STATE WATER RESOURCES CONTROL BOARD
JAN 30 2013
OFFICE OF OPERATOR CERTIFICATION

State of California
Office of Administrative Law

In re:
State Water Resources Control Board

NOTICE OF APPROVAL OF REGULATORY ACTION

Regulatory Action:

Government Code Section 11349.3

Title 23, California Code of Regulations

OAL File No. 2012-1213-01 S

Adopt sections:	**3677, 3677.1, 3677.2, 3677.3, 3677.4, 3677.5, 3677.6, 3680.1, 3680.2, 3681, 3682, 3682.1, 3682.2, 3682.3, 3682.4, 3682.5, 3682.6, 3683, 3683.1, 3683.2, 3683.3, 3683.4, 3684, 3685, 3686, 3687, 3689, 3700, 3701, 3701.1, 3701.2, 3702, 3702.1, 3702.2, 3702.3, 3702.4, 3702.5, 3702.6, 3702.7, 3703, 3709, 3712, 3712.1, 3712.2, 3715, 3716, 3719.6, 3719.8, 3719.10, 3719.11, 3719.14, 3719.15**
Amend sections:	**3670, 3670.1, 3671, 3675, 3676, 3680, 3710, 3711, Renumber 3712 as 3711.1, Renumber 3713 as 3711.2, Renumber 3714 as 3713, Renumber 3715 as 3714, 3717, 3718, 3719, Renumber 3719.10 as 3719.1, Renumber 3719.11 as 3719.2, Renumber 3719.12 as 3719.3, Renumber 3719.13 as 3719.4, Renumber 3719.14 as 3719.5, Renumber 3719.15 as 3719.7, Renumber 3719.16 as 3719.9, Renumber 3719.17 as 3719.12, Renumber 3719.18 as 3719.13, Renumber 3719.19 as 3719.16**
Repeal sections:	**3670.2, 3683, 3684, 3685, 3686, 3700, 3701, 3702, 3702.1, 3702.2, 3702.3, 3702.4, 3702.5, 3703, 3704,**

3707, 3708, 3709, 3716

STATE WATER RESOURCES CONTROL BOARD
JAN 30 2013
OFFICE OF OPERATOR CERTIFICATION

This rulemaking action implements statutory changes resulting from AB 1664, Ch. 869 of 2001, and AB 2971, Ch. 422 of 2002, as well as amending regulations in Title 23 of the California Code of Regulations so as to make the wastewater treatment plant operator certification process consistent with current operational practices. The rulemaking, among other things, provides for the exemption of Class I plants from operator certification requirements under certain circumstances, expands the definition of wastewater treatment plants to include privately owned plants, and increases registration, certification, and other related fees.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2013.

Date: 1/28/2013

Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Director

Original: Thomas Howard
Copy: Wes Wilkinson

OFFICE OF ADMINISTRATIVE LAW
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Wes Wilkinson
FROM: OAL Front Desk
DATE: 1/29/2013
RE: Return of Approved Rulemaking Materials
OAL File No. 2012-1213-01S

OAL hereby returns this file your agency submitted for our review (OAL File No. 2012-1213-01S regarding Wastewater Treatment Plant Operator Certification).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

(1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
(2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
(3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
(4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.

2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at **postedregslink@oal.ca.gov**.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "....no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

instructions on reverse

STD. 400 (REV. 01-2013)

For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2013 JAN 28 PM 1:19

DEBRA BOWEN
SECRETARY OF STATE

CAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2012-0601-01	2012-1213-01S	

For use by Office of Administrative Law (OAL) only

2012 DEC 13 P 3:38

OFFICE OF ADMINISTRATIVE LAW

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: State Water Resources Control Board

AGENCY FILE NUMBER (If any):

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
☐ Notice re Proposed Regulatory Action ☐ Other			

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn	2012, 24-Z	6-15-2012

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Wastewater Treatment Plant Operator Certification

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S):

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

TITLE(S): 23

ADOPT: See attached.

AMEND: See attached.

REPEAL: See attached.

3. TYPE OF FILING

- ☒ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify) _____
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
October 1, 2012 to October 15, 2012

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☒ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- ☐ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Wes Wilkinson	(916) 341-5131	(916) 341-5734	wwilkinson@waterboards.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Thomas Howard

DATE: 12/12/12

TYPED NAME AND TITLE OF SIGNATORY: Thomas Howard, Executive Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 28 2013

Office of Administrative Law

SECTION CODES LIST FOR B.2 OF FORM 400

OAL Notice File number 2012-0601-01/OAL Review File number 2012-1213-01S

Adopt

Section 3677
Section 3677.1
Section 3677.2
Section 3677.3
Section 3677.4
Section 3677.5
Section 3677.6
Section 3680.1
Section 3680.2
Section 3681
Section 3682
Section 3682.1
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Section 3682.3
Section 3682.4
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Section 3702.5
Section 3702.6
Section 3702.7
Section 3703
Section 3709
Section 3712
Section 3712.1

Renumber and Amend

Section 3712 as Section 3711.1
Section 3713 as Section 3711.2
Section 3714 as Section 3713
Section 3715 as Section 3714
Section 3719.10 as Section 3719.1
Section 3719.11 as Section 3719.2
Section 3719.12 as Section 3719.3
Section 3719.13 as Section 3719.4
Section 3719.14 as Section 3719.5
Section 3719.15 as Section 3719.7
Section 3719.16 as Section 3719.9
Section 3719.17 as Section 3719.12
Section 3719.18 as Section 3719.13
Section 3719.19 as Section 3719.16

State Water Resources Control Board
Division of Financial Assistance
Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration

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2) Initial Statement of Reasons

3) Text of Originally Proposed Regulations

4) Statement of Mailing Notice

5) Written Comments Submitted During 45-Day Comment Period

6) Public Hearing DVD Recording

7) August 28, 2012 Operator Certification Advisory Committee Notice and Agenda

8) Notice of Modified Text, Text, and Comments on Modified Text

9) Written Comments Submitted Outside of the Public Comment Periods

10) Updated Informative Digest

11) Final Statement of Reasons and Addendum to Final Statement of Reasons

12) State Water Resources Control Board Action

13) Reference and Authority

14) Form 399

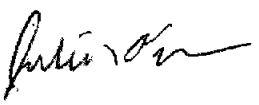
15) Final Text of Regulations

CERTIFICATION

The foregoing table of contents constitutes the State Water Resources Control Board's rulemaking file for the subject regulations. The rulemaking file as submitted is complete. The rulemaking record for the subject regulations was closed on January 24, 2013.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Sacramento, California on January 24, 2013.

Signed:



Julie M. Osborn
Attorney III
Office of Chief Counsel
State Water Resources Control Board

NOTICE OF PROPOSED RULEMAKING

STATE OF CALIFORNIA–OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2012-0601-01		

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE

JUN 01 '12 JUN 15 '12

Office of Administrative Law

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY | AGENCY FILE NUMBER *(If any)*

A. PUBLICATION OF NOTICE *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Wastewater Treatment Plant Operator Certification	23	3670	6/15/2012

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER *(Optional)*
☑ Notice re Proposed Regulatory Action ☐ Other	Debra Cockrell	(916) 341-5648	(916) 341-5734

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS *(Complete when submitting regulations)*

1a. SUBJECT OF REGULATION(S) | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) *(Including title 26, if toxics-related)*

SECTION(S) AFFECTED *(List all section number(s) individually)*

ADOPT

AMEND

TITLE(S)

REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)

☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4)

☐ Emergency (Gov. Code, § 11346.1(b))

☐ Emergency Readopt (Gov. Code, § 11346.1(h))

☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)

☐ Other (specify) _____

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE *(Cal. Code Regs. title 1, §§ 44 and 45)*

5. EFFECTIVE DATE OF REGULATORY CHANGES *(Gov. Code, §§ 11343.4, 11346.1(d))*

☐ Effective 30th day after filing with Secretary of State

☐ Effective on filing with Secretary of State

☐ Effective other *(Specify)* _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☑ Department of Finance (Form STD. 399) (SAM §6660)

☐ Fair Political Practices Commission

☐ State Fire Marshal

☐ Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER *(Optional)*	E-MAIL ADDRESS *(Optional)*
	( )	( )	

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Thomas Howard | DATE: 3/7/12

TYPED NAME AND TITLE OF SIGNATORY

Thomas Howard, Executive Director

EDMUND G. BROWN, JR., GOVERNOR

OFFICE OF ADMINISTRATIVE LAW

California Regulatory Notice Register

REGISTER 2012, NO. 24–Z PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW JUNE 15, 2012

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Adoption
Multi–County: Mission View Public Charter School, Incorporated

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for $205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at **http://www.oal.ca.gov.**

uled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45–day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at http://www.edd.ca.gov.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at http://www.edd.ca.gov.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

TITLE 23. STATE WATER RESOURCES CONTROL BOARD

STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS

CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) relating to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program).

PUBLIC HEARING

The State Water Board will hold a hearing beginning at 9:00 a.m. on Tuesday August 7, 2012 in the Coastal Hearing Room at the Joe Serna Jr./Cal–EPA Headquarters Building, 1001 I Street, Sacramento, California 95814. The Joe Serna Jr./Cal–EPA Headquarters Building is accessible to people with disabilities. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described in the Informative Digest/Policy Statement Overview. The State Water Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The State Water Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modifications of the proposed regulations. The State Water Board will not accept oral statements subsequent to the public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes at 5:00 p.m. on **July 30, 2012**. The State Water Board will only consider comments received by that time at the addresses below.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if 15 megabytes in size or less), (916) 341–5620 (fax), or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812–2000
(by mail)
1001 I Street, 24th Floor, Sacramento, CA 95814
(by hand delivery)

Please also indicate in the subject line, **"Comment Letter — Proposed Operator Certification Regulations."**

Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341–5600.

To be added to the mailing list for this rulemaking and to receive notification of updates to this rulemaking,

you may subscribe to the listserve for public notices regarding the Operator Certification program by going to: www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml. You may also call Ms. Debra Cockrell at (916) 341–5648 or email her at dcockrell@waterboards.ca.gov.

AUTHORITY AND REFERENCE

Water Code section 1058 and chapter 9 of the Water Code authorize the State Water Board to adopt, amend, or repeal the regulations for the Operator Certification program. The proposed regulations implement, interpret, or make specific chapter 9 of the Water Code, commencing with section 13625. References to specific code sections are identified in the proposed amendments to the regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under chapter 9 of the Water Code, the State Water Board is responsible for the administration of the Operator Certification program.

In order to implement amendments to the Water Code enacted by chapter 422, statutes of 2002, the State Water Board proposes to amend the definition of "wastewater treatment plant" (WWTP) to include privately owned WWTPs. The amended definition of WWTP clarifies that a water recycling treatment plant is included in the definition of WWTP, but it specifically excludes onsite sewage treatment systems.

In accordance with Water Code section 13627.5, which was added by chapter 422, statutes of 2002, operators at privately owned WWTPs will receive qualifying experience credit for a minimum of one year of experience after they pass an examination. The State Water Board also proposes regulations setting forth the procedures and timeframes by which owners of privately owned WWTPs and operators at privately owned WWTPs must comply with the regulations. No later than two years from the effective date of the regulations, all operators at privately owned WWTPs must be certified at the appropriate grade level.

The State Water Board is adding provisions regarding Class I WWTP exemptions to the regulations, including provisions for applying for an exemption, issuing an exemption, and renewing an exemption to implement Water Code section 13625.1, which was added by chapter 422, statutes of 2002. The fee for applying for an exemption will be $800. The fee for renewing an exemption will be $300.

The State Water Board is adding administrative civil liability provisions to the regulations to incorporate changes to the Water Code enacted by chapter 869, statutes of 2001 and chapter 664, statutes 2002.

The State Water Board has determined that it is necessary to amend the regulations to clarify ambiguities in the existing regulations, for consistency with chapter 9 of the Water Code and between different provisions in the regulations, and to address issues previously unforeseen by the State Water Board. This includes adding definitions for several previously undefined terms and defining terms that are added to the regulations. The State Water Board has explained these amendments in detail in the statement of reasons. To the extent that these definitions merely clarify existing regulations or are necessary to implement other proposed amendments discussed in this notice, they are not identified in this notice.

Existing regulations require certain documents to be sent to the State Water Board, the Division of Financial Assistance (Division), or the Division Chief of the Division and postmarked by a certain date in order to be considered timely. The State Water Board proposes to amend all regulations so they specify a date by which the State Water Board, the Deputy Director of the Division, the Director of the Office of Enforcement (OE), or the Office of Operator Certification (OOC) must receive a document in order for it to be considered timely.

As explained in the statement of reasons, the State Water Board has proposed certain changes to the regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (e.g., changes without regulatory effect). These amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross–references, grammar, punctuation, capitalization, or renumbering or relocating regulatory provisions. Additionally, the titles of articles and sections are amended to reflect the relocation of regulatory provisions and for clarification purposes.

Finally, the proposed amendments incorporate the change in the title of the person formerly referred to as the "Division Chief" of the Division to the "Deputy Director" of the Division and references to the Division are replaced with references to the OOC where appropriate. In many cases the State Water Board has explained these amendments in the statement of reasons to avoid any confusion with the substantive revisions. To the extent that many of these amendments without regulatory effect are non–substantive and their purpose is self–evident or merely editorial, they are not identified in this notice.

The specific benefits anticipated will protect public health and the environment by providing for the effective operation of public and privately–owned WWTPs.

The proposed regulation is consistent with and compatible with other existing state regulations governing WWTPs.

Summary of Proposed Regulations:

The number of applications and the associated costs of the Operator Certification program have increased significantly since the last fee increase in 2003, although the level of effort to review applications remains steady. In order to cover the costs of the Operator Certification program, the State Water Board is increasing operator and operator–in–training (OIT) fees by 78 percent. The State Water Board is also increasing the reinstatement fee, the certificate replacement fee, and the reciprocity fee, which is renamed the examination waiver fee.

The contract operator fees were established on August 29, 1994, and have never been increased. The costs of registering contract operators have increased significantly since 1994 and the fees collected do not cover the costs.

In order to cover the costs of the contract operator program, the State Water Board is increasing the initial contract operator registration fee and annual renewal fee by 250 percent and the fee for employee registration by the contract operator must increase by 200 percent. The State Water Board is also increasing the late fee and the registration replacement fee.

The State Water Board is establishing a provisional operator certificate to help Class I WWTPs train and retain qualified operators when the owner has had difficulty hiring a certified operator to operate the WWTP. The owner of the WWTP will be required to submit a written plan for the provisional operator's operation of the WWTP that meets specific requirements. The provisional operator must submit a copy of the WWTP's monitoring reports to the OOC and cannot supervise operators, other provisional operators, or OITs or appoint a designated operator–in–charge. In addition, the provisional operator must receive training acceptable to the OOC on proper sampling procedures, the WWTP's standard operating procedures, and the WWTP's waste discharge requirements and the WWTP must have procedures for testing the provisional operator's proficiency on each of these subjects. The WWTP must have a written agreement with a certified operator, a registered contract operator, or another WWTP, ensuring that a certified operator will be available to assist the provisional operator when the provisional operator needs direction or if the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator." The fee for an owner to request approval to use a provisional operator will be $1,000. The fee to apply for a provisional operator certificate will be the same as the fee to apply for a Grade I OIT certificate or a Grade I operator certificate.

The definition of "operates" is expanded to require a person to hold an operator certificate in order to take actions or make decisions that control the performance or outcome of one or more wastewater treatment processes, regardless of the person's job title. The definition of "operates" is also expanded to include the supervision of other operators whose actions or decisions control the performance or outcome of one or more wastewater treatment processes. These people, who share in the responsibility of operating a WWTP, must demonstrate their competency by being certified as operators because of the effect that their activities or decisions can have on WWTP operations and compliance with the WWTP's waste discharge requirements. Additionally, the definition of "wastewater treatment process" is added to clarify the use of this term in the definition of "operates," as well as other provisions in the regulations.

Existing regulations use the term "year of experience" to refer to the amount of experience operators or OITs must have to advance to a higher grade level. The existing term "year of experience" is replaced with the term "full–time qualifying experience" and the definitions of "full time" and "qualifying experience" are added to the regulations. In addition, the proposed regulations provide that an operator will acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of "qualifying experience."

The proposed definition of "qualifying experience" means experience acquired by an operator or an OIT while operating a WWTP. The term "qualifying experience" may include the performance of some minor maintenance.

Because the State Water Board recognizes that a person may have other experiences that add to the knowledge and skills necessary to operate a WWTP, the OOC may give "qualifying experience credit" for specified activities. Once the OOC awards qualifying experience credit, it is treated the same as qualifying experience acquired while operating a WWTP.

The definition of "water recycling treatment plant" is amended to clarify that a water recycling treatment plant receives and further treats effluent from a WWTP in order to distinguish water recycling treatment plants from other WWTPs.

In existing regulations, the term "pond treatment" means both "modified treatment pond" and "conventional treatment pond." The term "pond treatment" is replaced with the terms "modified treatment pond" and

"conventional treatment pond" and these two types of ponds are classified separately.

Extended aeration is deleted as a criterion for classifying WWTPs because WWTPs using extended aeration are using an activated sludge treatment process and should be classified accordingly.

Sequencing batch reactor technology is a relatively new, advanced technology that uses microprocessor controllers to automatically sequence treatment stages to meet targeted waste discharge requirements. The use of this technology is added as a criterion for classifying WWTPs.

The term "satellite plant" is added to the regulations to describe a WWTP that is so closely related to the main WWTP that both the "satellite plant" and the main WWTP should be classified as a single WWTP.

The terms "shift supervisor" and "supervisor" are deleted from the regulations and replaced with the term "designated operator–in–charge." With the exception of provisional operators, a chief plant operator must appoint a designated operator–in–charge to be responsible for the operation of the WWTP whenever the chief plant operator is unable to carry out the responsibilities of the position of chief plant operator.

In order to ensure that a chief plant operator is aware of his or her duties, the definition of "chief plant operator" is amended for clarification purposes. As amended, the definition incorporates the new provisional operator certificate. With the exception of provisional operators, the amended definition emphasizes the chief plant operator's responsibility for compliance with applicable waste discharge requirements and ensuring that OITs are supervised directly as required by the proposed regulations. Additionally, owners of WWTPs are required to submit a statement signed by the person designated as the chief plant operator accepting the responsibility of a "chief plant operator" as defined in the proposed regulations.

The definition of "direct supervision" in the existing regulations is ambiguous and has led to confusion and misinterpretation within the industry. The definition is amended for clarification purposes and to state the specific intent of the State Water Board. Additionally, to ensure that OITs are properly supervised at all times, this definition is amended to require that the supervising operator be present at the WWTP or otherwise available to consult with, and provide assistance to, the OIT in order to ensure the safe and proper execution of the OIT's duties.

Currently, the chief plant operator of a WWTP may obtain permission for a WWTP to be operated by a lone operator certified at no more than one grade level lower than that required for a shift supervisor. Pursuant to the proposed regulations, the State Water Board will allow any certified operator to operate a WWTP as a lone operator so long as the lone operator is permitted to perform only basic duties that require minimal judgment.

An OIT may not be assigned as a lone operator. The proposed regulations establish the requirements and the procedures for obtaining approval for assigning lone operator shifts.

Chief plant operators currently must verify an applicant's experience on an application for an examination or certification. Applicants will no longer be required to provide information regarding experience on an application for an examination. Therefore, chief plant operators do not need to sign an application for an examination. Additionally, chief plant operators are only required to verify the qualifying experience that the applicant acquired at that WWTP.

Currently, the regulations require operator and OIT certificates to be backdated to the date that OOC receives the application for certification. Additionally, all operator and OIT certificates are given either a June 30 or December 31 expiration date. As amended, the issue date for a certificate will now be the date the OOC actually issues the certificate and the expiration date for a certificate will be two years from the date of issuance.

The provisions regarding OITs currently incorporate by reference many provisions regarding the procedures for applying for and issuing operator certificates and renewal operator certificates. The provisions regarding the procedures for applying for and issuing operator certificates and renewal operator certificates have been made specific to OITs.

