractor.~~

100.13.52 Completed application materials and fees must be ~~submitted~~received by the Board or its contractor on or before at the time of application ~~deadline for each examination cycle.~~

~~100.13.6 While an applicant may apply for more than one examination during a cycle, that applicant may apply for only one level of certification for each certification category (water treatment facility, domestic or industrial wastewater treatment facility, distribution system or collection system).~~

~~100.13.7 The applicant must specify examination category (i.e. water, domestic or industrial wastewater, distribution, collection, Class S water system, I Class S wastewater, or Class T), level of certification sought, examination date, and testing location and may only take the specified examination once during each examination cycle.~~

100.13.83 The Board or its contractor shall review applications and supporting documents, determine the eligibility of applicants ~~to sit for the examination,~~ and notify ~~the~~ applicants of their status. Any application disapproval notification shall specify the reason(s) the application does not meet the minimum requirements.

~~100.13.9 If an application is disapproved, the applicant may request a re-review of the application, including consideration of any clarifying information that the applicant may choose to submit regarding the identified basis for disapproval.~~

~~(a) Any such request for re-review must be received by the Board or its contractor within two weeks of the date of the disapproval notification letter.~~

~~(b) All additional factual information supporting the application must be received with the re-review request.~~

100.13.404 If an application is ~~still~~disapproved ~~after re-review~~ by the Board's contractor, the applicant may appeal this decision to the Board in accordance with the procedures in section 24-4-105, C.R.S.

(a) Any such appeal must be received in the Board's office within two weeks of the date of the ~~second~~disapproval notification ~~letter.~~

(b) No new factual information will be accepted during the Board appeal process, except for good cause shown.

100.13.415 Qualifications for Certification

~~(a) Basic Requirements for Certification by Examination~~

(ia) Applicants shall be evaluated by the Board or its contractor as to education, experience, and knowledge related to the classification level for which the applicant seeks to be certified.

(b) Regulatory Training Requirement

(i) Applicants must take an approved regulatory training course prior to submitting an application.

(ii) Each regulatory training course is valid for three years.

(#c) An applicant for a new certificate must pass a validated examination designated for the category and level ~~of facility~~ for which application is being made with a minimum passing score of 70 percent.

~~(iii)~~ To qualify to sit for an examination, an applicant must meet the following requirements:

(i) completion of approved mandatory regulatory training as set forth in section 100.13.5(b);

(ii) minimum education requirements;

(iii) the minimum experience or cross-experience requirements; and

(iv) the prior certification requirements as set forth in section 100.13.44(g)5(i).

(d) Certificates by reciprocity may be issued by the Board or its contractor, without examination, on a case-by-case basis, to persons who:

(i) hold a valid certificate from a Colorado approved state, territory or possession of the United States, or other country as issued by one of these entities or, at the discretion of the Board, by another certifying entity;

(ii) meet the minimum experience or cross-experience requirements specified by these regulations;

(iii) obtain qualifying experience in the state, territory or possession of the United States, or other country in which they hold a valid certificate; and

(iv) complete the approved mandatory regulatory training as set forth in section 100.13.5(b).

(be) Minimum Educational Requirements for Certification by Examination

(i) Applicants must have a high school diploma or a general equivalency diploma (GED), ~~except as provided in section 100.13.11(b)(iii).~~

(ii) Experience and relevant training may substitute for a high school diploma or GED. Applicants substituting experience and relevant training for the high school diploma or GED shall:

(A) have an additional six (6) months of qualifying experience; and

(B) demonstrate the completion of 1.0 training units in a course approved as a substitute for entry-level experience requirements.

~~(iii) Applicants for certification as Class D, Class 1, Class S, or Class T operators of water or wastewater facilities who are enrolled in the last semester of Board approved courses or programs which are specifically designed to prepare secondary students to operate water or wastewater facilities may be approved to take the examination before earning a high school diploma.~~

~~(A) Such an approval shall be based on a case-by-case determination that such courses or programs are directly and specifically relevant to the operation of water and wastewater facilities.~~

~~(B) After passing the examination, the certificate will be issued upon submitting proof of the high school diploma to the Board or its contractor.~~

