

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Public Water Supply Operations Act is amended by changing Sections 1, 4, 9, 10, 11, 12, 13, 19, and 20 and by adding Sections 1.1, 9.4, 9.5, 9.6, and 23.1 as follows:

(415 ILCS 45/1) (from Ch. 111 1/2, par. 501)

Sec. 1. (1) In order to safeguard the health and well-being ~~well-being~~ of the populace, every community water supply in Illinois, other than an exempt community water supply as specified in Section 9.1, shall have on its operational staff, and shall designate to the Agency in writing, either (i) one Responsible Operator in Charge who directly supervises both the treatment and distribution facilities of the community water supply or (ii) one Responsible Operator in Charge who directly supervises the treatment facilities of the community water supply and one Responsible Operator in Charge who directly supervises the distribution facilities of the community water supply ~~at least one natural person certified as competent as a water supply operator under the provisions of this Act.~~

Except for exempt community water supplies as specified in Section 9.1 of this Act, all portions of a community water

supply system shall be under the direct supervision of a Responsible Operator in Charge ~~properly certified community water supply operator~~.

(2) The following class requirements apply:

(a) Each community water supply which includes coagulation, lime softening, or sedimentation as a part of its primary treatment shall have in its employ at least one individual ~~natural person~~ certified as competent as a Class A community water supply operator. This includes all surface water community water supplies.

(b) Each community water supply which includes filtration, aeration and filtration, or ion exchange equipment as a part of its primary treatment shall have in its employ at least one individual ~~natural person~~ certified as competent as a Class B or Class A community water supply operator.

(c) Each community water supply which utilizes chemical feeding only shall have in its employ at least one individual ~~natural person~~ certified as competent as a Class C, Class B, or Class A community water supply operator.

(d) Each community water supply in which the facilities are limited to pumpage, storage, or distribution shall have in its employ at least one individual ~~natural person~~ certified as competent as a Class D, Class C, Class B, or Class A community water supply operator.

A community water supply that cannot be clearly grouped

according to this Section will be considered individually and designated within one of the above groups by the Agency. This determination will be based on the nature of the community water supply and on the education and experience necessary to operate it.

(3) A community water supply may satisfy the requirements of this Section by contracting the services of an individual who is a properly qualified certified operator of the required class or higher, as specified in subsection (2), and will directly supervise the operation of the community water supply. That individual shall serve as the Responsible Operator in Charge of the community water supply. A written agreement to this effect must be on file with the Agency certifying that such an agreement exists, and delegating responsibility and authority to the contracted party. This written agreement shall be signed by both the certified operator to be contracted and the responsible community water supply owner or official custodian and must be approved in writing by the Agency.

(Source: P.A. 91-84, eff. 7-9-99; 91-357, eff. 7-29-99; 92-16, eff. 6-28-01.)

(415 ILCS 45/1.1 new)

Sec. 1.1. Duties of Responsible Operators in Charge.

(a) Each individual who is a Responsible Operator in Charge for a community water supply is jointly accountable with the owner of the community water supply for the proper operation of

the portions of the community water supply over which he or she has been designated as the Responsible Operator in Charge.

(b) Each individual who is a Responsible Operator in Charge for a community water supply shall:

(1) hold a certificate of the class required for the operation of the portions of the community water supply over which he or she has been designated as the Responsible Operator in Charge;

(2) directly supervise the operation of the portions of the community water supply over which he or she has been designated as the Responsible Operator in Charge; and

(3) submit, in accordance with Board rules, consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results, such as corrosion control reports and monitoring results.

(415 ILCS 45/4) (from Ch. 111 1/2, par. 504)

Sec. 4.

"Water Supply Operator" means any individual ~~natural person~~ trained in the treatment or distribution of water who has practical working knowledge of the chemical, biological, and physical sciences essential to the practical mechanics of water treatment or distribution and who is capable of conducting and maintaining the water treatment or distribution processes in a manner which will provide safe, potable water for human consumption.

(Source: P.A. 78-810.)

(415 ILCS 45/9) (from Ch. 111 1/2, par. 509)

Sec. 9. "~~Owner or Official Custodian~~" means any person who owns, leases, controls, or supervises a community water supply.

