



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2770

Introduced 1/30/2014, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

415 ILCS 45/1	from Ch. 111 1/2, par. 501
415 ILCS 45/1.1 new	
415 ILCS 45/4	from Ch. 111 1/2, par. 504
415 ILCS 45/9	from Ch. 111 1/2, par. 509
415 ILCS 45/9.4 new	
415 ILCS 45/9.5 new	
415 ILCS 45/9.6 new	
415 ILCS 45/10	from Ch. 111 1/2, par. 510
415 ILCS 45/11	from Ch. 111 1/2, par. 511
415 ILCS 45/12	from Ch. 111 1/2, par. 512
415 ILCS 45/13	from Ch. 111 1/2, par. 513
415 ILCS 45/19	from Ch. 111 1/2, par. 519
415 ILCS 45/20	from Ch. 111 1/2, par. 520
415 ILCS 45/23.1 new	

Amends the Public Water Supply Operations Act. Provides that every community water supply in Illinois, with specified exemptions, 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. Defines "Responsible Operator in Charge". Establishes duties of Responsible Operators in Charge. Provides that a violation of the Act by a Responsible Operators in Charge shall be enforceable by administrative citation. Changes certain references from "natural person" and "person" to "individual". Defines "official custodian" and "person". Provides that the Agency may investigate violations of the Act or any rule adopted under the Act. Effective immediately.

LRB098 16846 MGM 51917 b

1 AN ACT concerning safety.

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

4 Section 5. The Public Water Supply Operations Act is
5 amended by changing Sections 1, 4, 9, 10, 11, 12, 13, 19, and
6 20 and by adding Sections 1.1, 9.4, 9.5, 9.6, and 23.1 as
7 follows:

8 (415 ILCS 45/1) (from Ch. 111 1/2, par. 501)

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

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

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

4 (2) The following class requirements apply:

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

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

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

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

26 A community water supply that cannot be clearly grouped

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

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

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

21 (415 ILCS 45/1.1 new)

22 Sec. 1.1. Duties of Responsible Operators in Charge.

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

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

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

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

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

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

16 (415 ILCS 45/4) (from Ch. 111 1/2, par. 504)

17 Sec. 4.

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

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

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

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

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

6 (415 ILCS 45/9.4 new)

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

11 (415 ILCS 45/9.5 new)

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

17 (415 ILCS 45/9.6 new)

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

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

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

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

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

13 (c) (Blank).

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

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

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

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

1 recovered; or

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

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

8 (f) The Agency shall notify every certified community water
9 supply operator at the last address specified by the operator
10 to the Agency, and at least one month in advance of the
11 expiration of the certificate, of the date of expiration of the
12 certificate and the amount of fee required for its renewal for
13 3 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (415 ILCS 45/12) (from Ch. 111 1/2, par. 512)

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

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

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

11 (415 ILCS 45/13) (from Ch. 111 1/2, par. 513)

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

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

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

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

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

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

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

5 (415 ILCS 45/19) (from Ch. 111 1/2, par. 519)

6 Sec. 19.

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

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

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

24 (415 ILCS 45/20) (from Ch. 111 1/2, par. 520)

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

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

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

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

14 (415 ILCS 45/23.1 new)

15 Sec. 23.1. Administrative citations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (f) In an administrative citation action under this
5 Section, any Responsible Operator in Charge who is found to
6 have violated paragraph (3) of subsection (b) of Section 1.1 of
7 this Act shall pay a civil penalty of \$500 for each violation
8 of that provision, plus any hearing costs incurred by the Board
9 and the Agency, except that the civil penalty amount shall be
10 \$1,500 for each violation of paragraph (3) of subsection (b) of
11 Section 1.1 of this Act that is the individual's second or
12 subsequent adjudicated violation of that provision. The
13 penalties assessed under this Section shall be deposited into
14 the Environmental Protection Trust Fund, to be used in
15 accordance with the provisions of the Environmental Protection
16 Trust Fund Act.

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

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