(ef) Experience Determinations ~~for Certification by Examination~~

- (i) No more than one year of experience will be credited for employment/activities during any one calendar year.
- (ii) For water or wastewater facilities that require less than a full time operator for proper operation, the experience of an operator of such a facility who works less than half time will be counted as half-time experience; the experience of an operator of such a facility who works half-time or more will be counted as full-time experience.
- (iii) The aggregate time spent operating multiple facilities shall be considered in any determination of whether to credit full-time experience or half-time experience.
- (iv) Experience obtained in the operation of a seasonal water or wastewater facility will be credited only for that portion of the year during which the facility is in operation.
- (v) Except as described in section 100.13.11(h)5(k), ~~the certification examination application deadline is~~ the experience cut-off date is the date an application is submitted to determine if the applicant in determining whether an operator has the required experience to take a certification examination at a particular level.
- (vi) To meet the experience requirement to test for a particular level of certification, the experience relied upon does not have to be at the level of the examination for which application is being made.

(eg) Evaluation of Experience. For purposes of this section, domestic and industrial wastewater treatment facility experience shall be considered interchangeable. In evaluating experience of operators the Board or its contractor will be guided by:

- (i) whether and to what degree the experience required technical knowledge of the operation of a water or wastewater facility;
- (ii) whether and to what degree the experience was actual on-site operating experience with the daily operational aspects of a facility that could affect water quality or quantity; and
- (iii) whether or not the experience included the responsible charge of a water or wastewater facility.

- (eh) Once specific experience or relevant training is credited toward the satisfaction of either the experience or education requirements of this section, that same experience and/or training may not be further credited to meet other requirements of this section.
- (fi) Prior Certification Requirements. To qualify to sit for an examination, an applicant must hold a certificate for the same certification category (water treatment facility, domestic or industrial wastewater treatment facility, distribution system or collection system) and in the class immediately below the class for which application is being made. Prior certification requirements are shown in the table below.
- (gj) Table - Prior Certification and Experience Requirements

Certification Class	Prior Certification Required <sup>1</sup>	Minimum Experience Required
Class T	None	No minimum experience requirement
Class S, Class D, or Class 1	None	1 Month
Class C	Class D or Class S	2 Years
Class 2	Class 1 or Class S	2 Years
Class B	Class C	3 Years
Class 3	Class 2	3 Years
Class A	Class B	4 Years
Class 4	Class 3	4 Years

<sup>1</sup> Prior certification must be for the same certification category as that of the examination being applied for.

- (hk) Special Rules for Satisfying the Minimum Experience Requirements for Class D, Class 1, Class S and Class T Certifications:
  - ~~(i) Applicants for certification as Class D, Class 1, Class S, or Class T operators of water or wastewater facilities may be approved to take the examination before accruing the necessary experience for the issuance of a certificate.~~
  - ~~(ii) After passing the examination, the certificate will be issued upon showing completion of satisfactory experience to the Board or its contractor.~~
  - (iii) The required experience may be obtained either under the supervision of a certified operator in responsible charge or through the successful completion of an approved training course or course of study.
  - (iv) Any education courses used to satisfy the basic experience requirement for a Class D, Class 1, Class S, or Class T certificate may not be used to satisfy the certificate renewal requirements for that same certification.

100.13.426 Substituting education and cross experience for the experience requirements

- (a) Substituting Education for Experience Requirements
  - (i) Post-secondary education may also be substituted for up to fifty percent (50%) of the experience requirements of section 100.13.44(e)5(f) based on successful completion of formal academic credit hours, as approved by the Board or its contractor in accordance with section 100.13.426(b), for all or a portion of an academic year. For education substitution for experience, academic credit hours shall be calculated as follows:
    - (A) 15 semester hours = ½ academic year = 6 months experience; 15 quarter hours = 1/3 academic year = 4 months experience;

- (B) Training units: 300 contact hours or 30 training units = 15 quarter hours = 4 months experience;
- (C) thirty (30) semester hours and/or forty-five (45) quarter hours shall constitute one (1) year's formal education and may be substituted for one (1) year of experience.

(ii) Military specialty training directly relevant to the operation of water and wastewater facilities.

(A) Credit for up to fifty percent (50%) of the applicable experience requirement of section 100.13.5(f) may be granted for satisfactorily completing military specialty training courses.

(B) For purposes of equivalency for education substitution for experience, military training credit hours shall be calculated as follows:

(I) 1 week training = 40 contact hours.

(II) 240 contact hours = 15 semester hours = ½ academic year = 6 months experience.