Existing regulations allow an OIT to renew an OIT certificate only one time. This means that an OIT has a maximum of four years to obtain experience for certification at that grade level. OITs will now be allowed to renew an OIT certificate repeatedly for additional two–year periods under certain conditions. The OIT must have passed an examination at that grade level or higher and the examination results must not have expired. The chief plant operator also must submit a plan to the OOC for the OIT to gain the experience necessary to become certified at that grade level.

A new provision has been added regarding the invalidation and issuance of a new OIT certificate. An OIT certificate is only valid while the OIT is in training at the WWTP for which the certificate was issued. Chief plant operators will be required to return an invalidated certificate with a statement as to the amount of qualifying experience the OIT acquired before leaving the WWTP. This provision also sets forth the conditions that a person must meet to obtain a new OIT certificate. All time and experience acquired under a previous OIT certificate will be applied to a new certificate.

Under existing regulations, the OOC issues Grades I and II operator certificates by reciprocity to people who hold comparable certifications in other states. To be is-

sued a certificate via reciprocity, the applicant must meet all of the State Water Board's experience and education requirements. The only requirement currently waived is the examination requirement. In order to clarify that no other requirement will be waived, the current reciprocity provision is replaced with an examination waiver. Additionally, the requirements for an examination waiver are not as limited as existing requirements for reciprocity. Finally, the OOC may issue an examination waiver to an applicant at any grade, provided the applicant holds a comparable certification issued by a certifying body. In order to implement this change, the State Water Board has added definitions for "certifying body" and "Indian tribe."

Under the proposed regulations, the OOC may give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land within the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of a WWTP operator.

In order to be given qualifying experience credit, the applicant must have held a valid, unexpired certification of the appropriate grade level issued by a certifying body to perform duties comparable to the duties of an operator at a WWTP. The certifying body's certification requirements also must be comparable to the State Water Board's requirements. This requirement ensures that the experience obtained at a facility that treats wastewater but that is not a WWTP is comparable to the experience acquired by operators at WWTPs.

The State Water Board is amending the regulations to emphasize education. The educational requirements for certain paths for certification are increased. As amended, all operators and OITs must have a high school degree or equivalent. Also, educational points can no longer be substituted for uncompleted years of high school. Additional paths for certification are added to allow people with higher levels of education to become certified at one grade level lower than existing regulations allow.

The State Water Board has reviewed the education and experience requirements for each path for certification to ensure consistency. For Grade IV certification, the experience requirement for someone with at least a bachelor's degree is increased from two years to three years to be consistent with other paths.

The regulations make it clear that operators who were issued operator certificates before the effective date of these regulations do not have to meet the new requirements for education and experience in order to renew their certificates. Additionally, operators holding expired certificates do not have to meet the new requirements for education and experience in order to reinstate their certificates. These requirements apply to people applying for a new operator, provisional operator, or OIT certificate, a renewed OIT certificate, or an examination on or after the effective date of these regulations, including operators who request certification at a higher grade.

Operators may currently earn educational points for having taken courses "directly related to wastewater treatment" or "indirectly related to wastewater treatment." For clarification purposes, the term "directly related to wastewater treatment" is replaced with the term "wastewater treatment course," which is defined in the regulations. Also, the term "indirectly related to wastewater treatment" is replaced with the term "management course," which is defined in the regulations.

The term "basic science courses" is replaced with "science course" and is expanded to include courses in engineering. As amended, operators may now earn educational points for taking science courses.

The grounds for disciplinary action against operators, OITs, and contract operators are amended to ensure that the State Water Board may exercise its full disciplinary authority under Water Code sections 13625(e) and 13627.3(c). The regulations will now specify that the State Water Board may discipline an operator, provisional operator, or OIT "upon any reasonable ground," including the acts specified in the regulations. In addition, the regulations will now specify that the State Water Board may take disciplinary action against an operator, provisional operator, OIT, or contract operator who orally provides false or misleading information during an investigation or fails to post a certificate or contract operator credential.

A person who commits an act that is a reasonable ground or good cause for a disciplinary action pursuant to these regulations at any facility that treats wastewater, including facilities operated in another state, in a territory, or on land under the jurisdiction of an Indian tribe, may not possess the technical qualifications, integrity, and respect for the law necessary to operate a WWTP. Therefore, the regulations are amended so that the State Water Board may discipline an operator, provisional operator, OIT, or contract operator for committing any act that is a reasonable ground or good cause for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground or good cause for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

Additionally, an operator, provisional operator, OIT, or contract operator may be disciplined for failing to comply with the new requirement to notify the OOC if a certifying body or court, for any act associated with per-

forming duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, takes final action: to discipline; to impose administrative civil liability; or to impose civil or criminal liability against the operator, provisional operator, OIT, or contract operator.

Under existing regulations, Proposed Disciplinary Action Letters issued by the Director of the OE may be appealed to the Division Chief (to be retitled "Deputy Director") of the Division. The Division Chief may then uphold, overturn, or amend the proposed disciplinary action. Typically, appeals go up through the chain of command in an organization. In this case, however, the Director of the OE is independent of the Deputy Director of the Division and the Director of the OE and the Deputy Director of the Division have comparable levels of authority within the State Water Board. Therefore, the State Water Board has determined that the Deputy Director of the Division should not review appeals of Proposed Disciplinary Action Letters issued by the Director of the OE. Instead, a person to whom a Proposed Disciplinary Action Letter has been issued may request reconsideration by the Director of the OE.

The appeal and petition process is amended to make the appeal and petition process for the Operator Certification program consistent with the process for other State Water Board programs.

Existing regulations state that no person or entity may enter into a contract to operate a WWTP unless that person is a registered contract operator. To establish existing practice in regulation, the regulations are amended to provide that within 30 days after entering into a contract to operate a WWTP, a contract operator must submit an application for contract operator registration with the OOC.

The use of the term "certificate of registration" in existing provisions regarding contract operators is confusing because it is used for both the certificate issued by the OOC upon registering contract operators and for certificates that must be posted at each WWTP operated by the contract operator. Therefore, the certificates that must be posted at each WWTP are renamed "contract operator credentials." Additionally, new provisions are added regarding applying for an additional contract operator credential if the contract operator enters into a new contract after obtaining or renewing the contract operator's certificate of registration. A contract operator must submit an application for an additional contract operator credential within 30 days of entering into a contract to operate another WWTP.

LOCAL MANDATE

These proposals do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

COSTS OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that this regulation requires approximately $380,000 in additional expenditures to: 1) develop and implement the new provisional operator certificate; 2) bring approximately 434 privately owned WWTPs into the Operator Certification Program, including plant classification, registering contract operators, and processing certificate applications and giving examinations to the additional 468 certified operators, certified provisional operators, or certified OITs; and 3) maintain the current workload of certifying operators and registering contract operators at publicly owned WWTPs.

It is anticipated that the State Water Board will request an increase in the currently authorized budget level for the 2012–13 fiscal year. The increase of authority will be supported by the fee revenue collected by the Operator Certification Program.

COST OR SAVINGS IMPOSED ON LOCAL AGENCIES

The State Water Board has determined that this regulation imposes additional expenditures on local agencies of approximately $350,258, which are not reimbursable by the State pursuant to section 6 of article XII B of the California Constitution and sections 17500 et seq. of the Government Code because this regulation will be fully financed from the sewer assessments collected by publicly owned WWTPs authorized by section 5470 et seq. of the Health and Safety Code.

OTHER NONDTSCRETIONARY COSTS OR SAVINGS ON LOCAL AGENCIES

The State Water Board has determined that there are no nondiscretionary costs or savings imposed on local agencies as a result of the proposed regulations.

COST OR SAVINGS IMPOSED ON SCHOOL DISTRICTS

The State Water Board has determined that there are no costs or savings imposed on school districts as a result of the proposed regulations.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

The State Water Board has determined that there are no costs or savings in federal funding to the state as a result of the proposed regulations.

BUSINESS IMPACT/SMALL BUSINESSES

Contract operators will pass their increased costs on to the WWTPs in the form of increased service rates.

All private WWTPs are considered small businesses. No initial (capital) costs are required by the regulation.

A privately owned WWTP may comply with the regulation by either employing its own certified operators or contracting for operator services from a registered contract operator. The average annual cost for a small business employing operators is $4,000. The average annual cost for a small business contracting for operator services is $2,967. The average annual cost for a small business employing operators or contracting for operator services is $3,483.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Assessment Regarding Effect on Jobs/Businesses

There will be minimal impact on both creation and elimination of jobs because uncertified operators at privately owned WWTPs will probably become certified. The State Water Board has determined that the regulation will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Benefits of the Regulation for Public Health, Safety, and Welfare

The State Water Board did not estimate the benefits of the proposed regulation. The proposed regulation will protect public health and the environment by providing for the effective operation of privately owned WWTPs. The regulation also provides additional revenue for operation of the Operator Certification Program.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The small business is the typical business therefore the economic impacts estimated in the previous section entitled "Business Impact/Small Businesses" also applies here.

The State Water Board expects that privately owned WWTPs will pay for or reimburse operators, provisional operators, and OITs for their fees and education costs. The State Water Board also expects that half of publicly owned WWTPs will pay or reimburse operators, provisional operators, and OITs for their fees and half of the publicly owned WWTPs will not pay or reimburse operators, provisional operators, and OITs for their fees. No initial (capital) costs are required by the regulation. The average annual cost for operators, provisional operators, and OITs employed at publicly owned WWTPs that will not pay or reimburse operators, provisional operators, and OITs for their fees is $100. The average annual cost for operators, provisional operators, and OITs at privately owned WWTPs and publicly owned WWTPs is $47.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

There will be no Adverse Economic Impact.

EFFECT ON HOUSING COSTS

None.

ALTERNATIVES

The regulation implements chapter 422, statutes 2002 by setting forth the procedures and timeframes by which operators at privately owned WWTPs must obtain operator certificates, owners of privately owned WWTPs must comply with the regulations, and contract operators at privately owned WWTPs must register with the State Water Board. The Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND THE RULEMAKING FILE

The State Water Board has prepared an Initial Statement of Reasons for the proposed action. The statement

includes the specific purpose for each amendment, interpretation, or requirement, and the factual basis for determining the necessity of each regulatory interpretation or requirement. All the information upon which the proposed regulations are based is contained in the rulemaking file. The Initial Statement of Reasons, the express terms of the proposed regulations, and the rulemaking file are available from the contact person listed below or at the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, the State Water Board may adopt the regulatory language as originally proposed, or with non–substantial or grammatical modifications. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for written comment at least 15 days before the State Water Board adopts the regulations as modified.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available from the contact person listed below or at the website listed below.

CONTACT PERSONS

Requests for copies of the text of the proposed regulations, the Statement of Reasons, or other information upon which the rulemaking is based, or other inquiries, should be addressed to the following:

The contact person is:

Name:	Debra Cockrell
Address:	State Water Resources Control Board Office of Operator Certification 1001 "I" Street Sacramento, CA 95814
Telephone No.:	(916) 341–5648
Fax No.:	(916) 341–5734
E–Mail Address:	dcockrell@waterboards.ca.gov

The backup contact person is:

Name:	Debbie Zuccala
Address:	State Water Resources Control Board Office of Operator Certification 1001 "I" Street Sacramento CA 95814
Telephone No.:	(916) 341–5639
Fax No.:	(916) 341–5734
E–Mail Address:	dzuccala@waterboards.ca.gov

The documents relating to this proposed action may also be found on the State Water Board's website at the following address: http://www.waterboards.ca.gov/water_issues/programs/operator_certification/.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

DTSC SEEKS JUDICIAL APPROVAL OF SETTLEMENT AGREEMENT WITH THE PARTY WHO OWNS THE SPACE BANK MINI STORAGE FACILITY SITE, ALSO KNOWN AS THE FORMER NAVAL INFORMATION RESEARCH FOUNDATION UNDER SEA CENTER SITE, IN PASADENA, CALIFORNIA.

The Department of Toxic Substances Control ("DTSC") has agreed to enter into a "Consent Decree" respecting the Space Bank Mini Storage facility site, also known as the former Naval Information Research Foundation Under Sea Center site, located at 3202 East Foothill Boulevard in the City of Pasadena, California (the "Site").

BACKGROUND FACTS

The Complaint. DTSC plans to file a complaint pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.* against Space Bank LTD, a California General partnership; Robert Oltman, an individual, and Margaret Schubert, an individual in California Department of Toxic Substances Control v. Space Bank LTD, a California General partnership; Robert Oltman, an individual, and Margaret Schubert, an individual ("Settling Defendants") in the United States District Court for the Central District of California concurrently with the lodging of this Consent Decree. The complaint will allege that the Settling Defendants, as current owners or operators of the Site, are liable for

Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board and Regional Water Quality Control Boards
Chapter 26. Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration

INITIAL
STATEMENT OF REASONS

CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

The State Water Resources Control Board (State Water Board) proposes to amend chapter 26 of division 3 of title 23 of the California Code of Regulations (regulations) to update the regulations and make them consistent with current operational practices. In order to implement amendments to the Water Code enacted by chapter 422, statutes of 2002, the State Water Board proposes to amend the definition of a "wastewater treatment plant" (WWTP) to include privately owned WWTPs and add provisions regarding Class I WWTP exemptions to the regulations. Additionally, administrative civil liability provisions are added to the regulations to incorporate changes to the Water Code enacted by chapter 869, statutes of 2001 and chapter 664, statutes of 2002. The specific purpose and the basis for the State Water Board's determination of the necessity of each amendment are explained herein.

The State Water Board did not estimate the benefits if the proposed regulation. The regulation will protect public health and the environment by providing for the effective operation of privately owned WWTPs. The regulation also provides additional revenue for operation of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program).

The State Water Board relied on Economic Impact Assessment prepared pursuant to Government Code section 11346.3, subdivision (b) to amend these regulations. The State Water Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents to amend these regulations. The Operator Certification Advisory Committee (Advisory Committee) met on February 1, 2007, June 7, 2007, June 10, 2008, June 11, 2009, July 21, 2010, and November 2, 2010, to review and make recommendations on the proposed regulatory action. The State Water Board considered alternatives to the proposed regulatory action and determined that no alternatives would be more effective in carrying out the purpose for which the proposed regulations are intended or would be as effective or less burdensome. The proposed amendments do not mandate the use of specific technologies or equipment, nor do they duplicate or conflict with any federal law or federal regulation.

Beginning with the regulations currently contained in article 4 of chapter 26, the State Water Board proposes to rearrange the order in which topics are presented. Like subjects are grouped and placed together in separate articles. For this reason, existing articles 4 through 6 are repealed and replaced and existing articles 7 through 10 are renumbered. (See Appendix.)

The proposed amendments incorporate the change in the title of the person formerly referred to as the "Division Chief" of the Division of Financial Assistance (Division) to the "Deputy Director" of the Division. Many existing regulations require documents to be submitted to the Division and they require the Division to take certain actions in response to these regulations. Because the Office of Operator Certification (OOC) is the office within the Division responsible for administering the Operator Certification Program, these references to the Division are replaced with the OOC.

Existing regulations require certain documents to be sent to the State Water Board, the Division, or the Division Chief of the Division and postmarked by a certain date in order to be considered timely. The State Water Board proposes to amend all regulations so they specify a date by which the State Water Board, the Deputy Director of the Division, the Director of the Office of Enforcement (OE), or the OOC must receive a document in order for it to be considered timely. This change will make it easier to determine whether the applicable deadline has been met.

The State Water Board also proposes certain amendments to the regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory

element of any California Code of Regulations provision (e.g., changes without regulatory effect). These amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross-references, grammar, punctuation, capitalization, or renumbering or relocating regulatory provisions. Additionally, the titles of articles and sections are amended to reflect the relocation of regulatory provisions and for clarification purposes. To the extent that many of these amendments without regulatory effect are non-substantive and their purpose is self-evident or merely editorial, they are not discussed herein.

Article 1. General Provisions

SECTION 3670. PURPOSE.

Specific Purpose and Necessity of the Proposed Action

This section is amended to clarify that a water recycling treatment plant is a type of WWTP. Additionally, this section is amended to include the registration of contract operators as part of the primary purpose of the Operator Certification Program.

SECTION 3670.1. CERTIFICATION REQUIREMENTS FOR OPERATING WASTEWATER TREATMENT PLANTS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3670.1(a) and (b)** – Existing section 3670.2 regarding certification requirements for operators at water recycling treatment plants is deleted and its provisions are included in this section because water recycling treatment plants are included in the definition of WWTP. Additionally, existing section 3670.2 is unclear as to how to determine if a water treatment plant operator is certified at a grade level appropriate for the class of plant being operated. Therefore, a table is added to proposed section 3670.1(b)(1) to specify the certification requirements for operators of water recycling treatment plants.

2. **Section 3670.1(c)** – This new subdivision states the administrative civil liability and disciplinary action the State Water Board may impose against any person who operates a WWTP in violation of proposed subdivisions (a) and (b).

3. **Section 3670.1(d)** – This new subdivision states the administrative civil liability and disciplinary action the State Water Board may impose against any person who owns or operates a WWTP that employs, or allows the employment of, any person who operates a WWTP in violation of proposed subdivisions (a) and (b).

SECTION 3670.2. CERTIFICATION REQUIREMENTS FOR OPERATION OF WATER RECYCLING TREATMENT PLANTS.

Specific Purpose and Necessity of the Proposed Action

This section is deleted and its provisions are moved to proposed section 3670.1 because water recycling treatment plants are included in the definition of WWTP.

SECTION 3671. DEFINITIONS.

Specific Purpose and Necessity of the Proposed Action

1. **"Agency" or "municipality"** – (deleted) Throughout the regulations, the terms "agency" and "municipality" are replaced with the term "owner" to clarify that the State Water Board is referring to all WWTP owners whether the owner is a public agency, municipality, or private owner.

2. **"Appellant"** – (amended) As currently used in the regulations, this term includes:
1) a person who is making an appeal to the Division Chief (now retitled the "Deputy Director") of the Division regarding a decision made by the OOC or the OE; and
2) a person who is petitioning the State Water Board for review of a Final Division Decision made by the Division Chief of the Division.

   Under the proposed regulations, decisions made by the OE will no longer be appealed to the Deputy Director of the Division. Instead, a person against whom the OE is proposing a disciplinary action in a Proposed Disciplinary Action Letter may request reconsideration by the Director of the OE. The person may petition the State Water Board for review of the Director of the OE's decision, which is referred to as a Final Office of Enforcement Decision.

   Under the proposed regulations, the definition of "appellant" is limited to a person who is making an appeal to the Deputy Director of the Division regarding a decision made by the OOC. This limitation is made to clarify the difference between an appeal to the Deputy Director, a request for reconsideration by the Director of the OE, and a petition to the State Water Board.

   Additionally, the existing definition of "appellant" states broadly that a person may appeal the denial of an application without specifying what type of applications may be appealed. To clarify the specific intent of the State Water Board, the amendment to the term "appellant" lists the type of applications that, if denied by the OOC, may result in an appeal. Further, in order to implement the provisional operator and lone operator provisions of the proposed regulations, the amended definition of "appellant" includes a person who is appealing a decision to deny a request for approval to use a lone operator or a provisional operator. Finally, in order to implement changes to the Water Code enacted by chapter 422, statutes of 2002, the amended definition of "appellant" includes a person who is appealing a decision to deny an application for an exemption or the renewal of an exemption.

3. **"Applicant"** – (amended) The existing definition of "applicant" does not include an applicant for a contract operator registration or the renewal of a contract operator registration. The definition is amended to correct this omission and to incorporate the change in the name of the "contract operator registration" that must be posted at a WWTP to a "contract operator credential." Also, in order to implement the provisional operator and lone operator provisions of the proposed regulations, the amended definition of "appellant" includes denial of a request for approval to use a lone operator or a provisional operator. Finally, in order to implement changes to the Water Code enacted by chapter 422, statutes of 2002, the definition is amended to include an owner who files an application for an exemption or the renewal of an exemption.

