



## 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: Wednesday, December 9, 2015  
TIME: 1:00 p.m.  
PLACE: Florence Sabin Conference Room  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

#### WRITTEN AND ORAL COMMENTS:

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

In order to enhance the Board members' ability to review and consider public comments on the proposal, the submission of written comments in advance of the hearing is strongly encouraged. Written comments are due by October 14, 2015.

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 30th day of September 2015 at Denver, Colorado.

WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION BOARD

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Trisha Oeth, Administrator

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

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

**REGULATION NO. 100**

**5 CCR 1003-2**

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**100.15 CERTIFIED OPERATOR DUTIES**

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100.15.3 ~~When acting in the capacity of a certified operator, Certified~~certified operators shall ~~refrain from using threatening, intimidating, vulgar, demeaning or degrading language or similar behavior in verbal or written communications or in interactions with~~conduct themselves in a professional manner when acting in the capacity of a certified operator. "Professional manner" is defined as exhibiting dignified and respectful behavior towards the public, the regulated community and regulators.

....

**100.20 DISCIPLINARY PROCEEDINGS**

100.20.1 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:

....

- (j) ~~when acting in the capacity of a certified operator, using threatening, intimidating, vulgar, demeaning or degrading language or similar behavior in verbal or written communications or in interactions with~~ failing to conduct oneself in a professional manner when acting in the capacity of a certified operator. "Professional manner" is defined as exhibiting dignified and respectful behavior towards ~~the public, regulators, the regulated community and~~ regulators ~~the public.~~

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## WQCD PROPOSED

### **100.52 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: OCTOBER 27, 2015 RULEMAKING, EFFECTIVE DECEMBER 30, 2015**

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

#### **BASIS AND PURPOSE**

Sections 100.15.3 and 100.20.1(j). The board added subsection 100.20.1(j) in August 2014 to clarify that the board may take disciplinary action against a certified operator for failure to conduct oneself in a "professional manner." In August 2015, the board adopted section 100.15.3 to include in the list of certified operators' duties the requirement to act in a professional manner. The board made these additions to clarify its expectation that certified operators have an obligation to uphold the integrity of the profession by working with the public, others in the regulated community, and regulators in a dignified manner that fosters trust and respect. The board believes this obligation is important because the profession is directly linked to the important duties of protecting public health and the environment.

The Office of Legislative Legal Services, which conducts legal reviews of all newly-promulgated agency rules, expressed concern after the August 2015 adoption of section 100.15.3 that the language describing "professional manner" was too vague to meet the requirements of the Colorado Administrative Procedures Act, 24-4-101 et. seq., C.R.S. To address these concerns, the board adopted changes to section 100.15.3 to delete the concept of "professional manner," and instead to specifically prohibit certain types of behavior when a certified operator is acting in a professional capacity. These prohibited behaviors are related to a certified operator's demeanor while communicating/interacting with the public, the regulated community and regulators. The board similarly revised section 100.20.1(j) to clarify that certified operators who exhibit such behavior are subject to disciplinary action by the board.