(iii) Consideration of Field(s) of Study

(A) Credit for up to fifty percent (50%) of the applicable experience requirement of section 100.13.44-5(f) may be granted for satisfactorily completing structured programs of study in a degree or certificate granting educational institution or equivalent for technically oriented programs which the Board or its contractor has determined are directly relevant to the operation of water and wastewater facilities, including but not limited to post high school education in the environmental control field, engineering or related science. Experience credit shall be granted based upon the number of academic years required to complete the program, in accordance with section 100.13.426(a).

(B) Credit for up to twenty-five (25%) of the applicable experience requirement of section 100.13.44-5(f) may be granted for satisfactorily completing structured programs of study in a degree granting educational institution or equivalent, regardless of field of study. Experience credit shall be granted based upon the number of academic years required to complete the program, in accordance with section 100.13.426(a).

(iiiiv) In instances where an approved degree or certificate program has not been completed, credit for up to fifty percent (50%) of the applicable experience requirement of section 100.13.44-5(f) may be granted for the completion of individual technically oriented courses as approved by the Board or its contractor as relevant to the operation of water and wastewater facilities, including but not limited to post high school education in the environmental control field, engineering or related science, in accordance with section 100.13.426(a).

(iv) At least fifty percent (50%) of any experience requirement of section 100.13.44-5(f) of this regulation shall be met by actual on-site operating experience in a water or wastewater facility, except that Class D, Class 1, and Class S applicants

may satisfy the experience requirements exclusively with formal academic education credits or training units, in accordance with section 100.13.44(h)5(k).

(b) Approval of Training, Educational Courses, and Institutions When Substituting Education for Experience

~~(i) The Board or its contractor may approve, for purposes of substituting education for experience, courses or programs which are specifically designed to prepare secondary students to operate water or wastewater facilities. Such an approval shall be based on a case-by-case determination that such courses or programs are directly and specifically relevant to the operation of water and wastewater facilities.~~

(ii) Approval of technically-oriented courses or programs, for purposes of substituting education for experience, shall be determined by the Board or its contractor based on a determination that such courses or programs are directly relevant to the operation of water and wastewater facilities. Such courses and programs may include, but are not limited to, post-secondary education in the environmental control field, engineering, microbiology, chemistry, or other related science.

(iii) Approval of educational institutions for purposes of substituting education for experience shall be determined by the Board or its contractor based on accreditation by recognized regional associations for such institutions in the United States. For educational institutions outside the United States, the applicant shall be required to establish to the satisfaction of the Board or its contractor the equivalency and suitability of the courses of study claimed for credit.

~~(iv)~~ (iii) Other educational programs, including but not limited to, specialized operator training courses, seminars, workshops, correspondence or computer courses, and technical conferences, may be credited toward education for purposes of substitution for experience as approved by the Board or its contractor. Such programs will receive credit in training units on the following basis:

(A) Ten (10) 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, successfully completed by an applicant.

(B) Three (3) training units shall equal one semester credit hour or two training units shall equal one quarter credit hour for purposes of equivalency.

(c) Substitution of Cross-Experience for Experience Requirements

(i) Cross-experience may be substituted for the experience requirements of section 100.13.44-5(f) for certification as a Class C, Class B, or Class A water treatment facility operator, domestic or industrial wastewater treatment facility operator; or for a Class 2, Class 3, or Class 4 water distribution or wastewater collection system operator, except that at least fifty percent (50%) of any experience requirement of section 100.13.44-5(f) shall be met by actual on-site operating experience in the specific certification category, water or wastewater, for which application is being made.

- (ii) For the purpose of this section, “cross-experience” means that:
  - (A) qualifying experience as an operator in a water treatment facility may be substituted for up to fifty percent (50%) of the experience requirement for certification as an operator of a wastewater treatment facility;
  - (B) qualifying experience as an operator in a wastewater treatment facility may be substituted for up to fifty percent (50%) of the experience requirement for certification as an operator of a water treatment facility;
  - (C) qualifying experience as an operator in a water distribution system may be substituted for up to fifty percent (50%) of the experience requirement for certification as an operator of a wastewater collection system; or
  - (D) qualifying experience as an operator in a wastewater collection system may be substituted for up to fifty percent (50%) of the experience requirement for certification as an operator of a water distribution system.