4. **"Associate's degree"** – (added) Although existing regulations use the term "associate's degree" the term is not defined. This new definition clarifies that an associate's degree is a two-year degree issued by a properly accredited school in the United States.

5. **"Bachelor's degree"** – (added) Although existing regulations use the term "bachelor's degree" the term is not defined. This new definition clarifies that a bachelor's degree is a baccalaureate degree issued by a properly accredited school in the United States.

6. **"Basic science courses"** – (deleted) Under existing section 3683(c), operators who are using an associate's or bachelor's degree to meet the educational requirements for certification at the Grade III, IV, and V levels must have a minimum number of semester units of basic science courses. Throughout the regulations, the term "basic science courses" is replaced with the term "science course" because the State Water Board does not intend to limit credit for science courses to those considered basic or introductory.

A new provision in proposed section 3685(a) allows operators to earn educational points for completing science courses because the knowledge gained in these courses may be applied to the duties of an operator.

7. **"Board"** – (deleted) Throughout the regulations, this term is replaced with the term "State Water Board" to clarify the difference between the State Water Board and a Regional Water Quality Control Board (Regional Water Board).

8. **"Certifying body"** – (added) This term is added to the regulations to describe other states, territories or Indian tribes that administer programs that are comparable to the Operator Certification Program. This definition includes entities designated by an Indian tribe to administer the tribe's program that is comparable to the Operator Certification Program.

9. **"Chief plant operator"** – (amended) This definition is amended to include the provisional operator who is solely responsible for the operation of a Class I wastewater treatment plant whose owner has received approval to use a provisional operator in accordance with proposed section 3680.2. Additionally, the definition is amended to emphasize that an operator who is the chief plant operator is responsible for compliance with applicable waste discharge requirements and ensuring that operators-in-training (OITs) are supervised directly as required by proposed section 3682.

10. **"Contract operator"** – (amended) This definition is amended for clarification purposes.

11. **"Conventional treatment pond"** – (added) Throughout the regulations, the term "pond treatment" is replaced with "conventional treatment pond" or "modified treatment pond" because there are significant differences between the two types of "pond treatment" and they require different WWTP classifications.

12. **"Design flow"** – (added) Existing section 3676(a) requires owners to provide the OOC with a description of the WWTP's wastewater treatment processes and design flow for purposes of WWTP classification. With the proposed definition of "design flow," WWTP owners will know what information to provide to the OOC to comply with the reporting requirements in proposed section 3676(b), (c), and (d). Additionally, owners of Class I WWTPs will know what information to submit on an application for exemption under proposed section 3677.1(a)(6).

13. **"Designated operator-in-charge"** – (added) Existing sections 3671(w) and (x) and 3680(b), define and discuss shift supervisors and supervisors. These regulations hinder the ability of WWTPs to meet the staffing needs of a modern WWTP. Additionally, existing regulations do not specify who is in charge when the chief plant operator is unavailable and, therefore, do not ensure that a certified operator of the appropriate grade is responsible for the overall operation of the WWTP at all times. For these reasons, the term "designated operator-in-charge" replaces the terms "shift supervisor" and "supervisor" throughout the regulations.

    Except as provided in proposed section 3680.2, proposed section 3680(b) requires a chief plant operator to appoint a designated operator-in-charge to be responsible for the operation of the WWTP whenever the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. Pursuant to proposed section 3680.2(c)(4), a provisional operator must have the ability to request assistance from an operator when the provisional operation is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. These provisions ensure that a specific operator is responsible for the overall operation of the WWTP at all times.

14. **"Direct supervision"** – (amended) The definition of "direct supervision" in existing section 3671(j) is ambiguous and has led to confusion and misinterpretation within the industry. This amendment clarifies the definition and states the specific intent of the State Water Board. Additionally, to ensure that OITs are properly supervised at all times, the definition is amended to require that the supervising operator be present at the WWTP or otherwise available to consult with, and provide assistance to, the operator-in-training in order to ensure the safe and proper execution of the operator-in-training's duties.

15. **"Disinfection"** – (added) Disinfection is a commonly used wastewater and water treatment process used by operators at all grade levels. For this reason, examinations at all grade levels contain questions regarding disinfection. Additionally, the use of disinfection is one of two possible differences between a modified treatment pond and a conventional treatment pond. Therefore, it is necessary to add this definition.

16. **"Full time"** – (added) Existing section 3683(c) uses the term "year of experience" to refer to the amount of experience operators or OITs must have to advance to a higher grade level. Because the term is not defined, there is confusion among the regulated community as to the specific amount of experience needed to qualify for certification. The existing term "year of experience" is replaced with the term "full-time qualifying experience" and the definitions of "full time" and "qualifying experience" are added to the regulations. Proposed section 3687(d)(3) provides that an operator will acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of "qualifying experience."

    Evaluating experience is one of the components used in determining whether an operator is qualified for certification at the desired grade level. In any given year, if an operator or OIT works part time or takes a large amount of leave time, the operator or OIT is acquiring less experience than others who are working full time and taking no more than the typical amount of leave time.

    An operator or OIT who works an average of 40 hours per week for a year, will work 2,080 hours minus paid and unpaid leave. After factoring in the typical amount of paid vacation, sick leave, and holidays taken by a full-time worker, an operator or OIT must spend a minimum of 1,800 hours per year performing duties that meet the definition of "qualifying experience" in order to obtain "full-time qualifying experience." This definition provides a quantitative standard by which an operator or OIT may determine if he or she is working "full time."

    The State Water Board acknowledges that there are some WWTPs that are both operated in less than 40 hours per week and may be operated efficiently, safely, and without violating waste discharge requirements. These WWTPs are typically small, Class I WWTPs in rural communities where a single operator, with or without the assistance of an OIT, or a provisional operator has sole responsibility for the operation of the WWTP and where the operator is expected to be on call at all times. Therefore, an operator or provisional operator who is solely responsible for the operation of a WWTP, even if the work is performed in less than an average of 40 hours per week, is considered to be working full time. Additionally, if the operator is supervising the OIT directly and the OIT is the only OIT under the operator's direct supervision, the work performed by the OIT is considered full time even if it is performed in less than an average of 40 hours per week.

17. **"Indian tribe"** – (added) This term is added because it is used in many sections of the regulations.

18. **"Lone operator"** – (added) This term is added to the regulations to describe a certified operator approved by the OOC to work alone at a WWTP pursuant to proposed section 3681. After consulting with the Advisory Committee, the State Water Board determined that an OIT usually does not have the level of competence necessary to perform the duties of a lone operator. Additionally, a lone operator position does not provide the training opportunities necessary for an OIT to learn the skills that an operator must possess.

19. **"Maintenance"** – (deleted) Under existing section 3671(p), "maintenance" is used in the definition of "operates." The proposed definition of "operates" does not use the term "maintenance." In the proposed definition of "qualifying experience," the term "minor maintenance" is explicitly limited to maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of treatment processes. As used in proposed section 3684(a)(2)(A), "maintenance" is intended to have its generally accepted meaning. Therefore, a definition is no longer necessary.

20. **"Management course"** – (added) Under existing section 3685, operators at Grades III, IV, and V may earn educational points for taking courses that are "indirectly related to wastewater treatment." However, the term "indirectly related to wastewater treatment" is not defined and, as a result, some applicants do not know how to determine if they have met the educational requirements for certification. To eliminate this confusion, the regulations are amended to replace the term "indirectly related to wastewater treatment" with the term "management course."

21. **"Modified treatment pond"** – (added) Throughout the regulations, the term "pond treatment" is replaced with either "conventional treatment pond" or "modified treatment pond" because the two types of "pond treatment" are significantly different and require different WWTP classifications.

22. **"Operates"** – (amended) The definition of "operates" is amended because, over time, its meaning has been narrowly interpreted to include only those physical activities performed in the operation of a WWTP. This limited interpretation excludes some of the activities that require the expertise of a certified operator and for which qualifying experience should be given.

    Certain people who work at WWTPs, such as process control engineers and lab technicians, are not currently required to hold operator certificates; however, some of the decisions they make and the actions they take as part of their responsibilities can affect the outcome of a WWTP's wastewater treatment process. The definition of "operates" is expanded to require a person to hold an operator certificate in order to take actions or make decisions that control the performance or outcome of one or more wastewater treatment processes, regardless of the person's job title. The definition of "operates" is also expanded to include the supervision of other operators whose actions or decisions control the performance or outcome of one or more wastewater treatment processes. These people, who share in the responsibility of operating a WWTP, must demonstrate their competency by being certified as operators because of the affect that their activities or decisions can have on WWTP operations and compliance with the WWTP's waste discharge requirements.

23. **"Operator"** – (amended) This definition is amended for consistency with section 13625 of the Water Code and for clarification purposes.

24. **"Operator-in-training"** – (amended) Existing OIT regulations in article 6 do not specifically state that an OIT must be in possession of an OIT certificate before operating a WWTP.

The proposed amendment to the definition of "OIT" clarifies that a person must obtain an OIT certificate before starting work as an OIT. The amendment also includes the requirement that the OIT work under the direct supervision of an operator at a grade level that is the same as or higher than the OIT's grade level.

25. **"Owner"** – (added) Existing regulations refer to all owners of WWTPs as either "agencies" or "municipalities," not taking into consideration that the owners of privately owned facilities do not fall into these categories. Therefore, in conjunction with the amendment of the definition of WWTP to include private WWTPs, the terms "agency" and "municipality" are replaced with the term "owner" throughout the regulations.

26. **"Person"** – (added) The definition of this word is added because, although it is used throughout the regulations, it is not defined in either the existing regulations or chapter 9 of division 3 of the Water Code. This definition is consistent with the definitions of "person" in Water Code sections 19 and 13050.

27. **"Petitioner"** – (added) As currently used in the regulations, the term "appellant" includes both a person who is appealing to the Division Chief (now retitled "Deputy Director") of the Division requesting review of a decision made by the OOC or OE and a person who is petitioning the State Water Board for review of a Final Division Decision made by the Division Chief.

    Under the proposed regulations, the Director of the OE will issue a Final Office of Enforcement Decision when a person requests reconsideration by the Director of the OE of a Proposed Disciplinary Action Letter. The person to whom the Final Office of Enforcement Decision was issued may petition the State Water Board for review of the Final Office of Enforcement Decision.

    A person petitioning the State Water Board for review of a decision is deleted from the definition of "appellant" and the terms "petitioner" and "requestor" are added to clarify the difference between an appeal to the Deputy Director, a request for reconsideration by the Director of the OE, and a petition to the State Water Board.

    The proposed definition of "petitioner" specifies that a person may petition the State Water Board for review of a Final Division Decision issued by the Deputy Director of the Division or a Final Office of Enforcement Decision issued by the Director of the OE.

28. **"Pond treatment"** – (deleted) Throughout the regulations, the term "pond treatment" is replaced with either "conventional treatment pond" or "modified treatment pond" because the two types of "pond treatment" are significantly different and require different WWTP classifications.

29. **"Provisional operator"** – (added) This term is added to the regulations to describe a person who is certified as a provisional operator in accordance with proposed article 5. A provisional operator is solely responsible for the operation of a Class I WWTP that has received written approval from the OOC to use a provisional operator in accordance with proposed section 3680.2. After consulting with the Advisory Committee, the State Water Board determined a provisional operator has the level of competence necessary to be solely responsible for the operation of a Class I WWTP that meets the requirements to use a provisional operator as set forth in proposed section 3680.2.

30. **"Qualifying experience"** – (added) Under existing section 3683, an applicant must meet an experience requirement to be certified at the requested grade level. For example, an applicant must have one year of experience performing the functions of a WWTP operator

to receive a Grade I certificate. The current regulations do not state what constitutes "experience." Proposed section 3687 requires operators to have a certain amount of "qualifying experience" to be certified at the requested grade level.

With the exception of some minor maintenance, the proposed definition of "qualifying experience" is limited to experience acquired by an operator, provisional operator, or OIT while operating a WWTP as defined in proposed section 3671, because a person cannot perform these actions without an operator, provisional operator, or OIT certificate.

Because the State Water Board recognizes that a person may have other experiences that add to the knowledge and skills necessary to operate a WWTP, proposed section 3687(d)(3) authorizes the OOC to give "qualifying experience credit" for specified activities in accordance with proposed section 3684.

31. **"Qualifying experience credit"** – (added) Existing section 3684 allows the OOC to give experience credits in lieu of actual experience. Once the OOC awards qualifying experience credit, it is treated the same as qualifying experience acquired while operating a WWTP.

32. **"Regional Water Board"** – (added) This term is added because it is used throughout the regulations.

33. **"Requestor"** – (added) A decision issued by the OE proposing a disciplinary action against an operator, provisional operator, OIT, or contract operator is called a Proposed Disciplinary Action Letter. Under the proposed regulations, a person who receives a Proposed Disciplinary Action Letter from the OE may not appeal the decision to the Deputy Director of the Division. Instead, the person may request reconsideration by the Director of the OE. The person who requests reconsideration by the Director of the OE of a Proposed Disciplinary Action Letter is called a "requestor."

34. **"Satellite plant"** – (added) This term is added to the regulations to describe a WWTP that is so closely related to the main WWTP that both the "satellite plant" and the main WWTP should be classified as a single WWTP under proposed section 3675(c). Both the main and satellite plants are classified as a single WWTP when they are owned by the same person and the satellite plant has the potential to affect the operation of, or effluent quality from, the main WWTP. Also, since the main WWTP and the satellite plant are classified as a single WWTP, the owner's employee organization chart, job descriptions, and duty rosters for plant personnel must include a chief plant operator who is responsible for the overall operation of both the main WWTP and the satellite plant.

35. **"Science course"** – (added) Under existing section 3683(c), operators who are using an associate's or bachelor's degree to meet the educational requirements for certification must have a minimum number of semester units of basic science courses. Proposed section 3685(a) allows operators to earn educational points for completing science courses because the knowledge gained in these courses may be applied to the duties of an operator.

    Throughout the regulations, the term "basic science courses" is replaced with the term "science course" because the State Water Board does not intend to limit credit for science courses to those considered basic or introductory. Additionally, the definition is expanded to include courses in engineering that teach students how to apply scientific knowledge for practical uses.

36. **"Sequencing batch reactor"** – (added) A sequencing batch reactor is a relatively new and widely used WWTP technology with highly complex operational requirements. The term is added to the "Wastewater Treatment Plant Classification Table" in proposed section 3675(a) because the use of sequencing batch reactors is one criterion the OOC uses to classify WWTPs.

37. **"Shift Supervisor" and "Supervisor"** – (deleted) Existing sections 3671(w) and (x) and 3680(b), define and discuss shift supervisors and supervisors. These regulations hinder the ability of WWTPs to meet the staffing needs of a modern WWTP. Additionally, existing regulations do not specify who is in charge when the chief plant operator is unavailable and, therefore, do not ensure that a certified operator is responsible for the overall operation of the WWTP at all times. For these reasons, the term "designated operator-in-charge" replaces the terms "shift supervisor" and "supervisor" throughout the regulations.

    Proposed section 3680(b) requires an operator who is a chief plant operator to appoint a designated operator-in-charge to be responsible for the operation of the WWTP whenever the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. Pursuant to proposed section 3680.2(c)(4), a provisional operator must have the ability to request assistance from an operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. These provisions ensure that a specific operator is responsible for the overall operation of the WWTP at all times.

38. **"Solids treatment"** – (added) This definition is added because the term is used in the new definition of "wastewater treatment process."

39. **"Tertiary treatment"** – (amended) Existing section 3671(y) defines "tertiary treatment" as a wastewater treatment process that goes beyond secondary treatment, but expressly excludes disinfection. The exclusion is no longer necessary because the proposed definition of "disinfection" states that disinfection is a distinct wastewater treatment process that occurs after primary, secondary, or tertiary treatment.

40. **"Waste discharge requirements"** – (added) This definition is added because although the term is used in existing regulations, it is not defined.

41. **"Water quality objectives"** – (added) This definition is added because if a WWTP could not, due to operator error, violate water quality objectives it may be exempted from the regulations and Water Code, division 7, chapter 9. This definition is consistent with the definition of "water quality objectives" in Water Code section 13050(h).

42. **"Wastewater treatment course"** – (added) Under existing section 3685(a), operators may earn educational points for taking courses that are "directly related to wastewater treatment." The lack of a definition for the term has resulted in confusion in the regulated community. The result is that applicants are unsure as to whether they have met the educational requirements for certification until their applications are accepted or rejected by OOC. Therefore, the regulations are amended to replace the reference to courses "directly related to wastewater treatment" with the term "wastewater treatment course." The new definition states specifically what types of courses are included in the meaning of the term.

43. **"Wastewater treatment plant"** – (amended) The existing definition is amended to be consistent with changes to the Water Code enacted by chapter 422, statutes of 2002, which amended the definition of WWTP in Water Code section 13625.

The proposed definition states clearly that a water recycling plant is a type of WWTP. It also states that an onsite sewage treatment system is not a WWTP because there are separate regulatory standards for onsite sewage treatment systems. Additionally, the responsibilities involved in installing and maintaining these systems are unrelated to the day-to-day activities of an operator at a WWTP. For these reasons, it is not necessary to regulate people installing and maintaining onsite sewage treatment systems under these regulations.

44. **"Wastewater treatment process"** – (added) This new definition clarifies the term "operates," which is defined in terms of controlling one or more wastewater treatment processes. Also, the definition clarifies those activities for which an operator may receive qualifying experience credit pursuant to proposed section 3684. Additionally, the definition specifies what information an owner must submit to comply with the reporting requirements in proposed section 3677(b), (c), and (d). This definition also clarifies what information an owner of a Class I WWTP must submit to apply for an exemption.

45. **"Water recycling treatment plant"** – (amended) This definition is amended to state clearly that a water recycling treatment plant is a type of WWTP. To distinguish water recycling treatment plants from other WWTPs, this amended definition includes the reason a water recycling treatment plant receives and further treats effluent from a WWTP. It is important for this definition to be clear because a person certified by the California Department of Public Health as a water treatment plant operator may operate a water recycling treatment plant, but may not operate any other WWTPs.

46. **"Water treatment plant"** – (added) Under existing regulations, WWTP operators may acquire experience credit for working at water treatment plants. This definition is added for clarification purposes to help operators determine if they have met the requirements for qualifying experience credit pursuant to proposed section 3684(a)(1).

Article 2. Classification of Wastewater Treatment Plants, Owner Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant

SECTION 3675. CLASSIFICATION OF WASTEWATER TREATMENT PLANTS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3675** – This section is amended to establish criteria the OOC must apply when reviewing information submitted by an owner pursuant to proposed section 3676(b), (c), or (d) and classifying a WWTP.

2. **Section 3675(a)** – In existing regulations, the term "pond treatment" means both "modified treatment pond" and "conventional treatment pond." The two types of treatment ponds are significantly different and require different WWTP classifications. Therefore, this subdivision is amended to classify WWTPs using a "conventional treatment pond" as Class I WWTPs and those using the more complex "modified treatment pond" as Class II WWTPs.

   Extended aeration is deleted as a criterion for classifying WWTPs. Extended aeration is one of many processes that can be used in activated sludge treatment. At the time the existing regulations went into effect, it was thought that extended aeration was a relatively simple process appropriate for use by Class II WWTPs. Therefore, extended aeration was used as a criterion for classifying Class II WWTPs as if it were a type of treatment separate from activated sludge treatment. Over time, it has become evident that using extended aeration is no less difficult than other activated sludge treatment processes. WWTPs using extended

aeration are using an activated sludge treatment process and should be classified accordingly.

Sequencing batch reactor technology is a relatively new, advanced technology that uses microprocessor controllers to automatically sequence treatment stages to meet targeted waste discharge requirements. WWTPs that use sequencing batch reactors to treat wastewater are classified as Class III, IV, or V WWTPs in the Wastewater Treatment Plant Classification Table in proposed section 3675(a).

3. **Section 3675(b)** – This subdivision is amended for clarification purposes.