(Source: P.A. 91-84, eff. 7-9-99.)

(415 ILCS 45/9.4 new)

Sec. 9.4. Official custodian. "Official custodian" means an individual who is an officer of an entity that is the owner of a community water supply and acts as the owner's agent in matters concerning the community water supply.

(415 ILCS 45/9.5 new)

Sec. 9.5. Person. "Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent, or assigns.

(415 ILCS 45/9.6 new)

Sec. 9.6. Responsible Operator in Charge. "Responsible Operator in Charge" means an individual who is designated as a Responsible Operator in Charge of a community water supply under Section 1 of this Act.

(415 ILCS 45/10) (from Ch. 111 1/2, par. 510)

Sec. 10. The Agency shall exercise the following functions, powers, and duties ~~with respect to community water supply operator certification~~:

(a) The Agency shall conduct examinations to ascertain the qualifications of applicants for certificates of competency as community water supply operators, and pass upon the qualifications of applicants for reciprocal certificates.

(b) The Agency shall determine the qualifications of each applicant on the basis of written examinations, and upon a review of the requirements stated in Sections 13 and 14 of this Act.

(c) (Blank).

(d) The Agency may suspend, revoke, or refuse to issue any certificate of competency for any one or any combination of the following causes:

(1) the practice of any fraud or deceit in obtaining or attempting to obtain, renew, or restore a certificate of competency;

(2) any gross negligence, incompetency, misconduct, or falsification of reports in the operation of a water supply;

(3) being declared to be an individual ~~a person~~ under legal disability by a court of competent jurisdiction and not thereafter having been lawfully declared to be an individual ~~a person~~ not under legal disability or to have

recovered; or

(4) failure to comply with any of the Rules pertaining to the operation of a water supply.

(e) The Agency shall issue a Certificate to any applicant who has satisfactorily met all the requirements of the Act pertaining to a certificate of competency as a water supply operator.

(f) The Agency shall notify every certified community water supply operator at the last address specified by the operator to the Agency, and at least one month in advance of the expiration of the certificate, of the date of expiration of the certificate and the amount of fee required for its renewal for 3 years.

(g) The Agency shall, upon its own motion, or upon a written complaint, investigate the action of any individual ~~person~~ holding or claiming to hold a certificate, and take appropriate action.

(h) The Agency is authorized to adopt reasonable and necessary rules to set forth procedures and criteria for the administration of this Act.

(i) The Agency may investigate violations of this Act or any rule adopted under this Act.

(j) The Agency may issue administrative citations as provided in Section 23.1 of this Act.

(Source: P.A. 91-84, eff. 7-9-99; 92-16, eff. 6-28-01.)

(415 ILCS 45/11) (from Ch. 111 1/2, par. 511)

Sec. 11. "Advisory Board" means the community water supply operator's advisory board to assist in the formulation of and to review the policies and program of the Agency as developed under authority of this Act, and to make recommendations and to provide the Agency with such technical advice and assistance as may be requested.

The Advisory Board shall consist of the Director and 5 other members to be appointed by the Governor one of whom shall be the chief executive officer of a municipality operating its own municipal water plant. The 5 appointed members shall be individuals ~~persons~~ having an active interest and with wide background in water supply management and operation from a practical and technical standpoint.

The 5 appointed members of the Advisory Board serving at the effective date of this Act shall continue in the same capacity until their previously designated term expires. On the expiration of the term of any member the Governor shall appoint for a term of 5 years an individual ~~a person~~ having the qualifications hereinabove specified to take the place of the member whose term has expired, and who shall hold office until the expiration of the term and until a successor has been appointed and qualified.

The Director of the Agency or an authorized representative shall serve as secretary of the Advisory Board without any additional compensation. The Director or an authorized

representative shall attend all meetings of the Advisory Board, keep minutes, and take part in its discussion, but shall not be entitled to vote.

The Advisory Board shall select one of its members to serve as Chairman at the first regular meeting in each calendar year.

The Advisory Board shall meet annually and at such intervals as may be necessary to transact business which may come before it upon call of the Agency, the Chairman of the Advisory Board, or any 3 of its members. Any 3 members shall constitute a quorum.

The Secretary shall see that accurate minutes are kept of all duly constituted meetings of the Advisory Board.