#### 100.13.13 ~~Examinations~~

- ~~(a) The Board or its contractor shall oversee the preparation and administration of validated examinations to be used in determining whether or not the applicant has the necessary skills, knowledge, ability and judgment appropriate for the level of certification sought.~~
- ~~(b) Examinations shall be held at places and times set by the Board or its contractor. Advance announcements of the date and locations of examinations shall be made by the Board or its contractor.~~
- ~~(c) All examinations shall be written or administered electronically, except in such cases as the Board or its contractor decide, on a case-by-case basis, represent proper exceptions to this requirement.~~
- ~~(d) All examinations will be graded by the Board or its contractor, and the applicants shall be notified of the results.~~
- ~~(e) Examinees shall be provided an analysis of their examination performance indicating the level of knowledge demonstrated for each topic tested.~~
- ~~(f) Separate validated examinations will be prepared for each category and level of certification available. The appropriate range and balance of examination material shall be developed from formal job analyses and the need-to-know criteria resulting from such analyses.~~
- ~~(g) Applicants who fail an examination may retest during subsequent, regularly scheduled examination cycles upon complying with all applicable application procedures including the payment of appropriate fees.~~
- ~~(h) Any form of cheating on the part of an applicant will invalidate the results of his or her examination and may result in the applicant being barred from sitting for an examination for a period of 1 to 5 years, as determined by the Board following a hearing in accordance with section 24-4-104, C.R.S.~~

#### 100.14 ~~APPLICATION FOR NEW CERTIFICATES~~ BY EXAMINATION AND CERTIFICATES BY RECIPROCIDY

#### 100.14.1 Examinations

- (a) The Board or its contractor shall oversee the preparation and administration of validated examinations to be used in determining whether or not the applicant has the necessary skills, knowledge, ability and judgment appropriate for the level of certification sought.
- (b) All examinations shall be administered electronically, except as approved by the Board or its contractor, on a case-by-case basis.
- (c) All examinations will be graded by the Board or its contractor and the applicants shall be notified of the results.
- (d) Examinees shall be provided an analysis of their examination performance indicating the level of knowledge demonstrated for each topic tested.
- (e) Applicants who fail an examination may retest within the 180-day eligibility period. A new exam fee will be assessed for each re-examination.
- (f) Any form of cheating on the part of an applicant will invalidate the results of his or her examination and may result in the applicant being barred from sitting for an examination for a period of 1 to 5 years, as determined by the Board following a hearing in accordance with section 24-4-104, C.R.S.

100.14.4~~2~~ The Board or its contractor shall award to the applicant a certificate ~~designating the appropriate certification level~~ upon satisfactory fulfillment of the requirements of section 100.13.14.3 or 100.14.4, as appropriate, and payment of all applicable program fees listed in section 100.16.2.

100.14.2~~3~~ New certificates by examination and by reciprocity shall be valid for three (3) years from the effective date of the certificate certification eligibility notification letter. ~~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.~~

#### 100.14.3 ~~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 the following, where applicable:~~
  - (i) ~~verification of the experience requirements for Class D, Class 1, Class S and Class T certification pursuant to section 100.13.11(h);~~
  - (ii) ~~a copy of a high school diploma pursuant to section 100.13.11(b);~~
  - (iii) ~~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) ~~An applicant shall complete the certification process within three (3) years from the date of the certification eligibility notification letter.~~

#### 100.14.4 ~~Application for Certificates by Reciprocity~~

- ~~(a) Operators must submit a written application for certification by reciprocity to the Board or its contractor.~~
- ~~(b) Certificates may be issued by the Board or its contractor, without examination, on a case-by-case basis, to persons in a comparable classification who have met the following requirements:
 
  - ~~(i) Passed an adequate, validated examination and who hold a valid certificate in another state, territory or possession of the United States, or other country as issued by one of these entities or, at the discretion of the Board, by another certifying entity, provided the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of Article 9 of Title 25, C.R.S., and are of a standard not lower than that specified by these regulations.~~
  - ~~(ii) Obtained qualifying experience in the state, territory or possession of the United States, or other country in which they hold a valid certificate.~~~~
- ~~(c) After receiving written notification of approval by the Board for certification in Colorado, applicants shall follow the instructions provided in the approval letter to complete the certification process.~~
- ~~(d) Certificates by reciprocity shall be considered "new" certificates subject to all requirements of sections 100.14.3 and 100.16.~~

## **100.15 CERTIFICATE RENEWAL, EXPIRATION, REVOCATION AND TRAINING UNIT REQUIREMENTS**

100.15.1 Renewed certificates shall be valid for three (3) years from the date of the expiration of the prior certificate, not from the issue date of the renewed certificate.