4. **Section 3675(c)** – This new subdivision requires main and satellite plants to be classified as a single WWTP when they are owned and operated by the same person and the "satellite plant" has the potential to affect the operation of, or effluent quality from, the main WWTP.

5. **Section 3675(d)** – Proposed section 3675(b) requires WWTP owners to inform the OOC of changes made to a WWTP that may result in a change of classification. This new subdivision requires the OOC to, within 45 days of receiving the notice from the owner, either reclassify the WWTP based on the changes reported by the owner or make a determination that the changes do not result in a need for reclassification.

SECTION 3676. REPORTING REQUIREMENTS FOR OWNERS OF WASTEWATER TREATMENT PLANTS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3676(a)-(e)** – Existing section 3676(a) requires WWTP owners to submit organization charts to the OOC that include the identity of their chief plant operators. Additionally, existing section 3676(b) requires owners to notify the OOC of a change in the employment of the person designated as chief plant operator. State Water Board staff has experienced situations where the person shown as the chief plant operator on an organization chart was unaware of the designation. The result has been a lack of overall responsibility for the operation of some WWTPs by an operator at the appropriate grade level. To ensure that all chief plant operators named on organization charts are aware of their assignments and the associated responsibility, proposed subdivisions (a), (c), and (e) require owners to submit a statement signed by the person designated as the chief plant operator accepting the responsibility of a "chief plant operator" as defined in proposed section 3671.

2. **Section 3676(b)** – This new subdivision states the timeframe within which owners of existing privately owned WWTPs must provide the information each WWTP must submit to the OOC to classify the WWTP in accordance with proposed section 3675. This subdivision also requires the owner of any other WWTP using a sequencing batch reactor or extended aeration treatment for process control to submit the same information because proposed section 3675 amends the WWTP classification for WWTPs using a sequencing batch reactor or extended aeration treatment. Therefore, it is necessary for the OOC to reclassify WWTPs using a sequencing batch reactor or extended aeration treatment for process control.

3. **Section 3676(c)** – Proposed section 3676(a) requires owners of existing WWTPs to comply with the new requirement to submit a statement signed by the person designated as the chief plant operator accepting the responsibility of a "chief plant operator" as defined in proposed section 3671. Additionally, proposed subdivision (b) requires owners of existing

privately owned WWTPs and any other WWTP using a sequencing batch reactor for process control to provide the information each WWTP must submit to the OOC to classify the WWTP in accordance with proposed section 3675. Proposed section 3676(c) requires owners of new WWTPs to meet both of these reporting requirements.

4. **Section 3676(d)** – Existing section 3676(b) requiring WWTP owners to inform the OOC of changes made to a WWTP that may result in a change of classification is moved to proposed section 3676(d). This subdivision requires owners to notify the OOC of changes in reportable items in proposed subdivisions (b) or (c) to allow the OOC to determine whether these changes result in the need to change the WWTP's classification in accordance with section 3675. This subdivision also requires owners to notify the OOC within 30 days of the closure of a WWTP.

5. **Section 3676(f)** – Under existing regulations, owners are not required to inform the OOC when they hire a contract operator. However, contract operators are required to list each WWTP under contract when applying for a contract operator registration and they are required to update this list each year when they renew their contract operator registrations. An annual update does not provide timely information needed by the OOC to properly regulate contract operators. Therefore, this new subdivision requires owners to notify the OOC whenever they hire or dismiss a contract operator, thereby ensuring proper oversight by the State Water Board and placing the reporting responsibility on the owner instead of the contract operator.

6. **Section 3676(g)** – Existing section 3676(c) requires owners to inform the OOC of any final disciplinary action against an operator or OIT. This provision is moved to proposed section 3676(g) and is amended to include provisional operators. This provision is also amended to define the disciplinary actions owners must report to the OOC. As amended, owners now are required to inform the OOC of any final disciplinary action against a contract operator and owners must include the operator's certificate number or the registered contract operator's registration number on the notice to the OOC.

   Additionally, existing section 3676(d), regarding the length of time a disciplinary action notice received from an owner will remain in State Water Board files, is moved to this new subdivision and amended to incorporate the administrative civil liability provisions that have been added to the regulations.

SECTION 3677. EXEMPTION FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section implements and makes specific Water Code Section 13625.1 authorizing the State Water Board to exempt from the requirements of the regulations and Water Code, division 7, chapter 9 any Class I WWTP that could not, due to operator error, violate water quality objectives.

SECTION 3677.1. APPLICATION FOR EXEMPTION FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section specifies what information is required on an application for exemption from Operator Certification requirements. The State Water Board will not require applicants to use a

specific application form; however, for the convenience of the applicant, the State Water Board will supply an optional form in an organized, consistent format.

Water Code section 13625.1 states that the State Water Board may charge a reasonable administrative fee for processing an application for exemption. The State Water Board estimates that it will take approximately four hours for a Water Resources Control Engineer to review an application for exemption, confer with the applicant and the Regional Water Board, report his or her findings if an inspection is conducted, and consult with OOC administrative staff. At the current salary for a Water Resources Control Engineer, it will cost the State Water Board approximately $500 for an engineer to review one application for exemption, excluding the cost of conducting any inspection.

In addition to the engineering review, it will take an Office Technician, a Staff Services Analyst, and the OOC Administrator approximately five hours total to process, analyze, and respond to an application for exemption. At the current salary for each of these positions, the administrative processing of the application for exemption will cost the State Water Board approximately $300. Therefore, to cover the costs for the engineering review and processing the application, the State Water Board is setting the fee for an application for exemption at $800.

SECTION 3677.2. ISSUANCE OF A NOTICE OF EXEMPTION FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3677.2(a)-(c)** – These new subdivisions state the procedures and timeframes to be followed by the OOC when processing an application for an exemption. By specifying a timeframe within which the OOC must act on an application, applicants are able to anticipate the OOC's response date. To determine if the criteria for exemption have been met, the OOC is required to consult with the Regional Water Board and may inspect the WWTP before acting on an application.

2. **Section 3677.2(d)** – This new subdivision identifies what information the OOC must include on a notice of exemption.

3. **Section 3677.2(e)** – This new subdivision implements Water Code section 13625.1(b), which provides that an exemption is valid for four years.

4. **Section 3677.2(f)** – This new subdivision implements Water Code section 13625.1(c), which provides that the State Water Board may revoke or place conditions on an exemption at any time.

5. **Section 3677.2(g)** – This new subdivision allows an owner 365 days from the date of denial of the application for an exemption or 365 days from the date of revocation of the WWTP's exemption to staff the WWTP with certified operators at the appropriate grade level as specified in proposed sections 3680 and 3680.1.

SECTION 3677.3. CHANGES TO THE OPERATION OF AN EXEMPT WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section establishes the procedures and timeframes that must be followed when an owner wants to make a change to the operation of an exempt WWTP. These procedures and timeframes ensure that the owner of an exempt WWTP can make an informed decision about whether to implement the change following timely notification by the OOC that the proposed change will result in the OOC revoking the WWTP's exemption. As in proposed section 3677.2(g), if a WWTP's exemption is revoked because of implemented changes, the owner is given 365 days from the date of the revocation to staff the WWTP with certified operators at the appropriate grade level as set forth in proposed sections 3680 and 3680.1.

SECTION 3677.4. NOTICE OF EXPIRATION OF AN EXEMPTION FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section requires the OOC to notify owners 60 days before the expiration of their notices of exemption. It is the owner's responsibility to ensure that the WWTP complies with all applicable statutes and regulations. Therefore, failure to receive the notice of expiration does not relieve the owner of the responsibility to renew the notice of exemption on or before the expiration date.

SECTION 3677.5. APPLICATION FOR EXEMPTION RENEWAL FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section establishes the procedures, timeframes, and renewal fee for exemption renewal. It also states that an application for exemption renewal must be received by the OOC at least 30 days before the expiration of the exemption to give the OOC adequate time to review the application and issue an exemption renewal before the exemption expires. If an application is late, the owner of the WWTP must pay a late fee of $100 in addition to the renewal fee.

The section also establishes the procedures and timeframes the OOC must follow when processing an application for an exemption renewal. If the OOC denies a request for an exemption renewal, the owner has 365 days from the date of the denial to staff the WWTP with certified operators at the appropriate grade level as stated in proposed sections 3680 and 3680.1.

Water Code section 13625.1 states that the State Water Board may charge a reasonable administrative fee for processing an application for exemption renewal. The State Water Board estimates that it will take approximately five hours total for an Office Technician, a Staff Services Analyst, and the OOC Administrator to process, analyze, and respond to an application for exemption renewal. At the current salary for each of these positions, the administrative processing of the application for exemption renewal will cost the State Water Board approximately $300. Therefore, the State Water Board is setting the fee for an application for exemption renewal at $300.

SECTION 3677.6. POSTING NOTICES OF EXEMPTION FOR A CLASS I WASTEWATER TREATMENT PLANT.

Specific Purpose and Necessity of the Proposed Action

This new section requires owners to post their notices of exemption in an area accessible to the public. If the WWTP does not have an area accessible to the public, the notice of exemption must be posted at the owner's headquarters. Public posting of the notice of exemption allows the public and regulatory agencies to determine whether a WWTP is exempt from the requirement to use certified operators.

Article 3. Grade Levels of Operator Certification

SECTION 3680. GRADE LEVELS OF OPERATOR CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3680(a)-(c)** – The minimum grade level of operator certification that a chief plant operator or designated operator-in-charge must possess to work at each class of WWTP is placed in an easy-to-read chart. This section also is amended to implement the replacement of the terms "shift supervisor" and "supervisor" with "designated operator-in-charge." A chief plant operator must assign a designated operator-in-charge for any period of time during which the chief plant operator is unable to carry out the responsibilities of the "chief plant operator." As amended, the requirements in this section ensure that an operator of the appropriate grade level is responsible for the operation of the WWTP at all times.

2. **Section 3680(d)** – Proposed section 3675 amends the WWTP classification for WWTPs using a sequencing batch reactor or extended aeration treatment for process control. Pursuant to proposed sections 3676(b) and 3675(d) the OOC must either review the classification of any WWTP using a sequencing batch reactor or extended aeration treatment for process control. This new subdivision provides that if the OOC gives a WWTP a higher classification than the WWTP's previous classification, the owner is given 365 days from the date of the revocation to staff the WWTP with certified operators at the appropriate grade level as set forth in this section.

SECTION 3680.1. GRADE LEVELS OF OPERATORS AT PRIVATELY OWNED WASTEWATER TREATMENT PLANTS.

Specific Purpose and Necessity of the Proposed Action

Changes to Water Code section 13625 enacted by chapter 422, statutes of 2002 amended the definition of WWTP to include privately owned facilities used in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements. This new section implements the statutory amendment by establishing the process whereby privately owned WWTPs will merge into the Operator Certification Program. This new section also sets the deadline for operators at privately owned WWTPs to become certified at the Grade I level or higher and to meet the requirements for all operators set forth in section 3680 or use a provisional operator in accordance with section 3680.2.

SECTION 3680.2. PROVISIONAL OPERATOR.

Specific Purpose and Necessity of the Proposed Action

Pursuant to existing regulations, OITs must be directly supervised by a certified operator. Therefore, a WWTP that wishes to train an OIT must employ both the OIT and a certified operator. For Class I WWTPs, some of which require only a part-time operator, it may be prohibitively expensive to employ both an OIT and an operator, while the OIT gains the experience necessary to become a certified operator. Further, some small communities, particularly communities that are also rural and/or disadvantaged, have difficulty finding a certified operator to train the OIT.
The State Water Board is establishing a provisional operator certificate to help Class I WWTPs train and retain qualified operators when the owner has had difficulty, despite due diligence, hiring a certified operator to operate the WWTP. The State Water Board has further determined that any provisional operator is competent to operate the Class I WWTP if the owner of the WWTP and the provisional operator comply with a written plan that meets specific requirements. The provisional operator must submit a copy of the WWTP's monitoring reports to the OOC and cannot supervise operators, other provisional operators, or OITs or appoint a designated operator-in-charge. In addition, the provisional operator must receive training acceptable to the OOC on proper sampling procedures, the WWTP's standard operating procedures, and the WWTP's waste discharge requirements and the WWTP must have procedures for testing the provisional operator's proficiency on each of these subjects. The WWTP must have a written agreement with a certified operator, a registered contract operator, or another WWTP, ensuring that a certified operator will be available to assist the provisional operator when the provisional operator needs direction or if the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in proposed section 3671. Proposed section 3680.2 establishes these requirements and the procedures for obtaining approval to use a provisional operator.

Water Code section 13628 states that the State Water Board shall establish a fee schedule to provide revenues to cover the cost of the Operator Certification Program. The State Water Board estimates that it will take approximately 5 hours for a Water Resources Control Engineer to review a request for approval to use a provisional operator. The State Water Board estimates that it will take approximately 10 hours to review the WWTP's monitoring reports that the provisional operator must submit to the OOC. At the current salary for a Water Resources Control Engineer, it will cost the State Water Board approximately $600 for an engineer to review a request for approval to use a provisional operator and an additional $1,200 for an engineer to review the WWTP's monitoring reports.

In addition to the engineering review, it will take an Office Technician, a Staff Services Analyst, and the OOC Administrator approximately 5 hours total to process, analyze, and respond to a request for approval to use a provisional operator. At the current salary for each of these positions, the administrative processing of the request for approval to use a provisional operator will cost the State Water Board $300.

The Operator Certification Program is primarily supported by fees from operators and OITs. Provisional operators will pay the same examination and certification fees as operators and OITs. The WWTPs that request approval to use a provisional operator will typically be located in small rural and/or disadvantaged communities. Therefore, after considering the cost of the reviewing and processing a request for approval to use a provisional operator and the cost of reviewing the provisional operator's monitoring reports, the State Water Board is setting the fee for a request for approval to use a provisional operator at $1,000.

SECTION 3681. LONE OPERATOR.

Specific Purpose and Necessity of the Proposed Action

On a swing, graveyard, or weekend shift, small and medium-sized WWTPs may find it beneficial to have a lone operator on site to perform basic duties that require minimal judgment. This new section establishes the requirements for approval of a lone operator.

In accordance with a recommendation by the Advisory Committee, the OOC currently allows WWTPs to be operated by a lone operator certified at no more than one grade level lower than that required for a shift supervisor. After further consultation with the Advisory Committee and the regulated community, the State Water Board has determined that any certified operator is competent to operate the WWTP alone so long as the lone operator is permitted to perform only basic duties that require minimal judgment. An OIT may not be assigned as a lone operator.

To obtain approval to use a lone operator, the chief plant operator must submit a written plan showing that the lone operator will be able to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade as the designated operator-in-charge at all times in case a problem arises. This section establishes these requirements and the procedures for obtaining approval for assigning lone operator shifts.

Article 4. Operators-in-Training

Specific Purpose and Necessity of the Proposed Action

Existing article 6 is amended and moved to proposed article 4. The sections in article 4 are renumbered and for clarification purposes, the topics in existing section 3709, "Issuance, Renewal and Replacement of Operator-in-Training Certificates," are now separated into multiple, individual sections focusing on a single topic.

Existing article 6 incorporates by reference many provisions regarding the procedures in existing article 5 for applying for and issuing operator certificates and renewal operator certificates. The sections in existing article 5 concerning operator certification are moved to article 7 for organizational purposes and several of these provisions have been amended for the reasons stated in the discussion of article 7 herein. The provisions, as amended in article 7, have been made specific to OITs in article 4. To the extent that the provisions regarding the procedures and timeframes for applying for and issuing OIT certificates and renewal OIT certificates are the same as those in proposed article 7, they are not discussed herein.

SECTION 3682. EMPLOYMENT OR TRAINING OF AN OPERATOR-IN-TRAINING.

Specific Purpose and Necessity of the Proposed Action

An OIT is learning the duties of an operator while working under the direct supervision of an operator at the same or higher grade level. It is inappropriate for an OIT to be functioning as a chief plant operator, designated operator-in-charge, or lone operator because of the level of knowledge, experience, and responsibility required in those positions.

Existing regulations do not state clearly that an OIT may not be appointed as a chief plant operator and may not be assigned to supervisory duties. The proposed amendment to this section ensures that chief plant operators, designated operators-in-charge, and lone operators

are not OITs, but are operators who have met all education, experience, and examination requirements for their specific grade levels.

SECTION 3682.1. APPLICATION FOR OPERATOR-IN-TRAINING CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3682.1(a)** – This subdivision states what information is required on an application for an OIT certificate. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

   Existing section 3708 requires an applicant for an OIT certificate to comply with existing section 3702, which states what information is required on an application for an operator certificate. Existing section 3708 also lists additional information that an OIT must provide on an application for an OIT certificate, including the name and telephone number of the applicant's supervising operator. This information is no longer required. Instead, the OIT must provide the chief plant operator's contact information, because the OIT certificate is issued to the chief plant operator and the chief plant operator is responsible for ensuring that the OIT is under the direct supervision of an operator at the same or higher grade level at all times.

2. **Section 3682.1(b)** – Under existing section 3708(c)(1), the OOC may not issue a Grade II through Grade V OIT certificate if the applicant has not met the education requirements for an operator certificate at that grade level. This new subdivision expands this requirement to also apply to applicants for a Grade I OIT certificate.

3. **Section 3682.1(c)** – Existing section 3708(b) is moved to this new subdivision and amended to incorporate new section 3682.5(b) relating to issuing a new Grade I OIT certificate.

4. **Section 3682.1(d)** – Under existing section 3708(c)(1), the OOC may not issue a Grade II through Grade V OIT certificate if the applicant's examination results will expire before the applicant can acquire the experience necessary for certification.

   The proposed amendment deletes the requirement that the applicant must be able to acquire the experience necessary for certification before the applicant's examination results will expire. It is the applicant's responsibility to meet the experience requirements within the allotted time. If the applicant does not meet the experience requirements within the allotted time period, the applicant must take and pass a new examination.

5. **Section 3682.1(e)** – Under existing regulations, the OOC is not required to notify the applicant if the application is complete or deficient. The OOC's existing practice is to notify applicants only if their application is deficient. This new subdivision requires the OOC to notify the applicant in writing whether the application is complete or deficient within 30 days of receipt of the application.

   Existing regulations do not specify the date by which the applicant must correct the deficiency. Proposed section 3682.1(e) provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3682.2. ISSUANCE OF AN OPERATOR-IN-TRAINING CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3682.2** – Existing section 3709(e) requires an OIT at any grade level to complete the education and experience requirements and obtain an operator certificate at that grade level or higher before being eligible to apply for an OIT certificate at a higher grade level. This requirement is deleted, allowing the OIT to decide whether to obtain an operator certificate or an OIT certificate at a higher grade level.

2. **Section 3682.2(b)** – Currently, the OOC must include the information in existing sections 3702.1(a) and 3709(b) on an OIT certificate. These requirements are combined in this new subdivision and amended to require the OOC to include the expiration date on an OIT certificate in accordance with existing OOC practice. Requiring the expiration date to be on the certificate ensures that the OIT, the public, and the regulatory agency may determine whether the certificate is valid.

3. **Section 3682.2(c)** – Under existing sections 3702.1(d) and 3709(c), the OOC may refuse to issue an OIT certificate if it has determined that the applicant has committed any act that is grounds for disciplinary action as specified in section 3710. This provision is moved to this new subdivision and amended to include all grounds for a disciplinary action or administrative civil liability under the proposed regulations.

4. **Section 3682.2(d)** – Under existing sections 3702.2(a) and 3709(d), OIT certificates expire on December 31 or June 30, depending on the postmark on the application for certification. Under the proposed regulations, the expiration dates are 24 months from the date of issuance, giving the OIT a full two years before expiration.

SECTION 3682.3. RENEWAL OF AN OPERATOR-IN-TRAINING CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3682.3** – Some individuals in the regulated community have been unclear as to how long OIT certificates are valid and the process by which the certificates may be renewed. In some instances, OITs have accepted jobs only to learn that their certificates cannot be renewed. This new section specifies the length of time OIT certificates and renewal certificates are valid.