Members of the Advisory Board shall serve without compensation, but shall be reimbursed for expenses incurred while traveling and performing duties under this Act. Such expenses shall be paid from funds of the Agency appropriated therefor.

The Advisory Board shall have the authority to review contested Agency reciprocity determinations. The Advisory Board must provide applicants who are denied reciprocity with an opportunity to appear before the Board. The Advisory Board shall review the decision to deny reciprocity and must provide a recommendation to the Agency.

(Source: P.A. 91-84, eff. 7-9-99.)

Sec. 12. (a) The Pollution Control Board shall, upon the sworn written request of the applicant or certificate holder, conduct hearings or proceedings for the Agency's refusal to issue, suspension, revocation, or denied renewal of certificates of individuals ~~persons~~ applying for or holding certification under the provisions of this Act.

(b) Hearings shall be conducted under Rules and Regulations adopted by the Pollution Control Board outlining the procedures to be followed in conducting a hearing.

(Source: P.A. 91-84, eff. 7-9-99.)

(415 ILCS 45/13) (from Ch. 111 1/2, par. 513)

Sec. 13. Community Water Supply Operators shall be certified in accordance with the following classifications:

(a) A "Class A" Water Supply Operator Certificate shall be issued to those individuals ~~persons~~ who, in accordance with the provisions of Sections 1 through 23 of this Act, demonstrate the necessary skills, knowledge, ability, and judgment of the chemical, biological, and physical sciences essential to the practical mechanics of coagulation, lime softening, and sedimentation, and distribution in a manner which will provide safe, potable water for human consumption. This includes all surface water community water supplies. The operators will also demonstrate the necessary skills, knowledge, ability, and judgment of the treatment processes outlined in Sections 13 (b), 13 (c), and 13 (d) of this Act.

(b) A "Class B" Water Supply Operator Certificate shall be issued to those individuals ~~persons~~ who, in accordance with the provisions of Section 1 through 23 of this Act, demonstrate the necessary skills, knowledge, ability, and judgment of the chemical, biological, and physical sciences essential to the practical mechanics of filtration, aeration and filtration, and ion exchange systems, and distribution in a manner which will provide safe, potable water for human consumption. The operators will also demonstrate the necessary skills, knowledge, ability, and judgment of the treatment processes outlined in Sections 13 (c) and 13 (d) of this Act.

(c) A "Class C" Water Supply Operator Certificate shall be issued to those individuals ~~persons~~ who, in accordance with the provisions of Sections 1 through 23 of this Act, demonstrate the necessary skills, knowledge, ability, and judgment of the chemical, biological, and physical sciences essential to the practical mechanics of chemical feeding and disinfection and distribution in a manner which will provide safe, potable water for human consumption. The operators will also demonstrate the necessary skills, knowledge, ability, and judgment of the treatment processes outlined in Section 13 (d) of this Act.

(d) A "Class D" Water Supply Operator Certificate shall be issued to those individuals ~~persons~~ who, in accordance with the provisions of Sections 1 through 23 of this Act, demonstrate the necessary skills, knowledge, ability, and judgment of the chemical, biological, and physical sciences essential to the

practical mechanics of pumpage, storage, and distribution in a manner which will provide safe, potable water for human consumption.

(Source: P.A. 91-84, eff. 7-9-99.)

(415 ILCS 45/19) (from Ch. 111 1/2, par. 519)

Sec. 19.

(a) The registered individual ~~person~~ in responsible charge of a previously exempt community water supply on the effective date of this amendatory Act of the 91st General Assembly may be issued a certificate of competency, with no fee required, after the effective date of this amendatory Act of the 91st General Assembly for the community water supply for which the individual is registered. The community water supply owner must make application for grandparenting of the operator in responsible charge within 2 years of the effective date of this amendatory Act of the 91st General Assembly. This certificate is non-transferable, site specific, and is not valid if the water system is reclassified to a higher level.

(b) Each individual who is issued a certificate of competency under Section 19(a) of this Act may renew the certificate every 3 years in accordance with the renewal requirements of Sections 18 and 22 of this Act.

(Source: P.A. 91-84, eff. 7-9-99.)