100.15.2 Application for toRenewal of Certificates

- (a) Certified operators ~~must~~ may submit an ~~complete written~~ application for renewal to the Board or its contractor ~~six to eight weeks~~ up to three months prior to the expiration date of the certificate but must apply no less than 10 business days prior to the expiration date.
- (b) ~~Renewal applications~~ Applicants must demonstrate that they have satisfied certified operator satisfies the requirements for renewal, including:
  - (i) verification of regulatory training course completion as described in section 100.13.5(b).
  - (ii) the training unit requirements in section 100.15.56.
- (c) Renewal ~~applications~~ applicants 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 contractor shall provide all application forms for renewal of certificates.~~
- (ed) Renewal Process for Certified Operators Absent Due to Military Service
  - (i) "Military service" means service in the uniformed services, as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301-4335, as the performance of duty on a voluntary or involuntary

basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

- (ii) During the period a certified operator is participating in military service, his or her certificate(s) shall be tolled relative to certification renewal and training unit requirements (i.e., for every day a certified operator is in military service, all certifications held by that operator will be put on hold for purposes of meeting the renewal and training unit deadlines). In addition to the number of days in service, an extra 90-day grace period shall be afforded to certified operators upon return from military service for purposes of meeting renewal and training unit deadlines. The Board or its contractor shall have the discretion to extend this grace period to address extenuating circumstances on a case-by-case basis.
- (iii) If the two-year renewal window for any certificate expires while a certified operator is in military service, the operator's certificate(s) will not become invalid during the period the operator is in service. Upon return from military service, the certified operator will have the amount of time accrued while in military service, plus an additional 90 days to obtain the required training unit credits and to submit a renewal application. The operator's certificate(s) will remain valid during that extended time period. In no case will the certified operator be subject to any late fees at the time of submitting a renewal application that is in conformance with section 100.15.1(e).
- (iv) It is the certified operator's responsibility to alert the Board or its contractor of intervening military service at the time of filing a renewal application. Such notification shall include the dates the operator was in "service in the uniformed services" in accordance with the USERRA definition. Certified operators shall be expected to provide a signature swearing under the penalty of perjury to the veracity of all statements regarding military service.

#### 100.15.23 Expired Certificates

- (a) A certificate becomes invalid on its expiration date.
- (b) Following expiration of a certificate, the operator shall not represent that he or she holds a certificate in the category or level of the expired certificate ~~class for which the certificate expired~~.
- (c) No certified operator in responsible charge of a water or wastewater facility shall operate a facility with an expired certificate.

#### 100.15.34 Restoration of Expired Certificates

- (a) ~~An~~ To restore an expired certificate, an operator may apply for renewal ~~for up to~~ two years following the expiration date of the certificate. The Board or its contractor will renew the certificate if the operator pays the renewal and applicable late fees, as listed in section 100.16.2, and satisfies all applicable renewal requirements.
- (b) Certificates renewed after their expiration date shall be valid for three years from the date of expiration of the prior certificate, not from the issue date of renewed certificate.

100.15.45 Automatic Revocation of Non-Renewed Certificates

- (a) Any certificate not renewed by the operator within the two years restoration period of its expiration is automatically revoked.
- (b) Any operator whose certificate is has been automatically revoked shall be treated as a new applicant for purposes of this regulation and must meet all the initial certification requirements, including passing the appropriate certification-sequential examinations.