2. **Section 3682.3(a)** – All applicants for an OIT certificate must meet the education requirements for certification at that grade level. Because proposed section 3686 amends the current education requirements for certification, some people who currently hold OIT certificates do not have the education required to be certified at that grade level under the proposed regulations. Therefore, it is necessary to specify that an applicant for renewal of an OIT certificate must meet the education requirements for certification at that grade level.

3. **Section 3682.3(b)** – The provision in existing section 3709(d) stating that the OOC may not renew a Grade I OIT certificate unless the OIT has passed the Grade I examination is moved to this new subdivision and amended for clarification purposes.

4. **Section 3682.3(c)** – Under existing section 3709(a) relating to the renewal of an OIT certificate, the expiration date of an OIT certificate cannot exceed the expiration date of the applicant's examination results. Additionally, under existing section 3709(d), Grade II

through Grade V OIT certificates can be renewed once for two years. These two provisions are moved to this new subdivision and amended for clarification purposes.

5. **Section 3682.3(d)** – Existing regulations allow an OIT to renew an OIT certificate only one time, giving the OIT a maximum of four years in which to obtain the necessary experience for certification at that grade level. Some OITs, however, are unable to meet the experience requirements for operator certification before their renewed OIT certificate expires. This new subdivision allows an OIT at any grade level to renew a certificate repeatedly for additional two-year periods if the OIT has passed an examination at that grade level or higher and the examination results have not expired, and the chief plant operator submits a plan to the OOC for the OIT to acquire the qualifying experience necessary to become certified at that grade level. This subdivision gives OITs the flexibility to acquire the necessary qualifying experience on their own schedule. At the same time, it requires the chief plant operator and the OIT to have a plan for acquiring the necessary qualifying experience to ensure that the OIT is making progress towards becoming certified as an operator.
6. **Section 3682.3(f)** – Provisions in existing sections 3702.2(c) and 3709(c) stating what information is required on an application for a renewed OIT certificate are moved to this new subdivision and amended to include all of the information that is required on an application for a new OIT certificate pursuant to proposed section 3682.1(a). The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

7. **Section 3682.3(g)** – Under existing regulations, the OOC is not required to notify the applicant if the application is complete or deficient. The OOC's existing practice is to notify applicants only if their application is deficient. This new subdivision requires the OOC to notify the applicant in writing whether the application is complete or deficient within 30 days of receipt of the application.

   Existing regulations do not specify the date by which the applicant must correct the deficiency. Proposed section 3682.1(e) provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3682.4. ISSUANCE OF A RENEWED OPERATOR-IN-TRAINING CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

Provisions in existing sections 3702.3 and 3709(a), (b), and (c) are moved to this new section. In addition to the current requirements, proposed subdivision (c) requires the OOC to include the expiration date on a renewed OIT certificate in accordance with existing OOC practice. Requiring the expiration date to be on the certificate ensures that the OIT, the public, and the regulatory agency may determine whether the certificate is valid.

SECTION 3682.5. INVALIDATION AND ISSUANCE OF A NEW OPERATOR-IN-TRAINING CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3682.5(a)** – The provision in existing section 3709(a) stating that OIT certificates are valid only while the OIT is in training at the WWTP for which the certificate was issued, is moved to this new subdivision. A new provision is added that requires the chief plant

operator to return an invalidated certificate within 30 days of the cessation of an OIT's training with a statement as to the amount of qualifying experience the OIT acquired before leaving the WWTP. This requirement allows the OOC to track all active OITs and provides a record of the time and experience acquired by each OIT, which can then be used if the OIT applies for a new certificate at a later date.

2. **Section 3682.5(b) and (c)** – Pursuant to existing section 3708(b), applicants for Grade I OIT certificates may, but are not required to, pass the Grade I examination before being issued a Grade I OIT certificate. Proposed subdivisions (b) and (c) ensure that no person is certified as a Grade I OIT for longer than 24 months unless that person has passed an examination and that person's examination results have not expired. The purpose of allowing Grade I OITs to receive their certificates before taking the examination is to give them an opportunity to receive on-the-job training. It is expected that before the two-year OIT certificate expires, the applicant will be ready for the examination. Therefore, it is not appropriate for Grade I OITs to receive multiple OIT certificates without demonstrating that they have gained sufficient skills to pass the examination.

   New subdivision (b)(2) also ensures that an applicant is not issued a new Grade I OIT certificate if the applicant has already met the qualifying experience requirements for a Grade I operator certificate in proposed section 3687(c). An OIT certificate is issued for the purpose of allowing applicants to acquire enough qualifying experience to meet the requirements for operator certification. It is not appropriate for an applicant to be issued a new Grade I OIT certificate if the applicant has met the qualifying experience requirements for a Grade I operator certificate and has not passed the examination.

3. **Section 3682.5(d)** – An applicant for a Grade II through Grade V OIT certificate must pass the required examination before being issued an OIT certificate. An OIT certificate will be renewed only if the OIT has passed an examination at that grade level or higher and the OIT's examination results have not expired. This new subdivision establishes the same requirement for an applicant for a new Grade II through Grade V OIT certificate.

4. **Section 3682.5(e)** – This new subdivision provides that all time and experience acquired under a previous OIT certificate will be applied to a new certificate. The provision ensures that the applicant is placed in the same position as if he or she had continued to work as an OIT.

SECTION 3682.6. REPORTING REQUIREMENTS FOR OPERATORS-IN-TRAINING.

Specific Purpose and Necessity of the Proposed Action

Proposed section 3710(a)(10) provides that an OIT may be disciplined for committing any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

This new section implements section 3710(a)(10) by requiring an OIT to notify the OOC within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or

contract operator at a WWTP, takes final action: to discipline the OIT; to impose administrative civil liability; or to impose civil or criminal liability.

Article 5. Provisional Operators

Specific Purpose and Necessity of the Proposed Action

Proposed article 5 is added to establish the requirements, procedures, and timeframes for applying for and issuing provisional operator certificates. To the extent applicable, these provisions are consistent with the proposed regulations regarding operator certificate and OIT certificates.

SECTION 3683. EMPLOYMENT OF A PROVISIONAL OPERATOR.

Specific Purpose and Necessity of the Proposed Action

Existing section 3683 regarding experience and education requirements for certification is moved to proposed section 3687 and amended as discussed under proposed section 3687.

Proposed section 3683 allows an owner of a Class I WWTP to employ a provisional operator to be solely responsible for the operation of the WWTP, provided the owner has received written approval from the OOC to use a provisional operator in accordance with proposed section 3680.2. A provisional operator is learning the duties of an operator in accordance with an approved plan. It is inappropriate for a provisional operator to supervise operators, other provisional operators, or OITs or appoint a designated operator-in-charge because of the level of knowledge, experience, and responsibility required to fulfill these duties.

SECTION 3683.1. APPLICATION FOR PROVISIONAL OPERATOR CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3683.1(a)** – This new subdivision states what information is required on an application for a provisional operator certificate. The State Water Board will not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board will supply an optional form in an organized, consistent format.

   The applicant must provide all of the information required on an application for an operator certificate. Additionally, the applicant must provide the name, contact information, and signature of the owner of the WWTP where the applicant will be employed, because the provisional operator certificate is issued to the owner and the provisional operator certificate is valid only while the provisional operator is employed at the WWTP.

2. **Section 3683.1(b) and (c)** – Proposed subdivision (b) provides that an applicant for a provisional operator must meet the same minimum education requirements as a Grade I operator. Additionally, pursuant to proposed subdivision (c), the applicant must pass an examination at the Grade I level or higher and the applicant's examination results must not have expired. After consulting with the Advisory Committee, the State Water Board determined that an applicant meeting these minimum requirements has the level of competence necessary to be solely responsible for the operation of a Class I WWTP that

meets the requirements to use a provisional operator as set forth in proposed section 3680.2.

3. **Section 3683.1(d)** – A provisional operator is only permitted to operate a Class I WWTP that has received written approval from the OOC to use a provisional operator in accordance with proposed section 3680.2. Further, a provisional operator certificate is valid only while the provisional operator is employed at the WWTP for which the certificate was issued. Therefore, this new subdivision provides that an applicant will not receive a provisional operator certificate unless the owner of the WWTP where the applicant will be employed has received written approval from the OOC to use a provisional operator in accordance with proposed section 3680.2.

4. **Section 3683.1(e)** – Consistent with other provisions in the proposed regulations regarding various applications submitted to the OOC, this new subdivision requires the OOC to notify the applicant in writing whether the application is complete or deficient within 30 days of receipt of the application. This subdivision further provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3683.2. ISSUANCE OF A PROVISIONAL OPERATOR CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3683.2(a)** – This new subdivision provides the timeframe within which the OOC must either issue a provisional operator certificate of inform the applicant of the reason the certificate will not be issued.

   Similar to OIT certificates, a provisional operator certificate is valid only while the provisional operator is employed at the WWTP and the owner is responsible for returning the provisional operator certificate to the OOC at the end of the provisional operator's employment. Therefore, this subdivision provides that the provisional operator certificate will be issued in the name of the applicant and mailed to the owner of the WWTP where the applicant will be employed.

2. **Section 3683.2(b)** – This new subdivision states what information the OOC is required to include on a provisional operator certificate. The required information is consistent with the information required to be included on operator certificates and OIT certificates and ensures that the provisional operator, the public, and the regulatory agency may determine whether the certificate is valid.

3. **Section 3683.2(c)** – Consistent with proposed regulations regarding operator certificates and OIT certificates, this new subdivision provides that the OOC may refuse to issue a provisional operator certificate if it has determined that the applicant has committed any act that is grounds for a disciplinary action or administrative civil liability under the proposed regulations.

4. **Section 3683.2(d)** – This new subdivision provides that a provisional operator certificate will be issued for a maximum of 24 months, including the time the applicant held all previous provisional operator certificates. Additionally, this subdivision provides that a provisional operator certificate cannot be renewed. The proposed definition of "full time" ensures that a provisional operator will be able to gain the necessary experience to meet the experience requirement to become a Grade I operator before the two-year provisional operator certificate expires. To become a provisional operator, an applicant must already meet all other requirements to become a Grade I operator. It is expected that before the two-year

provisional operator certificate expires, the provisional operator will be eligible to be certified as a Grade I operator. Therefore, it is not appropriate to allow a provisional operator to hold a provisional operator certificate for more than 24 months.

5. **Section 3683.2(e)** – This new subdivision provides that the expiration date of the provisional operator certificate cannot exceed the expiration date of the applicant's examination results. This provision, which is consistent with existing requirements for Grade II through V OIT certificates and the renewal of Grade I OIT certificates, helps to ensure that provisional operators retain the knowledge necessary to pass the Grade I examination.

SECTION 3683.3. INVALIDATION AND ISSUANCE OF A NEW PROVISIONAL OPERATOR CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3683.3(a)** – A provisional operator certificate is issued to an owner of a Class I WWTP that has received written approval from the OOC to use a provisional operator in accordance with proposed section 3680.2. This new subdivision provides that a provisional operator certificate is valid only while the provisional operator is employed at the WWTP for which the certificate was issued. This subdivision also requires the owner to return an invalidated certificate within 30 days of the cessation of a provisional operator's employment with a statement as to the amount of qualifying experience the provisional operator acquired before leaving the WWTP. This requirement allows the OOC to track all active provisional operators and provides a record of the time and experience acquired by each provisional operator, which can then be used if the provisional operator applies for a new certificate at a later date.

2. **Section 3683.3(b)** – Proposed subdivision (b) provides that a provisional operator whose certificate has been returned after the cessation of a provisional operator's employment at the WWTP for which is was issued may apply for a new provisional operator certificate, provided that the provisional operator held all previous provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience. The proposed definition of "full time" ensures that a provisional operator will be able to gain the necessary experience to meet the experience requirement to become a Grade I operator before the two-year provisional operator certificate expires. To become a provisional operator, an applicant must already meet all other requirements to become a Grade I operator. It is expected that before the two-year provisional operator certificate expires, the provisional operator will be eligible to be certified as a Grade I operator. Therefore, it is not appropriate for a person to receive a new provisional operator certificate unless the person has held all previous provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

SECTION 3683.4. REPORTING REQUIREMENTS FOR PROVISIONAL OPERATORS.

Specific Purpose and Necessity of the Proposed Action

Proposed section 3710(a)(10) provides that a provisional operator may be disciplined for committing any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP

and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

This new section implements section 3710(a)(10) by requiring a provisional operator to notify the OOC within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, takes final action: to discipline the provisional operator; to impose administrative civil liability; or to impose civil or criminal liability.

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

SECTION 3684. QUALIFYING EXPERIENCE CREDIT.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3684(a)(1)** – Pursuant to existing section 3684(a), if an applicant has two or more years of experience at a water treatment plant regulated by the California Department of Health Services (renamed "California Department of Public Health") or by a government agency in another state, the applicant may receive credit for one year of experience, provided certain conditions are met. This provision is moved to proposed subdivision (a)(1) and amended to allow applicants to gain qualifying experience credit for experience at water treatment plants regulated by a territory or an Indian tribe in addition to those regulated by the California Department of Public Health or another state because the work is comparable to the experience of working at a water treatment plant regulated by California or another state.

   Existing regulations do not define the phrase "two or more years of experience." A person who is considered a full-time worker typically works an average of 40 hours per week for a year or 2,080 hours per year minus paid and unpaid leave. After factoring in the typical amount of paid vacation, sick leave, and holidays taken by a full-time worker, a full-time worker spends approximately 1,800 hours per year performing job duties. Therefore, proposed subdivision (a)(1) replaces the requirement for "two or more years of experience" at a water treatment plant with "3,600 or more hours of experience."

2. **Section 3684(a)(2)** – Currently, an operator or OIT acquires experience for performing duties that fall under the definition of "operates." The proposed amendment allows applicants to receive qualifying experience credit for performing duties that are critical to the operation of a WWTP, but do not fall under the definition of "operates." The activities are essential to a WWTP's operation and require valuable knowledge and skills that are applicable to the duties of an operator. Additionally, proposed subdivision (a)(2)(D), allows applicants to receive qualifying experience credit for performing physical, chemical, and biological processes that may be unrelated to the operation of a WWTP, but require the same skills as those needed by an operator.

   Similar to the provision in proposed subdivision (a)(1), this new subdivision provides for a one-time credit for one year of full-time qualifying experience if the applicant has 3,600 or more hours of experience in one or more of the specified categories. An applicant may receive this credit only one time because although these skills are valuable and will help the operator to have a better understanding of WWTPs and wastewater treatment processes, the activities are not part of the core duties of an operator.

3. **Section 3684(a)(3)** – Existing section 3684(b) allows applicants who already have at least one year of experience to substitute 16 educational points for another year of experience, but does not state clearly how many times an applicant may substitute educational points for experience credits. Existing section 3684(b) is moved to proposed subdivision (a)(3) and amended to make it clear that an applicant may make an irrevocable election to substitute 16 educational points for one year of full-time qualifying experience credit each time the operator applies for certification at a higher grade level in accordance with existing OOC practice. Whether an applicant is requesting to move up one grade level (e.g., from Grade I to Grade II) or multiple grade levels (e.g., from Grade I to Grade III), the applicant may only substitute 16 educational points for one year of full-time qualifying experience credit. The next time the applicant applies for certification at a higher grade level, the applicant may substitute an additional 16 educational points for another year of full-time qualifying credit. Therefore, over the course of a person's career as a certified operator, the person can substitute up to a maximum of 64 educational points for four years of full-time qualifying experience credit if they moved up one grade level at a time.

   The State Water Board also is amending this provision so that educational points substituted for qualifying experience may not be used to satisfy education requirements in the Operator Certification Requirements Table in section 3687 for certification or qualifying for an examination. This amendment ensures that operators meet the State Water Board's minimum requirements for both education and experience in the Operator Certification Requirements Table in section 3687 and promotes education.

   Existing section 3684(b) prohibits applicants from making the above substitution when they follow two specific paths to certification in existing section 3683(c). One of these paths corresponds to Path 1 for Grade 1 in proposed section 3687(c). The minimum experience required for this path is one year of full-time qualifying experience. It is not necessary to prohibit substitution of educational points for experience for this path because the applicant must already have at least one year of full-time qualifying experience before being allowed to substitute educational points for qualifying experience. The other excluded path corresponds to Path 3 for Grade IV in proposed section 3687(c). The current minimum amount of experience of two years is increased to three years. Therefore, it is no longer necessary to exclude applicants who are using this path from making the substitution.

4. **Section 3684(b)** – Under the reciprocity provision in existing section 3704, the OOC gives experience credit to a person who is performing work that is comparable to the duties of an operator at a facility that treats wastewater in another state. Existing section 3704 regarding reciprocity is replaced with a broader examination waiver provision in proposed section 3689.

   This new subdivision allows the OOC to give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land within the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of a WWTP operator. In order to be given qualifying experience credit, the applicant must have held a valid, unexpired certification of the appropriate grade level issued by a certifying body to perform duties comparable to the duties of an operator at a WWTP. The certifying body's certification requirements also must be comparable to the State Water Board's requirements. This requirement ensures that the experience obtained at a facility that treats wastewater but that is not a WWTP is comparable to the experience acquired by operators at WWTPs.

   Similar to existing section 3704, this new subdivision provides that the OOC may refuse to grant an applicant qualifying experience credit if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on

land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

5. **Section 3684(c)** – This new subdivision implements Water Code section 13627.5, which was added by chapter 422, statutes of 2002. The statute provides that any operator employed at a privately owned WWTP must be credited with one year of experience upon passing an examination. This subdivision also establishes the process whereby uncertified operators at privately owned WWTPs will be merged into the program, specifying the circumstances under which these operators may be awarded additional qualifying experience credit.

SECTION 3685. EDUCATIONAL POINTS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3685(a)** – Existing section 3685(a) regarding the educational point evaluation process is vague, leaving applicants confused when their examination and certification applications are denied. More specifically, existing section 3685(a) uses the term "directly related to wastewater treatment," which is not defined and is interpreted differently throughout the regulated community. This provision is amended to replace the term "directly related to wastewater treatment" with "wastewater treatment course," which is defined in proposed section 3671. These amendments enable applicants to better understand how they can earn educational points. Additionally, this subdivision is amended to allow operators to receive educational points for completion of science courses because the knowledge gained in these courses is beneficial to WWTP operation.

2. **Section 3685(b)** – Existing section 3685(a) regarding the educational point evaluation process is vague, and applicants are confused when their applications are denied. The term "indirectly related to wastewater treatment" is used, but not defined. This provision is amended to replace the term with "management course," which is clearly defined in proposed section 3671. By making this amendment, applicants know under what circumstances they may earn educational points.

3. **Section 3685(c)** – The prohibition in existing section 3685(b) against substituting experience for educational points is moved to this new subdivision.

SECTION 3686. HIGH SCHOOL EQUIVALENCE.

Specific Purpose and Necessity of the Proposed Action

Existing section 3686 allowing applicants for operator certification to obtain high school equivalency by passing an approved General Education Development test, obtaining a Certificate of Proficiency issued by the Board of Education in accordance with section 48412 of the Education Code, or by substituting six educational points for each uncompleted year of high school. As amended, educational points cannot be substituted for uncompleted years of high school. By requiring all operators to have at least a high school diploma or equivalent, the State Water Board promotes education and ensures that operators have the basic skills developed during high school that factor into responsible operation.

SECTION 3687. EDUCATION AND EXPERIENCE REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3687** – The education and experience requirements for certification in existing Section 3683 are moved to this new section and amended as discussed below.

2. **Section 3687(a)** – This new subdivision makes it clear that operators who were issued operator certificates before the effective date of these regulations do not have to meet the new requirements in this section in order to renew their certificates. Additionally, operators holding expired certificates do not have to meet the new requirements in this section in order to reinstate their certificates. This section applies to people applying for a new operator or OIT certificate, a renewed OIT certificate, or an examination on or after the effective date of these regulations, including operators who request certification at a higher grade.

3. **Section 3687(b)** – Existing section 3683(a) regarding the requirements for operator certification is moved to proposed section 3687(b) and amended for clarification purposes. Additionally, this provision is amended to incorporate the examination waiver provisions.

