

COLORADO WATER AND WASTEWATER FACILITY OPERATORS CERTIFICATION BOARD
STATE OF COLORADO

PREHEARING STATEMENT OF THE WATER QUALITY CONTROL DIVISION

IN THE MATTER OF PROPOSED REVISIONS TO THE WATER AND WASTEWATER FACILITY
OPERATORS CERTIFICATION REQUIREMENTS, REGULATION 100 (5 CCR 1003-2).

I. STATEMENT OF FACTUAL AND LEGAL CLAIMS

The Water Quality Control Division ("Division"), serving as staff to the Water and Wastewater Facility Operators Certification Board ("Board"), is providing this information to support the Division's proposed changes to the *Water and Wastewater Facility Operators Certification Requirements*, Regulation 100 (5 CCR 1003-2).

II. BACKGROUND

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. These additions clarified the 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 Office of Legislative Legal Services, which conducts legal reviews of all newly-promulgated agency rules, expressed concern after the August 30, 2015 effective date of the adoption of section 100.15.3 that the language describing "professional manner" in both sections 100.15.3 and 100.20.1(j) were too vague to meet the requirements of the Colorado Administrative Procedures Act, 24-4-101 et. seq., C.R.S.

III. STAKEHOLDER INVOLVEMENT

The Office of Legislative Legal Services required the changes to Regulation 100 be completed by the end of this calendar year. Because of the short time-frame to make the changes, the division did not hold stakeholder meetings. The proposed changes do not significantly change the intent of the originally adopted language that was taken through full stakeholder processes.

IV. ISSUES BEFORE THE BOARD

A. Changes to Certified Operator Duties, Section 100.15.3

The division recommends 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 or interacting with the public, the regulated community and regulators.

B. Changes to Disciplinary Proceedings, Section 100.20.1(j)

The division recommends changes 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 or interacting with the public, the regulated community and regulators and that certified operators who exhibit such behavior are subject to disciplinary action by the Board.

V. DIVISION RESPONSES TO PROPOSALS BY OTHER PARTIES

One comment regarding the proposal was received in response to the September 30, 2015 Notice of Public Rulemaking Hearing. Applewood Park Townhome Association, Inc's comments were self-described as commentary in nature and did not specifically address the proposal before the board. The comments were complaints about a particular public water system's management practices rather than the changes to Regulation 100 related to a certified operator's demeanor while communicating or interacting with the public, the regulated community and regulators.

VI. EXHIBITS

Exhibit 1: Notice of Public Rulemaking Hearing before the Colorado Water and Wastewater Facility Operators Certification Board for consideration of the adoption of revisions to the *Water and Wastewater Facility Operators Certification Requirements*, Regulation #100 (5 CCR 1003-2).

The Division reserves the right to submit additional exhibits, as needed, for purposes of rebuttal.

VII. WITNESSES

Jackie Whelan, WWFOCB-WQCD Liaison, Water Quality Control Division, Colorado Department of Public Health and Environment. Ms. Whelan may provide testimony on the appropriateness of proposed changes and rebuttal testimony as needed.

The Division reserves the right to call any other witnesses, as needed, for purposes of rebuttal.

Respectfully submitted this 24th day of November 2015.

FOR THE WATER QUALITY CONTROL DIVISION



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