100.15.56 Training Units

- (a) In addition to the other requirements of this regulation, all certified operators must earn the appropriate number of training units, as specified in sections 100.15.56 and 100.15.7, before the operator's certificate will be renewed.
- (b) At least fifty percent (50%) of the training units for certificate renewal must be for courses approved for credit in the specific certificate category (water treatment, domestic wastewater treatment, industrial wastewater treatment, distribution system or collection system) being renewed.
- (c) Up to fifty percent (50%) of the training units for certificate renewal may come from courses approved for credit in a category (water treatment, domestic wastewater treatment, industrial wastewater treatment, distribution system or collection system) other than that of the certificate being renewed, including supplemental training courses.
- (d) For renewal of a certificate, the maximum number of training units allowed from a specific course is the total number of training units approved for the course.
- (e) If applicable, the training units from one course may be applied toward the renewal of more than one certificate.
- (f) Training units may only be used once in each category to renew a certificate.
- (g) Training units are earned during the three-year period a certificate is valid. Training units may not carry over from one three-year period to the next.
- (h) For training that occurs over multiple dates, the training units will be considered to have been obtained on the date of completion of the training course or class.
- (i) If an operator takes a training course prior to taking a certification examination, passes the examination, and obtains a certificate at a new level, the training course completed prior to the examination will not count toward training units for renewal of the new certificate. Should a certified operator complete such a training course and not pass a new certification examination, that training course can be used, if applicable, to meet the training unit requirements for renewal of the operator's current certificate.
- (j) Late renewal
  - (i) Training classes taken after the expiration date of a certificate, but before the automatic revocation date, may be used to renew the expired certificate.
  - (ii) If an operator completes training units after the expiration date of a certificate, but before the certificate is renewed and does not use the training units to renew the previous certificate, the training units may be used for the subsequent renewal.

- (iii) It is the certified operator's responsibility to keep track of when the training unit credits have been used and will be responsible to verify and affirm on the renewal application that he or she is not using the credits more than once.
- (iv) In the event that a certified operator uses training credits more than once, that could be grounds for disciplinary action, including revocation of a certificate.

100.15.67 Table - Training Unit Requirements for Operator Certificate Renewal

Certified Operator Class	Training Unit Requirement
Class T	1.2 Training Units
Class D or Class 1	1.2 Training Units
Class S	1.8 Training Units
Class C or Class 2	1.8 Training Units
Class B or Class 3	2.4 Training Units
Class A or Class 4	3.0 Training Units

100.15.8 The training units for regulatory training course completion as described in section 100.13.5(b) are included in the total training units required as listed in section 100.15.7, not in addition to those requirements.

100.15.79 All training unit subject matter will be determined by the Board or its contractor to be relevant and necessary to the successful operation of a water or wastewater facility.

- (a) The Board or its contractor shall approve as "core training" courses with topics that are directly applicable to aspects of water and wastewater facility operations that may affect public health or the environment, or the need to maintain compliance with established requirements. Training units from such courses may be used to satisfy the training units requirements for the renewal of an operator's certificate in accordance with sections 100.15.5-6 and 100.15.67.
- (b) Eligible "core training" topics may include the following subjects:
  - (i) operation and maintenance of facility mechanical systems, electrical equipment or hydraulics;
  - (ii) physical treatment, chemical treatment, biological treatment;
  - (iii) physical testing, chemical testing, biological testing, or disinfection;
  - (iv) regulatory compliance; or
  - (v) other relevant topics approved by the Board or its contractor.
- (c) The Board or its contractor may approve as "supplemental training" any courses that are found to provide useful operator knowledge but are not directly related to water or wastewater facility operations. Training units from courses approved as "supplemental training" may be used to satisfy the training unit requirements for renewal of an operator's certificate in accordance with section 100.15.5-6 and 100.15.67.

(d) Minimum course duration for training unit approval is 30 minutes.

- (i) 1-29 minutes = 0 training units

(ii) 30-45 minutes = 0.05 training units

(iii) 46-60 minutes = 0.1 training units

(iv) Exhibit hall visits or round-robin sessions will not be given training unit credit.

(e) An operator who has taken a course not approved by the Board or its contractor, such as a course taken in another state, may submit information about the course and pay the applicable fee. If the course is approved the operator may use the course to satisfy training unit requirements. The course approval will only apply to the operator who made the application.

100.15.810 Training units shall be awarded to certified operators for teaching a classroom course that has been approved by the Board or its contractor. The training units awarded shall be double the training units approved for the course. If a course is given multiple times in a given year under a single course approval number, double training units will be given the first time the course is taught, and no additional training units will be granted for repeat presentations of the same course with the same course approval number.

100.15.911 Institutions, seminar presenters, and others may seek approval of their training or educational courses or programs by application to the Board or its contractor. Such an application must demonstrate that their proposed material, curricula, contact hour equivalency, and facilities meet the criteria established in section 100.15.7.