4. **Section 3687(c)** – For clarification purposes, existing education and experience paths for all operator grade levels are displayed in the Operator Certification Requirements Table.

   The Advisory Committee and the regulated community have recommended that the State Water Board emphasize the importance of education by revising the various paths to certification. The order of the paths for each grade level is amended so the amount of experience a person needs decreases as the amount of education increases. Additionally, Path 1 of Grade I requires applicants to have a high school diploma or equivalent, in addition to the six educational points currently required, because the State Water Board has determined that this is the minimum educational standard needed to be an operator. The State Water Board also is increasing the number of educational points needed for Paths 1 and 2 for Grade II and Paths 1 and 2 for Grade III in order to ensure that operators have the education necessary to operate a modern WWTP.

   For Grade IV certification, the experience requirement for someone with at least a bachelor's degree is increased from two years to three years to be consistent with the other paths. The experience requirements for all other paths in the proposed subdivision are not amended.

   Finally, Path 3 for Grade II, Path 4 for Grade III, and Path 4 for Grade IV are added to allow people with higher levels of education to become certified at one grade level lower than existing regulations allow. The experience requirements for these paths are consistent with the experience requirements for the other paths and ensure that all applicants have a minimum of one year of full-time qualifying experience before being certified.

5. **Section 3687(d)** – Proposed subdivision (d)(1) explains how operators may acquire educational points. The OOC's current practice of accepting comparable education obtained outside of the United States is established in proposed subdivision (d)(2). Proposed subdivision (d)(3) provides that a person may acquire qualifying experience on a prorated basis while working less than full time. Also, it provides that operators may receive qualifying experience credit in accordance with proposed section 3684 for certain activities that are not included in the definition of qualifying experience.

Article 7. Examination for Wastewater Treatment Plant Operators

SECTION 3689. EXAMINATION WAIVER.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3689(a)** – Existing section 3704 permits the OOC to issue Grades I and II operator certificates by reciprocity to people who hold comparable certifications in other states. To be issued a certificate via reciprocity, the applicant must meet all of the State Water Board's experience and education requirements. The only requirement currently waived is the examination requirement. In order to clarify that no other requirement will be waived, the current reciprocity provision in existing section 3704, "Reciprocity with Other States," is moved to proposed section 3689, "Examination Waiver" and amended as discussed below.

   After consulting with the Advisory Committee, members of the regulated community, and tribal representatives, the State Water Board determined that several existing limitations on the reciprocity provision are no longer necessary because the requirements of other certifying bodies have improved. Additionally, these limitations serve to restrict qualified people from being certified by the State Water Board. Therefore, the proposed examination waiver provision is significantly broader than the existing reciprocity provision. Pursuant to this new section, the OOC may issue an examination waiver to an applicant at any grade, provided the applicant holds a comparable certification issued by a certifying body. (See proposed section 3671, definition of "certifying body.")

   Also deleted are the requirements that the applicant be certified by a state that offers reciprocal provisions to operators certified by the State Water Board and that the applicant has taken an examination in the last four years. To qualify for an examination waiver, the certifying body's experience, education, and examination requirements must be comparable to the State Water Board's requirements. Additionally, the applicant must meet the State Water Board's minimum education and qualifying experience requirements for the applicable grade. The State Water Board, the Advisory Committee, and stakeholders believe this safeguards the integrity of operator certification in California.

2. **Section 3689(b)** – Similar to the existing reciprocity provision, this new subdivision provides that the OOC may refuse to waive the examination requirement if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

3. **Section 3689(c)** – This new subdivision gives qualifying experience credit in accordance with proposed section 3684(b) to an applicant with an examination waiver. Applicants with waivers will receive credit for their experience at facilities that treat wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe.

SECTION 3700. APPLICATION FOR EXAMINATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3700** – Information in existing section 3700(b) regarding examination dates and the final filing dates for examination applications is moved to proposed section 3701(a) for clarification purposes. Additionally, existing section 3700(f) is deleted because it implemented repealed Government Code sections 15374-15378.

2. **Section 3700(a)** – Existing section 3700(a) establishes what information must be provided on an application for examination. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

   Existing section 3700(a) requires applicants to include information regarding their experience on an application for an examination. If the applicant is employed at a WWTP, the applicant's chief plant operator must verify the applicant's experience. Although applicants for an examination must meet the educational requirements for certification, they do not need to have met the experience requirements in order to take the examination. Therefore, this requirement is deleted because it is not necessary to require applicants to provide information regarding their experience or to have an applicant's chief plant operator verify the applicant's experience.

3. **Section 3700(c) and (d)** – Provisions in existing subdivision (c) regarding the evaluation of experience by OOC are moved to article 6, "Minimum Qualifications for Wastewater Treatment Plant Operator Certification," for clarification purposes. The remaining provisions in existing subdivision (c) and provisions in existing subdivisions (d) and (e) are reorganized into proposed subdivisions (c) and (d) for clarification purposes.

4. **Section 3700(e)** – This subdivision establishes existing practice in regulation. The examination fee covers the cost of administering and grading the examination. If the applicant does not take the examination, the applicant may request a refund of the examination fee because the OOC has not incurred the cost of administering and grading the examination.

SECTION 3701. EXAMINATIONS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3701(a)** – Provisions in existing section 3700(b) regarding examination dates and the final filing dates for examination applications and existing section 3701(c) regarding the frequency of the examinations are moved to proposed section 3701(a) and combined for clarification purposes. Existing section 3700(b) prescribed specific dates for the twice-yearly examinations and the filing dates for those examinations. As amended, proposed section 3701(a) does not prescribe the specific dates for the examinations and the filing dates for those examinations. Instead, proposed section 3701(a) provides that a minimum of two examinations shall be given each year and that the filing date will be 60 days before the scheduled examination. This will allow the OOC more flexibility in scheduling the examinations.

2. **Section 3701(c)** – Existing section 3701(c) regarding the frequency of examinations is combined with existing section 3700(b) and moved to proposed section 3701(a).

Existing section 3701(b) regarding the content by grade of the examination for operator certification is moved to proposed subdivision (c) and amended to include questions testing the applicant's knowledge of waste discharge requirements. A WWTP is required to remove pollutants from wastewater and to ensure that the WWTP is in compliance with the provisions of its waste discharge requirements; therefore, it is important for operators at all grades to have knowledge of the WWTP's waste discharge requirements.

3. **Section 3701(d) and (e)** – The provisions of existing section 3701(d) and (e) regarding examination security are moved to proposed section 3701.1.

4. **Section 3701(f), (f)(1), and (g)** – Existing sections 3701(f), (f)(1), and (g) are moved to proposed section 3701.2.

SECTION 3701.1. EXAMINATION SECURITY.

Specific Purpose and Necessity of the Proposed Action

The provisions of existing section 3701(d) and (e) regarding examination security are moved to this new section and amended to incorporate the administrative civil liability provisions that have been added to the regulations. Additionally, this section is amended so that the existing practice of requiring all applicants to present photographic identification to gain admission to the examination is established in regulation.

SECTION 3701.2. EXAMINATION RESULTS.

Specific Purpose and Necessity of the Proposed Action

Existing sections 3701(f), (f)(1), and (g) are moved to this new section and amended for clarification purposes.

Article 8. Certification of Wastewater Treatment Plant Operators

SECTION 3702. APPLICATION FOR CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3702(a)** – Existing section 3702(a) is deleted. To conform with existing OOC practice, all applicants for operator certification must submit an application for certification.

   Existing section 3702(b) is moved to proposed section 3702(a) and amended for clarification purposes. Proposed section 3702(a) establishes what information must be provided on an application for an operator certificate. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format. The required information regarding education and experience is amended to incorporate changes to these requirements that are in the proposed regulations.

2. **Section 3702(a)(3)** – Pursuant to proposed sections 3702.1(c) and 3710(a)(10) the State Water Board may refuse to issue a certificate if the applicant has committed any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than

California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

To determine if there is a reasonable ground for denying the requested certificate application, this new subdivision requires an applicant to inform the OOC whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant; or imposed civil or criminal liability.

3. **Section 3702(b)** – Under existing regulations, the OOC is not required to notify the applicant if the application is complete or deficient. The OOC's existing practice is to notify applicants only if their application is deficient. This new subdivision requires the OOC to notify the applicant in writing whether the application is complete or deficient within 30 days of receipt of the application.

   Existing regulations do not specify the date by which the applicant must correct the deficiency. Proposed section 3682.1(e) provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3702.1. ISSUANCE OF CERTIFICATES.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3702.1(a)** – Existing section 3702.1(a) is amended to require the OOC to include the expiration date on an operator certificate in accordance with existing OOC practice. This requirement ensures that the operator, the public, and the regulatory agency may determine whether the certificate is valid.

2. **Section 3702.1(b)** – Existing section 3702.1(b) is amended to require the OOC to issue duplicate operator certificates to operators who are employed at more than one WWTP. This enables the operator to comply with the requirement in section 3703 to post a certificate at each place of employment.

3. **Section 3702.1(c)** – Existing section 3702.1(c) stating that a certificate's issue date is the date the application was received is deleted. As amended, the issue date is intended to be consistent with the generally accepted meaning, which is the date the certificate is processed and printed. Existing section 3702.1(d) is moved to proposed section 3702.1(c) and amended to include all grounds for a disciplinary action or administrative civil liability under the proposed regulations.

4. **Section 3702.1(d)** – Pursuant to existing section 3702.2(a), all certificates are given an expiration date of either December 31 or June 30. As amended, the expiration date of a certificate is two years from the date of issuance, giving the operator a full two years before having to renew his or her certificate.

SECTION 3702.2. APPLICATION FOR CERTIFICATE RENEWAL.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3702.2(a)** – Under existing section 3702.2(a), the expiration date of a renewed certificate is ambiguous. This subdivision is amended to clarify that the expiration date of a renewed certificate is two years from the current expiration date.

2. **Section 3702.2(c)** – Existing section 3702.2(c) states what information an applicant must provide on an application for the renewal of an operator certificate. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

   Existing section 3702.2(c) requires the applicant to provide the name of the applicant's supervisor if the operator is currently employed. This subdivision is amended to require the applicant to provide the name of the applicant's chief plant operator instead of the applicant's supervisor, because it is the chief plant operator, not the supervisor, who is responsible for the overall operation of the WWTP and the actions of the operators who work at the WWTP.

3. **Section 3702.2(d)** – Under existing section 3702.2(e), the OOC has 15 days from receipt of an application to notify an applicant whether an application for renewal is deficient. In order to meet this requirement, the OOC calls the applicant and then follows up with a written notification at a later time. This provision is moved to this new subdivision and amended to give the OOC 30 days to notify the applicant in writing of the deficiency because experience shows that 30 days is required

   Additionally, under existing regulations, the OOC is not required to notify the applicant if the application is complete. This new subdivision requires the OOC to notify the applicant in writing whether the application is complete or deficient.

4. **Section 3702.2(e)** – Under existing section 3702.2(e), a renewal application must be postmarked no later than the expiration date on the certificate. Once the OOC receives a complete application, the OOC has 30 days to issue the renewed certificate. In many cases where an operator waits until the last minute to submit an application, the existing certificate expires and the operator works without a valid certificate or quits working until a renewal certificate is issued. Therefore, this new subdivision states that the State Water Board must receive the application at least 30 days before the expiration of the existing certificate. This requirement allows the OOC to process the renewal application before the certificate expires.

SECTION 3702.3. ISSUANCE OF RENEWAL CERTIFICATE.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3702.3(b)** – Existing section 3702.3(b) is moved to proposed section 3702.7 for clarification purposes. Existing section 3702.3(c) is moved to proposed section 3702.3(b) and amended to include all grounds for a disciplinary action or administrative civil liability under the proposed regulations.

2. **Section 3702.3(c)** – Existing section 3702.3(d) is moved to proposed section 3702.3(c) and amended to require the initial date of issuance to be on a renewal certificate to conform with

existing OOC procedures. Displaying the issue date of the initial certificate on the renewal certificate allows the public and regulatory agencies to determine if the operator has current certification.

SECTION 3702.4. REINSTATEMENT.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3702.4(a)** – Existing section 3702.4(a) is amended for clarification purposes.

2. **Section 3702.4(b)** – This new subdivision is added for clarification purposes.

3. **Section 3702.4(c)** –Existing section 3702.4(b) regarding an application for reinstatement is moved to proposed section 3702.4(c) and amended as discussed below.

   Pursuant to proposed sections 3702.4(d) and 3710(a)(10) the State Water Board may refuse to reinstate a certificate if the applicant has committed any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

   To determine if there is a reasonable ground for refusing to reinstate a certificate, this new subdivision requires an applicant to inform the OOC whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant; or imposed civil or criminal liability.

4. **Section 3702.4(d)** – Existing section 3702.4(c) is moved to section 3702.4(d) and amended for clarification purposes.

5. **Section 3702.4(e)** – Under existing section 3702.4(d), the expiration date of a reinstated certificate is the same as if the certificate had not expired. As a result, in addition to paying a reinstatement fee, operators who are reinstated must renew their certificates after less than two years. This provision is moved to proposed section 3702.4(e). Additionally, consistent with other amendments to the regulations to ensure that operators are certified for a full two years every time they apply for or renew a certificate, this provision is amended so that the expiration date of a reinstated certificate is two years from the date of reinstatement of the certificate.

SECTION 3702.5 REPORTING REQUIREMENTS FOR OPERATORS.

Existing section 3702.5 regarding replacing a certificate is moved to proposed section 3702.6.

Proposed section 3710(a)(10) provides that an operator may be disciplined for committing any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than

California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

Proposed section 3702.5 implements section 3710(a)(10) by requiring an operator to notify the OOC within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, takes final action: to discipline the operator; to impose administrative civil liability; or to impose civil or criminal liability.

SECTION 3702.6. REPLACEMENT.

Specific Purpose and Necessity of the Proposed Action

Existing section 3702.5 is moved to this new section. The amendments to this provision are non-substantive and are not intended to have any regulatory effect.

SECTION 3702.7. UNPAID FEES AND ADMINISTRATIVE CIVIL LIABILITY.

Specific Purpose and Necessity of the Proposed Action

Existing section 3702.3(b) is moved to this new section for clarification purposes. This provision also is expanded to include fees for the issuance and reinstatement of a certificate and payment of administrative civil liability consistent with the provisions regarding administrative civil liability that are added to the regulations.

SECTION 3703. POSTING CERTIFICATES.

Specific Purpose and Necessity of the Proposed Action

Under existing section 3703, operator and OIT certificates must be posted at the WWTP where the individual is employed. This requirement helps to ensure that people who do not hold certificates are not performing the duties of an operator. Frequently, however, certificates are placed in areas inaccessible to the public. This section is amended to require posting of certificates in public areas to ensure that the certificates are posted in areas accessible for public inspection, so that the public and regulatory agencies may verify that the WWTP's operators and OITs are certified and that the WWTP has an adequate number of certified operators.

Article 9. Administrative Civil Liability, Disciplinary Action, Appeal, and Petition Process

Specific Purpose and Necessity of the Proposed Action

Under existing article 7, Proposed Disciplinary Action Letters issued by the Director of the OE may be appealed to the Division Chief (now retitled "Deputy Director") of the Division. The Division Chief may then uphold, overturn, or amend the proposed disciplinary action. Typically, appeals go up through the chain of command in an organization. In this case, however, the Director of the OE is independent of the Deputy Director of the Division and the Director of the

OE and the Deputy Director of the Division have comparable levels of authority within the State Water Board. Therefore, the State Water Board has determined that the Deputy Director of the Division should not review appeals of Proposed Disciplinary Action Letters issued by the Director of the OE. Instead, a person to whom a Proposed Disciplinary Action Letter has been issued may request reconsideration by the Director of the OE under proposed section 3712. Provisions in existing sections 3711-3715 are amended and additional sections are added to implement this change.

SECTION 3709. IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY.

Specific Purpose and Necessity of the Proposed Action

This new section implements sections 13627.1, 13627.2, and 13627.4 of the Water Code, which were added to the Water Code by chapter 422, statutes of 2002.

SECTION 3710. GROUNDS FOR DISCIPLINARY ACTION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3710(a)** – Existing section 3710(a) is amended to correct an apparent oversight in current regulations by providing that an operator or OIT may be disciplined "upon any reasonable ground," consistent with Water Code section 13627(e). As amended, this subdivision authorizes the State Water Board to discipline operators, provisional operators, or OITs upon any reasonable ground, even if it is not specified in this section. Additional changes have been made for clarification purposes.

2. **Section 3710(a)(3)** – Existing section 3710(a)(3) allows the State Water Board to discipline an operator or OIT who provides false or misleading information on any document provided to the State Water Board. Existing section 3710, however, does not include a provision to discipline operators who orally provide false or misleading information to State Water Board staff. Staff has encountered situations where operators lied to investigators relative to situations involving fellow operators under investigation. Section 3710(a)(3) is amended to allow the State Water Board to discipline operators, provisional operators, or OITs who lie to State Water Board staff during an investigation of possible violations of the regulations.

3. **Section 3710(a)(7)** – Existing section 3710(a)(7) is amended for clarification purposes. The proposed definition of "waste discharge requirements" includes all waste discharge requirements issued pursuant to article 4 of chapter 4, division 7 of the Water Code and chapter 5.5 of division 7 of the Water Code. This definition includes provisions in a National Pollutant Discharge Elimination System permit.

4. **Section 3710(a)(8)** – This new subdivision provides that an operator, provisional operator, or OIT may be disciplined for failing to comply with the new reporting requirement in proposed section 3682.6, 3683.4, or 3702.5.

5. **Section 3710(a)(9)** – While existing section 3703 requires operators and OITs to post their certificates (this section is amended to include provisional operators in the proposed regulations), there is no provision in existing section 3710 for enforcing this requirement. Therefore, this new subdivision is added to include failing to post a certificate as a ground for disciplinary action under proposed section 3710.

6. **Section 3710(a)(10)** – A person who commits an act that is a reasonable ground for a disciplinary action pursuant to these regulations at any facility that treats wastewater, including facilities operated in another state, in a territory, or on land under the jurisdiction of an Indian tribe, may not possess the technical qualifications, integrity, and respect for the law necessary to operate a WWTP. Therefore, this new subdivision states that an operator, provisional operator, or OIT may be disciplined for committing any act that is a reasonable ground for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

7. **Section 3710(b)** –The amendments to existing section 3710(b) are non-substantive and are not intended to have any regulatory effect.

SECTION 3711. APPEALS OF DISCRETIONARY DECISIONS MADE BY THE OFFICE OF OPERATOR CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

Existing section 3711 states broadly that a person may appeal the denial of an application without specifying what type of applications may be appealed. To clarify the specific intent of the State Water Board, this section is amended to list the type of applications that, if denied by the OOC, may result in an appeal. Further, in order to implement the provisional operator and lone operator provisions of the proposed regulations, the discretionary decisions that may be appealed include a decision to deny a request for approval to use a lone operator or a provisional operator. Finally, this section is amended to implement changes to the Water Code enacted by chapter 422, statutes of 2002 allowing an owner to appeal a denial of an exemption made by the OOC. This section is also amended to provide an additional 15 days in which to appeal a decision by the OOC to the Deputy Director of the Division. This amendment ensures that appellants have the opportunity to review the decision, gather any material they wish to be considered by the Deputy Director, and to write a well-reasoned appeal.

In several previous requests for review by the Division Chief (now retitled "Deputy Director") of the Division, it was unclear which decision was being appealed. Therefore, this amendment requires an appellant to include a copy of the decision being appealed.

SECTION 3711.1. ACTION BY THE DEPUTY DIRECTOR OF THE DIVISION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3711.1(a)** – Existing section 3712 requires the OOC to make a recommendation to the Division Chief (now retitled "Deputy Director") of the Division on all appeals within 30 days of receipt of the appeals. Proposed section 3711.1(a) provides that the OOC may, but is not required to, provide a recommendation. This new subdivision also allows the Deputy Director to extend the time for filing the recommendation, allowing the OOC more time to consider and develop its response to appeals.