(415 ILCS 45/20) (from Ch. 111 1/2, par. 520)

Sec. 20. The Agency shall, upon application and payment of the proper fee, issue a certificate of competency to any individual ~~person~~ who holds an unexpired certificate of competency issued by any state or territory or possession of the United States or of any country, if:

(a) the requirements for the certificate of competency under which the certificate of competency was issued do not conflict with and are substantially equal to those specified by Sections 1 through 23 of this Act; and

(b) the particular state or territory or possession of the United States or country extends similar privileges to persons certified under Sections 1 through 23 of this Act.

(Source: P.A. 91-84, eff. 7-9-99.)

(415 ILCS 45/23.1 new)

Sec. 23.1. Administrative citations.

(a) Violations of the requirement set forth in paragraph (3) of subsection (b) of Section 1.1 of this Act shall be enforceable by administrative citation under this Section or as otherwise provided in this Act.

(b) If Agency personnel discover that a Responsible Operator in Charge has violated paragraph (3) of subsection (b) of Section 1.1 of this Act, the Agency may issue and serve, in person or by certified mail, an administrative citation upon that individual within not more than 90 days after the date of the discovery of the violation. Each citation issued under this

subsection (b) shall be served upon the individual named in the citation or that individual's authorized agent for service of process, and shall include the following information:

(1) a statement specifying the report or result that the Responsible Operator in Charge failed to submit in accordance with Board rules and a citation to the Board rules that were violated;

(2) a copy of any report in which the Agency recorded the violation;

(3) the penalty imposed by subsection (f) of this Section for the violation;

(4) instructions for contesting the administrative citation findings pursuant to this Section, including notification that the individual has 35 days within which to file a petition for review before the Illinois Pollution Control Board to contest the administrative citation; and

(5) an affidavit by the personnel recording the violation.

(c) No later than 15 days after the date of service, the Agency shall file a copy of each administrative citation served under subsection (b) of this Section with the Illinois Pollution Control Board, which is hereby authorized to conduct proceedings upon administrative citations issued pursuant to this Section.

(d) If the individual named in the administrative citation fails to petition the Illinois Pollution Control Board for

review within 35 days after the date of service of the citation, the Illinois Pollution Control Board shall adopt a final order, which shall include the administrative citation and findings of violation as alleged in the citation, and shall impose the penalty specified in subsection (f) of this Section.

If a petition for review is filed before the Illinois Pollution Control Board to contest an administrative citation issued under subsection (b) of this Section, the Agency shall appear as a complainant at a hearing before the Illinois Pollution Control Board to be conducted in accordance with the requirements of Section 32 of the Environmental Protection Act at a time not less than 21 days after notice of the hearing has been sent by the Illinois Pollution Control Board to the Agency and the individual named in the citation. In these hearings, the burden of proof shall be on the Agency. If, based on the record, the Illinois Pollution Control Board finds that the alleged violation occurred, it shall adopt a final order, which shall include the administrative citation and findings of violation as alleged in the citation, and shall impose the penalty specified in subsection (f) of this Section. However, if the Illinois Pollution Control Board finds that the individual appealing the citation has shown that the violation resulted from uncontrollable circumstances, the Illinois Pollution Control Board shall adopt a final order that makes no finding of violation and imposes no penalty.

(e) Sections 10-25 through 10-60 of the Illinois

Administrative Procedure Act shall not apply to any administrative citation issued under subsection (b) of this Section.

(f) In an administrative citation action under this Section, any Responsible Operator in Charge who is found to have violated paragraph (3) of subsection (b) of Section 1.1 of this Act shall pay a civil penalty of \$500 for each violation of that provision, plus any hearing costs incurred by the Board and the Agency, except that the civil penalty amount shall be \$1,500 for each violation of paragraph (3) of subsection (b) of Section 1.1 of this Act that is the individual's second or subsequent adjudicated violation of that provision. The penalties assessed under this Section shall be deposited into the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

(g) All final orders issued and entered by the Illinois Pollution Control Board pursuant to this Section shall be enforceable by injunction, mandamus, or other appropriate remedy, as is provided for other orders of the Illinois Pollution Control Board under Section 42 of the Environmental Protection Act.

Section 99. Effective date. This Act takes effect upon becoming law.