## 100.16 FEES

100.16.1 Application and administration fees

(a) Application and administration fees for new certificates, renewed certificates, and certificates by reciprocity shall be \$15, and shall be nonrefundable.

(b) Fees shall be collected at the time the application is submitted.

(c) The fees are:

(i) \$50 for each application for certificate by examination.

(ii) \$85 for each application for certificate by reciprocity.

(iii) \$85 for each application for certificate renewal.

100.16.2 Exam fees

(a) Exam fees shall be collected by the exam administrator.

(b) The exam fee is \$100 for each exam.

100.16.3 Program fees shall consist of the following. Late fees

(a) Examination fees in the amount of \$45.00 will be charged for each examination the applicant signs up to take. Examination fees are based on the cost of preparing, administering, and scoring the certification examination.

- ~~(b) An additional fee of \$35.00 per examination will be charged applicants who choose to take certification examinations electronically. This fee is based upon the added cost to the program of making electronic testing available.~~
- ~~(c) Administration fees will be charged upon issuance of all new and renewal certificates and will be based on the cost of administering the operator certification program. Administration fees shall be:
 
  - ~~(i) \$55.00 for each new certificate by examination; and~~
  - ~~(ii) \$70.00 for each renewal certificate and each new certificate by reciprocity.~~
  - ~~(iii) For all new and renewed certificates, a standard 6 x 9 inch certificate is available at no additional cost. A 9 x 11 inch certificate may be requested by the operator for a \$5.00 fee.~~~~
- ~~(d) There shall be a \$20.00 fee to cover the cost of replacing certification documentation.~~
- ~~(e) There shall be a \$50.00 late fee, in addition to the regular administration fee, for issuance of certificates for new certificates or certificates by reciprocity requested sixty-one (61) days or more after the date of the letter notifying the applicant of eligibility to receive certification.~~
- ~~(fa) There shall be a \$50.00 late fee, in addition to the regular administration fee, for the renewal of any certificate for which the for renewal applications is submitted after the expiration date of the certificate being renewed.~~
- ~~(b) The late fee will be collected at the time the application is submitted along with the application and administration fees.~~

100.16.4 Fees for providers requesting training unit course approval

- ~~(ga) Training unit course approval fees shall be as follows: \$50.00 for each course submitted for review, except that:
 
  - ~~(i) \$25 for an application made by an operator who attended a course not approved for training units.~~
  - ~~(ii) \$50 for individual courses or one-day events.~~
  - ~~(iii) \$50 for all courses given as part of an event, i.e., a conference, seminar or workshop lasting multiple days.~~
  - ~~(iv) \$50 for a batch of up to 10 courses, classroom style or web-based, from a single provider.~~
  - ~~(v) Accredited or equivalent educational institutions as referenced in subsection 100.13.426(b) shall not be required to submit courses for review in order for such courses to be used to satisfy training unit requirements; if such institutions choose to submit courses for review, the \$50.00 applicable fee will apply and the applicable courses will be posted along with other approved courses;~~
  - ~~(ii) An individual attending a course that has not been approved for training units may apply for training unit credit for that course for a fee of \$25.00, provided that~~~~

~~the course will then be approved only for the individual operator requesting approval; and~~

~~(iii) The \$50.00 fee may be waived by the Board or its contractor on a case-by-case basis upon a determination that:~~

~~(A) The course is offered for open enrollment at no cost to those taking the course and with no compensation to the course sponsor;~~

~~(B) Payment of the fee would constitute a financial hardship for the course sponsor; and~~

~~(C) In the absence of the fee waiver, it is unlikely that this training opportunity would be available to operators.~~

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#### **100.55 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: SEPTEMBER 25, 2018 RULEMAKING; EFFECTIVE MARCH 1, 2019**

Provisions of section 25-9-104, C.R.S. provide the specific statutory authority for the adoption 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 September 25, 2018 and determined to revise sections 100.12 through 100.16 to:

- improve clarity and update citations;
- add failure to follow the Colorado Certified Water Professionals Code of Conduct to the list of violations that could result in disciplinary action against an operator;
- ensure that regulatory language is harmonious with the automated features of the board's new web-based certification management system;
- remove references to test cycles;
- add military education as a valid substitute for experience;
- add provisions for mandatory regulatory training; and
- ensure that fees are assessed in a consistent, equitable and transparent manner.