2. **Section 3711.1(b)** – Existing section 3712 requires the Division Chief (now retitled "Deputy Director") of the Division to issue a Final Division Decision within 30 days of receiving a recommendation from the OOC. This means that the amount of time the Division Chief has

to review the appeal varies based on when the recommendation is received. Additionally, the amount of time provided by existing regulations is not sufficient to allow the Division Chief to give the matter full consideration. This new subdivision gives the Deputy Director 90 days from receipt of the appeal to review the appeal and issue a Final Division Decision. This change allows the Division to better allocate its resources by setting a fixed day, not tied to the recommendation, that the Final Division Decision is due and provides enough time for the Deputy Director to fully review the appeal.

3. **Section 3711.1(c)** – This new subdivision provides that the Deputy Director of the Division may at any time, on his or her own motion, issue a Final Division Decision. This subdivision gives the Deputy Director the authority to review decisions that have not been appealed in a timely manner.

SECTION 3711.2. PETITION FOR REVIEW OF A FINAL DIVISION DECISION BY THE STATE WATER BOARD.

Specific Purpose and Necessity of the Proposed Action

Existing section 3713 is moved to proposed section 3711.2 and amended to make the petition process consistent with other State Water Board programs. The amendments also will help the State Water Board conduct hearings in an efficient manner by ensuring that evidence is received prior to the hearing.

In several requests for petition review, it was unclear which Final Division Decision was being appealed. Therefore, this new section requires the petitioner to include the Final Division Decision in the petition.

SECTION 3712. REQUESTS FOR RECONSIDERATION OF PROPOSED DISCIPLINARY ACTION LETTERS.

Specific Purpose and Necessity of the Proposed Action

This new section implements the change in the appeal process for Proposed Disciplinary Action Letters issued by the OE as discussed in the introductory paragraph regarding article 9.

SECTION 3712.1. ACTION BY THE DIRECTOR OF THE OFFICE OF ENFORCEMENT.

Specific Purpose and Necessity of the Proposed Action

This new section implements the change in the appeal process for Proposed Disciplinary Action Letters issued by the OE as discussed in the introductory paragraph regarding article 9.

SECTION 3712.2. PETITION FOR REVIEW OF A FINAL OFFICE OF ENFORCEMENT DECISION BY THE STATE WATER BOARD.

Specific Purpose and Necessity of the Proposed Action

This new section implements the change in the appeal process for Proposed Disciplinary Action Letters issued by the OE as discussed in the introductory paragraph regarding article 9.

SECTION 3713. DEFECTIVE PETITIONS.

Specific Purpose and Necessity of the Proposed Action

Existing section 3714 is moved to proposed section 3713 and amended to give the State Water Board authority to provide more time to amend a defective petition. The amendments also make the petition process in the Operator Certification Program consistent with the process for other State Water Board programs.

SECTION 3714. ACTION BY THE STATE WATER BOARD ON A PETITION.

Specific Purpose and Necessity of the Proposed Action

Existing section 3715 is moved to proposed section 3714 and amended to implement the change in the appeal process for Proposed Disciplinary Action Letters issued by the OE as discussed in the introductory paragraph regarding article 9. As amended, this section also makes the petition process in the Operator Certification Program consistent with the process for other State Water Board programs. Additionally, this new section clarifies that the State Water Board has the discretion to hold a hearing only for the purpose of oral argument or receipt of additional evidence or both, if the State Water Board is not otherwise required by law to hold an evidentiary hearing.

Pursuant to an existing general delegation, the Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper. This new section includes this authority to clarify the petition process.

SECTION 3715. WORKSHOP MEETING.

Specific Purpose and Necessity of the Proposed Action

This new section makes the petition process in the Operator Certification Program consistent with the process for other State Water Board programs.

SECTION 3716. FORMAL DISPOSITION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3716** – Existing section 3716 is deleted because it implemented repealed Government Code sections 15374-15378.

2. **Section 3716(a)** – Proposed section 3716(a) is added to make the petition process in the Operator Certification Program consistent with the process for other State Water Board programs.

3. **Section 3716(b)** – Pursuant to an existing general delegation, the Executive Director may issue an order by settlement on behalf of the State Water Board. This new subdivision clarifies that this new section does not limit the Executive Director's authority to issue an order by settlement.

Article 10. Fees

SECTION 3717. OPERATOR AND OPERATOR-IN-TRAINING FEES.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3717** – The number of applications and associated costs for the Operator Certification Program have increased significantly since the last fee increase in 2003, although the level of effort to review applications remains steady. Pursuant to Water Code section 13627.5(b), the State Water Board may charge a reasonable fee for processing examination applications and administering examinations. Additionally, Water Code section 13628 requires the State Water Board to establish a fee schedule to provide revenues to cover the cost of the Operator Certification Program.

   The Operator Certification Program classifies each WWTP and regulates approximately 6,000 certified operators and OITs. The Operator Certification Program's total annual expenditures are approximately $1,508,070, not including the cost of processing and renewing contract operator registrations.

   The following is a breakdown of expenditures:

   OOC administrative responsibilities – 28 percent or $422,259.60

   The OOC administers the Operator Certification Program. The OOC issues new certificates to operators and OITs and renews their certificates every two years. The OOC processes over 1,300 applications for examinations. OOC work tasks include: classifying WWTPs; reviewing applications for examinations; preparing and administering the examinations; reviewing applications for operator and OIT certificates; printing and distributing certificates; communicating with applicants, certificate holders, WWTP owners, and chief plant operators; reviewing and preparing forms and correspondence; consulting with engineers and legal staff; and other support activities.

   Engineering support – 32 percent or $482,582.40

   Engineering support includes: classifying WWTPs; updating, administering, and grading operator certification examinations; and assisting OOC staff to review applications for certification. Engineers in the Division also advise the Deputy Director of the Division, the Office of Chief Counsel, and the State Water Board regarding appeals, petitions, and proposed regulatory amendments.

   Office of Chief Counsel support – 15 percent or $226,210.50

   The Office of Chief Counsel provides legal support for the OOC and advises the Division and the State Water Board regarding appeals, petitions, and proposed regulatory amendments.

   OE support – 25 percent or $377,017.50

   The OE investigates and prosecutes any relevant alleged violations of the Water Code or the Operator Certification regulations. Additionally, the OE provides input on proposed regulatory amendments.

   As stated above, the Operator Certification Program's total annual expenditures are approximately $1,508,070, not including the cost of processing and renewing contract

operator registrations. Annual revenue from the fees to cover these costs is approximately $722,000, resulting in a $786,070 deficit. The State Water Board has determined that it is appropriate to keep the current fee structure in which operators and OITs at lower grade levels have lower fees than operators and OITs at higher grade levels. Additionally, the State Water Board has determined that it is appropriate for the provisional operator certification fee to be equivalent to the certification fee for Grade I OITs and Grade I operators. Given the uneven distribution of operators and OITs across the five grade levels and the desire to keep the current fee structure, the State Water Board has determined that fees must increase by 78 percent in order for the Operator Certification Program to meet its operating costs.

2. **Section 3717(a)** – Existing section 3717(a) is deleted and the provisions are combined with existing section 3717(d) in proposed section 3717(d) for clarification purposes. The lead-in to existing section 3717 is moved to proposed section 3717(a) and amended to be consistent with proposed section 3700(e).

3. **Section 3717(f)** – This subdivision is amended to increase the reinstatement fee from $50 to $100 to cover the cost of reinstating an operator certificate.

4. **Section 3717(g)** – This subdivision is amended to be consistent with proposed section 3702.6 regarding replacement of a lost, stolen, damaged, or destroyed certificate. The replacement fee is increased from $20 to $50 to cover the cost of replacing an operator or OIT certificate.

5. **Section 3717(h)** – This subdivision is amended to be consistent with the amendment to the regulations replacing reciprocal certification with an examination waiver. The fee for an examination waiver is set at $100 to cover the cost of processing the application for an examination waiver.

Article 11. Advisory Committee

SECTION 3718. ADVISORY COMMITTEE MEMBERSHIP AND RESPONSIBILITIES.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3718(a)** – The terms of those members of the Advisory Committee who were in office on January 1, 1992, have expired. Therefore, existing section 3718(a) is deleted and replaced with the requirements for Advisory Committee membership pursuant to Water Code section 13632.

   Because all supervisors are operators, proposed subdivision (a)(1) uses the term "operators" instead of "operators and supervisors," which is used in Water Code section 13632(a).

2. **Section 3718(c)** – Existing section 3718(c) is amended for consistency with Water Code section 13633 regarding the duties of the Advisory Committee.

Article 12. Wastewater Treatment Plant Contract Operators

SECTION 3719. CONTRACT OPERATOR REGISTRATION REQUIREMENT.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719 states that no person or entity may enter into a contract to operate a WWTP unless that person is a registered contract operator. The State Water Board recognizes that it is unnecessarily burdensome for a person to register as a contract operator before attempting to obtain a contract and has an interest only in regulating those people who have obtained a contract to operate a WWTP. For these reasons, the OOC allows a contract operator to enter into a contract to operate a WWTP before registering as a contract operator. To establish existing practice in regulation, this section provides that within 30 days after entering into a contract to operate a WWTP, a contract operator must submit an application for contract operator registration with the OOC.

Additionally, this section is amended to implement the change in the name of the "contract operator registration" that must be posted at a WWTP to a "contract operator credential."

SECTION 3719.1. TERM OF CONTRACT OPERATOR REGISTRATION.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.10 is moved to proposed section 3719.1. The amendments to this provision are non-substantive and are not intended to have any regulatory effect.

SECTION 3719.2. APPLICATION FOR CONTRACT OPERATOR REGISTRATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.2(a)** – Existing section 3719.11(a) stating what information must be provided on an application for a contract operator registration is moved to proposed section 3719.2(a) and reorganized for clarification purposes. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

   These requirements for an application for a contract operator registration are amended for consistency with other amendments to the regulations. As amended, applicants are now required to provide the name, address, and telephone number of each owner contracting with the contract operator. Applicants also must provide the contact information for the chief plant operator and the name of the Regional Water Board overseeing each WWTP under contract. This information will help the OOC track the owner, contract operator, and chief plant operator at each WWTP.

2. **Section 3719.2(a)(6)** – Pursuant to proposed sections 3719.3(c) and 3719.12(k), the State Water Board may refuse to issue a registration if the applicant has committed any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a California WWTP and the act would be good cause for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

To determine if there is good cause for denying the requested registration, this new subdivision requires an applicant to inform the OOC whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant; or imposed civil or criminal liability.

3. **Section 3719.2(b)** – Existing section 3719.11(b) setting the deadline for contract operators to register with the State Water Board when it first began registering contract operators is deleted because it is no longer necessary or appropriate.

   Existing section 3719.11(c), requiring the OOC to notify applicants in writing within 30 days of receipt whether the application for registration is deficient, is moved to proposed section 3719.2(b). This provision is amended to require the OOC to notify applicants if their applications for registration are complete, ensuring that applicants are aware of the status of their applications. Additionally, this subdivision is amended to clarify that if the application is deficient, the OOC must inform the applicant in writing of the specific information required to complete the application.

   Existing regulations do not specify the date by which the applicant must correct the deficiency. Proposed section 3682.1(e) provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3719.3. ISSUANCE OF CONTRACT OPERATOR REGISTRATION AND CONTRACT OPERATOR CREDENTIAL.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.3(a)** – Existing section 3719.12(a) is moved to proposed section 3719.3(a) and amended to add the name "State Water Resources Control Board" to contract operator registrations to distinguish them from registrations issued by another certifying body and to conform with existing OOC practice.

2. **Section 3719.3(b)** – The use of the term "certificate of registration" in existing section 3719.12(b) is confusing because it is used for both the certificates issued by the OOC upon registering contract operators and for the certificates that must be posted at each WWTP operated by the contract operator. Therefore, the certificates that must be posted at each WWTP are renamed "contract operator credentials."

3. **Section 3719.3(c)** – Existing section 3719.12(c) is moved to proposed section 3719.3(c) and amended to clarify that the OOC may not issue a contract operator registration if the applicant has committed any act in violation of the regulations.

SECTION 3719.4. RENEWAL OF CONTRACT OPERATOR REGISTRATION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.4(b)** – Existing section 3719.13(b) stating what information must be provided on an application for renewal of a contract operator registration is moved to proposed section 3719.4(b) and reorganized for clarification purposes. The State Water Board does

not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

The requirements for an application for renewal of a contract operator registration are amended for consistency with other amendments to the regulations. As amended, applicants are now required to provide the name, address, and telephone number of the owner of each WWTP under contract.

2. **Section 3719.4(b)(3)** – In addition to the requirements in existing section 3719.13(b), applicants must provide the contact information for the chief plant operator and the name of the Regional Water Board overseeing each WWTP to be operated. This information will help the OOC track the chief plant operator and Regional Water Board overseeing each WWTP.

3. **Section 3719.4(c)** – Existing section 3719.13(c) is moved to proposed Section 3719.4(c) and amended to incorporate the renumbering of the section regarding contract operator fees.

4. **Section 3719.4(d)** – Existing section 3719.13(d) requiring the OOC to notify an applicant in writing within 30 days of receipt whether an application for contract operator registration renewal is deficient is moved to proposed section 3719.4(d). The requirement is amended to require the OOC to notify applicants if their renewal applications are complete, ensuring that applicants are aware of the status of their renewal applications. This subdivision also clarifies that if the renewal application is deficient, the OOC must inform the applicant in writing of the specific information required to complete the application.

   Existing regulations do not specify the date by which the applicant must correct the deficiency. Proposed section 3682.1(e) provides that if the deficiency is not corrected within 60 days from the date of the notification, the application shall be denied.

SECTION 3719.5 ISSUANCE OF RENEWED CONTRACT OPERATOR REGISTRATION AND CONTRACT OPERATOR CREDENTIAL.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.5(a)** – Existing section 3719.14(a) is moved to proposed section 3719.5(a) and amended to add the name "State Water Resources Control Board" to contract operator registrations to distinguish them from registrations issued by another certifying body. This requirement establishes existing practice in regulation.

2. **Section 3719.5(b)** – Existing section 3719.14(b) is moved to proposed section 3719.5(b). The use of the term "certificate of registration" in existing section 3719.14(b) is confusing because it is used to refer to the certificates issued by the OOC upon registering contract operators as well as the certificates that must be posted at each WWTP under contract. Therefore, the certificates that must be posted at each WWTP are renamed, "contract operator credentials."

3. **Section 3719.5(c)** – Existing section 3719.14(c) is moved to proposed section 3719.5(c) and amended to include all grounds for a disciplinary action or administrative civil liability under the proposed regulations.

SECTION 3719.6. APPLICATION FOR ADDITIONAL CONTRACT OPERATOR CREDENTIAL.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.6(a)** – Under existing section 3719.16, a contract operator must post a certificate of registration (renamed "contract operator credential" in the proposed regulations) at each WWTP under contract. There are no provisions, however, for obtaining an additional certificate of registration if the contract operator enters into a new contract at a later date.

   This new subdivision establishes what information must be provided on an application for an additional contract operator credential. The information will help the OOC track the owner, contract operator, and chief plant operator at each WWTP. The State Water Board does not require applicants to use a specific application form; however, for the convenience of the applicant, the State Water Board supplies an optional form in an organized, consistent format.

2. **Section 3719.6(b)** – This new subdivision establishes a 30-day time limit within which the OOC must issue the additional contract operator credential.

SECTION 3719.7. REPLACEMENT OF CONTRACT OPERATOR REGISTRATION OR CONTRACT OPERATOR CREDENTIAL.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.15 is moved to this new section and amended to be consistent with the requirements in proposed section 3702.6 for replacing an operator certificate and to incorporate the amendment to the regulations regarding contract operator credentials. Additionally, this new section incorporates the renumbering of the section regarding fees.

SECTION 3719.8. UNPAID FEES AND ADMINISTRATIVE CIVIL LIABILITY.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.14(c) stating that a registration shall not be renewed until any unpaid fees or fines have been paid is moved to this new section for clarification purposes. This new section also includes fees for the issuance or replacement of a contract operator registration or contract operator credential and payment of administrative civil liability consistent with the provisions regarding administrative civil liability that are added to the regulations.

SECTION 3719.9. POSTING CONTRACT OPERATOR CREDENTIALS.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.16 stating that a registered contract operator's certificate of registration must be displayed and clearly visible at each WWTP under contract is moved to this new section. This new section also requires the contract operator to display the contract operator credential in an area accessible to the public. If there is no area accessible to the public, the contract operator credential must be posted in an accessible area at the WWTP owner's

headquarters. This requirement ensures that the public and regulatory agencies can inspect contract operator credentials.

SECTION 3719.10. REPORTING REQUIREMENTS FOR CONTRACT OPERATORS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.10(a)** – Existing section 3676(c) requires agencies or municipalities to report to the OOC any final disciplinary action against an operator or OIT (this section is amended to include provisional operators in the proposed regulations). The regulations do not, however, require contract operators to report any final disciplinary action they take against an operator, provisional operator, or OIT. It is typically the contract operator, not the owner, who disciplines the operators and OITs working at a WWTP. This new section requires contract operators to report disciplinary actions to the OOC.

   This section also requires the OOC to include the operator's certificate number in the notice. The length of time the notice will remain in State Water Board files is consistent with the provisions of proposed section 3676(g) regarding the length of time a notice from the owner will remain in State Water Board files.

2. **Section 3719.10(b)** – Proposed section 3719.12(k) provides that a contract operator may be disciplined for committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be good cause for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

   This new section implements section 3719.12(k) by requiring a contract operator to notify the OOC within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, takes final action: to discipline the OIT; to impose administrative civil liability; or to impose civil or criminal liability.

SECTION 3719.11. IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY.

Specific Purpose and Necessity of the Proposed Action

This new section implements sections 13627.3 and 13627.4 of the Water Code, which were added to the Water Code by chapter 422, statutes of 2002.

SECTION 3719.12. GROUNDS FOR DISCIPLINARY ACTION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.12(c)** – Existing section 3719.17(c) stating that a person may be disciplined for operating a WWTP without a valid and current registration is moved to proposed section 3719.12(c). This new subdivision implements the amendment to proposed section 3719, which provides that within 30 days after entering into a contract to operate a

WWTP, a contract operator must submit an application for contract operator registration with the OOC.

2. **Section 3719.12(d)** – Existing section 3719.17(c) states that a person may be disciplined for operating a WWTP without a valid and current registration. Proposed section 3719, which provides that within 30 days after entering into a contract to operate a WWTP, a contract operator must submit an application for contract operator registration with the OOC. Additionally, a contact operator must obtain a contract operator credential for each WWTP that the contract operator operates. This new subdivision implements these amendments to section 3719.

3. **Section 3719.12(e)** – Existing section 3719.17(d) allowing the State Water Board to discipline a contract operator for providing written information that is false or misleading is moved to proposed section 3719.12(e). Existing section 3719.17 does not provide the means to discipline contract operators who orally provide false or misleading information to State Water Board staff. State Water Board staff has experienced situations where contract operators give false or misleading information to investigators relative to operators under investigation. This provision is amended to allow the State Water Board to discipline contract operators who lie to State Water Board staff during an investigation of possible violations of the regulations.

4. **Section 3719.12(f)** – Existing section 3719.12(e) is moved to proposed section 3719.12(f). The amendments to this provision are non-substantive and are not intended to have any regulatory effect.

5. **Section 3719.12(g)** – Existing section 3719.12(f) is moved to proposed section 3719.12(g) and amended for consistency with Water Code section 13627.3(c)(5).

6. **Section 3719.12(h)** – Existing section 3719.12(g) is moved to proposed section 3719.12(h) and amended for clarification purposes. The proposed definition of "waste discharge requirements" includes all waste discharge requirements issued pursuant to article 4 of chapter 4, division 7 of the Water Code and chapter 5.5 of division 7 of the Water Code. This definition includes provisions in a National Pollutant Discharge Elimination System permit.