100.12.2. The board added failure to follow the Colorado Certified Water Professionals Code of Conduct to the list of violations that could result in disciplinary action against an operator.

100.13 and 100.14. The board renamed these sections to clarify that there is a single application for certification.

The board's web-based certification management system allows operators to apply for certification without differentiating among eligibility to sit for an exam, reciprocity, renewing a certificate, etc. Therefore, throughout these two sections, the board simplified language, as appropriate, to refer to all applications for certification.

- 100.13. The board removed references to test cycles throughout this section and renumbered the sections.
- 100.13.1. The board simplified the wording of the application requirement and, to improve transparency, added a list of materials applicants will need to submit with their applications.
- 100.13.2. The board clarified that applicable fees are to be paid at the time application is submitted.
- 100.13.4. The board removed the re-review requirement for disapproved applications. With the board's web-based certification management system, the re-review option is automatic. An applicant retains the option of appealing to the board if they disagree with the final decision of the board's contractor.
- 100.13.5. The board reorganized this section for a more logical flow of ideas.
- 100.13.5(b). The board added a provision for mandatory regulatory training.
- 100.13.5(d). The board moved the qualifications for reciprocity from section 100.14 to section 100.13.5(d) for a more logical flow.
- 100.13.6(a)(ii). As part of the implementation of HB 16-1197 which mandates clear pathways to certification for members of the armed services and veterans, the board added language making it clear that military education can be substituted for experience requirements consistent with the same way postsecondary education from educational institutions can be substituted for experience requirements.
- 100.13.6(b). The board removed the provision allowing secondary students in board-approved programs or courses to take exams prior to earning a high school diploma. The goal of this provision was to allow graduating students to be certified shortly after graduation. This was necessary as a work-around of the test cycles. This provision is no longer necessary with the end of test cycles.
- 100.13.13. The board moved language about examinations to section 100.14.1 and took out implementation details such as the setting of places, times and dates for examinations. The board established that, except as approved by the board, exams will be administered electronically. The board also removed language about preparation of validated examinations and examination materials as these items are addressed in state statute.
- 100.14. The board simplified this section and removed reference to renewed certificates because this section is specifically for new certificates.
- 100.14.1. Added the language moved from section 100.13.13. The board removed language related to the setting of places, times and dates for examinations and established that, except as approved by the board, exams will be administered electronically. The board also removed language about preparation of validated examinations and examination materials as these items are addressed in state statute. The board added the provision to allow applicants who fail an exam to retest within a 180-day eligibility period.
- 100.15.1. The board moved a reference to renewed certificates and their period of validity from section 100.14 to 100.15 because section 100.15 deals specifically with certificate renewal.
- 100.15.2(a). The board revised the time frame for submitting an application for certificate renewal to be convenient for operators and consistent with the capabilities of the board's web-based certification management system.

100.15.8. The board clarified training units from the mandatory regulatory training are included in the total training units required for renewal and not in addition to those requirements.

100.16.1 and 100.16.2. The board revised the fees section of this regulation for greater clarity, transparency, equity and consistency. Prior to these changes, an applicant for certification by examination had to pay:

- A. at the time of application - \$15.00 application fee and \$45.00 exam fee for a paper exam or a \$80.00 exam fee for an electronic exam; and
- B. at the time a new certificate is issued - \$55.00 administration fee.

Thus, only applicants who passed an exam paid the administration fee. Those who failed an exam did not. Yet, all applicants, whether they passed or failed their exams, received the same services. This inequity was corrected as follows:

\$35.00 of the administration fee will be collected along with the \$15.00 application fee at the time application is made in the new electronic certification management system. The entire \$50.00 will be nonrefundable.

The remaining \$20.00 administration fee will be collected outside the electronic certification management system by the subcontractor who administers examinations. This portion of the administration fee will cover the cost of proctors, etc., and will be collected at the same time as the \$80.00 exam fee, for a total of \$100.00 per exam. In the regulation the entire \$100 is identified as the exam fee.

For process consistency, the \$70.00 administration fee for each renewal certificate and each new certificate by reciprocity will be collected along with the \$15.00 application fee at the time application is made in the system. Again, the entire amount (\$85.00) will be nonrefundable.

100.16.3. The board clarified the fee structure for approval of training unit courses and events. This will ensure consistency and transparency in handling the various types of training options and mitigate against lost training opportunities due to overpricing.