7. **Section 3719.12(i)** – This subdivision is added so that a contract operator may be disciplined for failing to comply with the new reporting requirement in proposed section 3719.10(b).

8. **Section 3719.12(j)** – Although existing sections 3703 and 3719.16 require operators and OITs to post their certificates and contract operators to post their certificates of registration (renamed "contract operator credential" in the proposed regulations), the regulations do not provide a means of enforcing the requirements. Therefore, failing to post a certificate or a contract operator credential is included in the grounds for disciplinary action in this new subdivision.

9. **Section 3719.12(k)** – A person who commits an act that is good cause for a disciplinary action pursuant to these regulations at any facility that treats wastewater, including facilities operated in another state, in a territory, or on land under the jurisdiction of an Indian tribe, may not possess the technical qualifications, integrity, and respect for the law necessary to operate a WWTP. Therefore, this new subdivision states that contract operators may be disciplined for committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract

operator at a California WWTP and the act would be good cause for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

SECTION 3719.13. APPEALS OF DISCRETIONARY DECISIONS MADE BY THE OFFICE OF OPERATOR CERTIFICATION.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.18 allowing applicants or registration holders to appeal discretionary decisions made by the OOC or the OE in accordance with the regulations governing appeals for operators and OITs is moved to this new section. This new section incorporates the amendments to proposed article 9 regarding appeals of discretionary decisions made by the OOC.

SECTION 3719.14. REQUESTS FOR RECONSIDERATION OF PROPOSED DISCIPLINARY ACTION LETTERS.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.18 allowing applicants or registration holders to appeal discretionary decisions made by the OOC or the OE in accordance with the regulations governing appeals for operators and OITs is moved to this new section. This new section incorporates the amendments to proposed article 8 regarding requests for reconsideration of Proposed Disciplinary Action Letters.

SECTION 3719.15. PETITIONS.

Specific Purpose and Necessity of the Proposed Action

Existing section 3719.18 allowing applicants or registration holders to appeal discretionary decisions made by the OOC or the OE in accordance with the regulations governing appeals for operators and OITs is moved to this new section. This new section incorporates the amendments to proposed Article 8 regarding petitions to the State Water Board seeking review of a Final Division Decision or a Final Office of Enforcement Decision.

SECTION 3719.16. WASTEWATER TREATMENT PLANT CONTRACT OPERATOR REGISTRATION FEES.

Specific Purpose and Necessity of the Proposed Action

1. **Section 3719.16** – Water Code section 13627.3(e) requires the State Water Board to establish a fee schedule to pay for its costs to implement Water Code section 13627.3 governing the contract operator registration program. The contract operator fees were established on August 29, 1994, and have never been increased. The costs of registering contract operators have increased significantly since 1994 and the fees collected do not cover the costs.

   Each year, the OOC receives approximately 100 applications for a contract operator registration or the renewal of a contract operator registration. The State Water Board estimates that it takes an average of six hours for an Office Technician, a Staff Services

Analyst, and the OOC Administrator to review and process a typical application. At the current salaries for an Office Technician, a Staff Services Analyst, and the OOC Administrator, the administration costs to process an average of 100 contract operator applications per year are projected at approximately $37,230 per year.

Based on an analysis of the cost of processing applications for a contract operator registration or the renewal of a contract operator registration, the State Water Board has determined that the initial contract operator registration fee and annual renewal fee must increase by 250 percent and the fee for employee registration by the contract operator must increase by 200 percent.

2. **Section 3719.16(c)** – Existing section 3719.19(c) is moved to proposed section 3719.16(c) and amended to increase the late fee from $50 to $100 to cover additional costs that may be incurred and to deter contract operators from submitting their renewal applications late.

3. **Section 3719.16(d)** – Existing section 3719.19(d) is moved to proposed section 3719.16(d) and amended to be consistent with proposed Section 3719.7 regarding replacement of a lost, stolen, damaged, or destroyed contract operator registration or contract operator credential. This subdivision also incorporates the addition of proposed section 3719.6 regarding the application for an additional contract operator credential. The replacement fee is increased from $30 to $50 to cover the cost of issuing a new contract operator registration or contract operator credential.

Appendix

Existing Article 4. Minimum Qualifications

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 4 concerning minimum qualifications are moved to proposed article 6 for organizational purposes.

Proposed Article 4. Operators-in-Training

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 6 concerning OITs are moved to proposed article 4 and renumbered for organizational purposes.

Existing Article 5. Examination and Certification of Wastewater Treatment Plant Operators

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 5 concerning examinations are moved to proposed article 7 for organizational purposes. The sections in existing article 5 concerning operator certification are moved to proposed article 8 for organizational purposes.

Proposed Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 4 concerning minimum qualifications are moved to proposed article 6 for organizational purposes.

Existing Article. 6. Operators-in-Training

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 6 concerning operators-in-training are moved to proposed article 4 for organizational purposes.

Proposed Article 7. Examination for Wastewater Treatment Plant Operators

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 5 concerning examinations are moved to proposed article 7 for organizational purposes.

Existing Article 7. Prohibited Acts, Disciplinary Action, and Appeal Process

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 7 concerning prohibited acts, disciplinary action, and appeal process are moved to proposed article 9 for organizational purposes.

Proposed Article 8. Certification of Wastewater Treatment Plant Operators

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 5 on the certification of WWTP operators are moved to proposed article 8 for organizational purposes.

Existing Article 8. Fees

Specific Purpose and Necessity of the Proposed Action

The section in existing article 8 concerning fees is moved to proposed article 10 for organizational purposes.

Proposed Article 9. Administrative Civil Liability, Disciplinary Action, Appeal, and Appeal Process

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 7 concerning prohibited acts, disciplinary action, and appeal process are moved to proposed article 9 for organizational purposes.

Existing Article 9. Advisory Committee

Specific Purpose and Necessity of the Proposed Action

The section in existing article 9 concerning the Advisory Committee is moved to proposed article 11 for organizational purposes.

Proposed Article 10. Fees

Specific Purpose and Necessity of the Proposed Action

The section in existing article 8 concerning fees is moved to proposed article 10 for organizational purposes.

Existing Article 10. Wastewater Treatment Plant Contract Operators

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 10 concerning contract operators are moved to proposed article 12 for organizational purposes.

Proposed Article 11. Advisory Committee

Specific Purpose and Necessity of the Proposed Action

The section in existing article 9 concerning the Advisory Committee is moved to proposed article 11 for organizational purposes.

Proposed Article 12. Wastewater Treatment Plant Contract Operators

Specific Purpose and Necessity of the Proposed Action

The sections in existing article 10 concerning contract operators are moved to proposed article 12 for organizational purposes.

TEXT OF ORIGINALLY PROPOSED REGULATIONS

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS
CHAPTER 26. ~~CLASSIFICATION OF~~ WASTEWATER TREATMENT PLANTS ~~CLASSIFICATION~~, ~~AND~~ OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Article 1. General Provisions

§ 3670. Purpose.

The primary purpose of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program is to protect public health and the environment by providing for the effective operation of wastewater ~~and water recycling~~ treatment plants, including water recycling treatment plants, through the certification of wastewater treatment plant operators and the registration of contract operators.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

§ 3670.1. Certification Requirements for ~~Operation of~~ Operating Wastewater Treatment Plants.

(a) Except as provided in subdivision (b), ~~No~~ no person shall operate a wastewater treatment plant ~~within the meaning of these regulations unless that person has been certified by the division as a wastewater treatment plant operator or operator in training~~ without a valid, unexpired, State Water Board-issued operator, provisional operator, or operator-in-training certificate at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680, 3680.1, and 3680.2.

(b) A person certified by the California Department of Public Health as a water treatment plant operator may operate a water recycling treatment plant at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680 and 3680.1.

(1) For the purpose of this subdivision, a water treatment plant operator certificate is equivalent to a wastewater treatment plant operator certificate as follows:

Certificate Requirements for Water Recycling Treatment Plants

Wastewater Treatment Plant Classification	Water Treatment Plant Operator Certificate	Wastewater Treatment Plant Operator Certificate
I	T1	Grade I
II	T2	Grade II
III	T3	Grade III
IV	T4	Grade IV
V	T5	Grade V

(2) The State Water Board may prohibit the use of a certificate issued by the California Department of Public Health if the water treatment plant operator has committed or commits any act in violation of this chapter.

(c) Any person who operates a wastewater treatment plant without a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to sections 3710 and 3719.12.

(d) Any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person performing the duties of an operator who does not hold a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709(b)(2) and disciplinary action pursuant to sections 3710 and 3719.12.

Authority: Sections 1058 and 13627, Water Code.
Reference: ~~Chapter 9 and~~ Sections 13625, 13627, 13627.1, and 13627.3, Water Code.

~~§ 3670.2. Certification Requirement for Operation of Water Recycling Treatment Plants.~~

~~(a) Except as provided in subsection (b) below, no person shall operate a water recycling treatment plant unless that person has been certified by the division as a wastewater treatment plant operator or operator-in-training at a grade appropriate for the class of plant being operated.~~

~~(b) A person certified by the Department of Health Services as a water treatment plant operator may operate a water recycling treatment plant at a grade appropriate for the class of plant operated.~~

~~(c) The State Board may refuse to approve use of a certificate issued by the Department of Health Services or suspend or revoke its approval of the use of the certificate if the operator commits any of the prohibited acts described in Article 7 (commencing with section 3710) of Chapter 26 of Division 3 of the California Code of Regulations.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Chapter 9 and Section 13625, Water Code.~~

§ 3671. Definitions.

The following definitions shall apply to this chapter:

~~(a)~~ "Activated sludge treatment" means a wastewater treatment process in which predominantly ~~biodegradeable~~ biodegradable pollutants in wastewater are adsorbed and/or absorbed by a suspended mass of living aerobic organisms called "activated sludge." ~~.~~ The suspended mass is subsequently separated from the treated wastewater by ~~a~~ sedimentation ~~proces~~ either for further use in the process or for disposal.

~~(b) "Agency" or "municipality" means any government agency created by federal law or any city, town, county, district, or other government created by or pursuant to state law which owns or operates a wastewater treatment plant. "Agency" also includes any privately-owned~~

~~organization which owns or operates a wastewater treatment plant regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of division 1 of the Public Utilities Code.~~

~~(c)~~ "Appellant" means a person who appeals a discretionary decision made by the Office of Operator Certification~~, Office of Enforcement, or division Chief~~ regarding: 1) denial of an application~~,~~ for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination~~, or disciplinary action taken~~.

~~(d)~~ "Applicant" means: ~~a person who files an application for an examination, certification, renewal, or reinstatement as a wastewater treatment plant operator or operator-in-training~~ 1) a person who files an application for an examination; 2) a person who files an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 3) a person who files an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 4) an owner who files an application for an exemption or the renewal of an exemption for a Class I wastewater treatment plant; 5) a chief plant operator who requests approval to use a lone operator; or 6) an owner who requests approval to use a provisional operator.

"Associate's degree" means a degree issued by a college or university accredited to award associate's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education, for the completion of a program of study equivalent to the first two years of a baccalaureate degree.

"Bachelor's degree" means a baccalaureate degree issued by a college or university accredited to award bachelor's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education.

~~(e) "Basic science courses" means college level courses in the combined fields of mathematics, physics, chemistry, and biology.~~

~~(f)~~ "Biological filtration treatment" (biofiltration) means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by masses of living aerobic organisms~~ and which are~~ attached to stationary support media as the wastewater ~~is caused to~~ trickle~~s~~ over the media. Settleable material that may have sloughed from the media surfaces is subsequently separated from the treated wastewater by a sedimentation process for disposal.

~~(g) "Board" or "State Water Board" as used in this chapter means the five members of the State Water Resources Control Board.~~

"Certifying body" means a state other than California, a territory, or an Indian tribe or unit thereof, that certifies or registers any person performing duties at a facility that treats

wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant. "Certifying body" includes entities designated by an Indian tribe to administer the tribe's certification and/or contract registration program.

~~(h)~~ "Chief ~~Plant Operator~~ plant operator" means any of the following:

(1) ~~a supervisor who is certified as an operator and who is~~ the operator responsible for the overall operation of a wastewater treatment plant including compliance with effluent limitations established in the wastewater treatment plant's waste discharge requirements and ensuring that operators-in-training are supervised directly as required by section 3682; or

(2) the provisional operator who is solely responsible for the operation of a Class I wastewater treatment plant whose owner has received approval to use a provisional operator in accordance with section 3680.2.

~~(i)~~ "Contract operator" means ~~any~~ a person ~~or entity~~ who enters ~~a promissory agreement~~ into a contract with an owner to operate ~~a~~ one or more wastewater treatment plant~~s~~.

"Conventional treatment pond" means a pond in which biological oxidation of organic matter occurs through the natural transfer of oxygen in the wastewater. A pond that uses surface aerators solely to control odors shall be considered a conventional treatment pond unless the effluent receives disinfection before it is discharged.

"Design flow" means that amount of flow for which the wastewater treatment plant was designed.

"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall report to the chief plant operator.

~~(j)~~ "Direct supervision" means the supervising operator shall oversee and inspect the ~~oversight and inspection of the work performance of an operator-in-training by the supervisor, without an intervening person, to ensure the safe and proper execution of the duties of the operator-in-training~~ work performed by an operator-in-training and provide training to ensure the safe and proper execution of the operator-in-training's duties. Direct supervision shall be carried out by an operator at the same or higher grade level as the operator-in-training. The supervising operator shall be present at the wastewater treatment plant or otherwise available to consult with, and provide assistance to, the operator-in-training in order to ensure the safe and proper execution of the operator-in-training's duties.

"Disinfection" means a wastewater or water treatment process that uses physical or chemical processes to treat the effluent to inactivate or destroy pathogens remaining in wastewater after primary, secondary, or tertiary treatment. "Disinfection" includes the removal of chlorine if it is required by the wastewater treatment plant's waste discharge requirements.

~~(k)~~ "Division" means ~~that~~ the unit of the ~~division of the board~~ State Water Board in which the Office of Operator Certification is located.

~~(l)~~ "Extended aeration treatment" means a modification of the activated sludge treatment process which utilizes long aeration periods to promote aerobic digestion of the biomass.

"Full time" for purposes of qualifying experience means any of the following:

(1) an average of 40 hours worked per week by an operator or operator-in-training at a wastewater treatment plant while performing job duties that meet the definition of qualifying experience. Any used paid vacation or sick leave earned as a result of hours spent performing job duties that meet the definition of qualifying experience may be counted toward full-time employment. In no case, however, may an operator or operator-in-training be considered to be working full time if he or she spends less than 1,800 hours per year performing duties defined as qualifying experience;

(2) less than an average of 40 hours worked per week by an operator or provisional operator at a wastewater treatment plant if the operator or provisional operator is solely responsible for the operation of a wastewater treatment plant; or

(3) less than an average of 40 hours worked per week by an operator-in-training at a wastewater treatment plant if the operator-in-training works as the only operator-in-training under the direct supervision of an operator who is solely responsible for the operation of the wastewater treatment plant and who is working less than an average of 40 hours per week.

"Indian tribe" means an Indian entity recognized by, and eligible to receive services from, the United States, and included in the list of the entities periodically published by the Bureau of Indian Affairs in the Federal Register.

"Lone operator" means an operator, at a grade level lower than the designated-operator-in-charge, approved by the Office of Operator Certification pursuant to section 3681 to work alone at a wastewater treatment plant. An operator-in-training shall not be a "lone operator."

~~(m) "Maintenance" means those activities which will be credited toward operator experience under the certification program. Those activities are limited to the day-to-day servicing, adjustment or regulation of equipment which are performed by an operator and are necessary to maintain reliable operation of major treatment processes.~~

"Management course" means a course that teaches supervision and management skills including oral communication, technical writing, public administration, business management, and finance. Operators may earn educational points for completion of management courses pursuant to section 3685(b).

"Modified treatment pond" means a pond in which either the biological oxidation of organic matter is enhanced by the addition of aeration or the effluent receives disinfection before discharge.

~~(n)~~ "Office of Enforcement" means ~~that~~ the unit of the State Water Board ~~that is~~ responsible for enforcement of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program pursuant to ~~Article~~ article ~~7~~9 and ~~Article~~ article ~~10~~12.

~~(o)~~ "Office of Operator Certification" means ~~that~~ the unit of the ~~division which~~ State Water Board that administers the Wastewater Treatment Plant Classification, ~~and~~ Operator Certification, and Contract Operator Registration Program.

~~(p)~~ "Operates" means ~~the performance of day-to-day activities primarily consisting of the control of any process which may affect the quality of the discharge of a wastewater treatment plant. "Operates" may include performance of day-to-day maintenance work so long as the primary function of the operator is control of the process. "Operates" does not include maintenance functions which are not necessarily for the reliable operation of major treatment processes~~ actions or decisions to control the performance or outcome of one or more wastewater treatment processes. The term also includes the supervision of other operators acting or making decisions to control the performance or outcome of one or more wastewater treatment processes.

~~(q)~~ "Operator" means ~~any~~ a person ~~operating~~ who operates a wastewater treatment plant and ~~who occupies a position and performs duties for which the Office of Operator Certification requires an operator certificate~~ possesses a valid, unexpired operator certificate.

~~(r)~~ "Operator-in-training" means ~~any person who operates a wastewater treatment plant under the direct supervision of a certified operator while gaining experience to qualify for an operator certificate~~ a person who has been issued an operator-in-training certificate by the State Water Board and who is acquiring qualifying experience at a wastewater treatment plant under the direct supervision of an operator at the same or a higher grade level as the operator-in-training.

"Owner" means a person who owns a wastewater treatment plant.

"Person" means an individual, entity, firm, association, organization, partnership, business trust, corporation, limited liability company, company, city, county, district, the state, and the United States, to the extent authorized by federal law.

"Petitioner" means a person who petitions the State Water Board seeking review of a Final Division Decision issued by the Deputy Director of the Division or a Final Office of Enforcement Decision issued by the Director of the Office of Enforcement.

~~(s) "Pond treatment" means processing in a pond in which biological oxidation of organic matter is effected by natural or artificially accelerated transfer of oxygen to the water.~~

~~(t)~~ "Preliminary treatment" means a wastewater treatment process ~~or processes~~ to remove or reduce ~~in~~ the size of solids ~~which~~ that could damage equipment or reduce the effectiveness of other treatment processes.

~~(u)~~ "Primary treatment" means a wastewater treatment process that allows ~~those~~ substances in wastewater that readily settle or float to be separated from the water being treated.

"Provisional operator" means a person who is solely responsible for the operation of a Class I wastewater treatment plant that has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2 and who possesses a valid, unexpired provisional operator certificate.

"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training while operating a wastewater treatment plant as defined in this section. The term may include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.

"Qualifying experience credit" means credit awarded in lieu of qualifying experience pursuant to section 3684. Qualifying experience credit is equivalent to qualifying experience and may be used to meet the experience requirements for operator certification pursuant to section 3687.

"Regional Water Board" means a California Regional Water Quality Control Board.

"Requestor" means a person who requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter.

"Satellite plant" means a wastewater treatment plant that is physically separated from the main wastewater treatment plant, but that has the potential to affect the operation of, or effluent quality from, the main wastewater treatment plant. To qualify as a satellite plant, both the main wastewater treatment plant and the satellite plant shall be owned by the same person and shall be classified as one wastewater treatment plant. The owner's employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel shall include a chief plant operator who is responsible for the overall operation of both the main wastewater treatment plant and the satellite plant.

"Science course" means a course in mathematics, physics, engineering, chemistry, or biology. Operators may earn educational points for completion of science courses pursuant to section 3685(a).

~~(v)~~ "Secondary treatment" means a wastewater treatment process that goes beyond primary treatment to remove colloidal and dissolved organic matter and further remove suspended matter, usually by biological processes such as activated sludge and biological filtration treatment.

"Sequencing batch reactor" means a wastewater treatment system that uses a variation of the activated sludge process in which aeration and sedimentation or clarification occur in a single tank in sequential stages. A programmable logic controller is used to monitor the time associated with the process stages to achieve specific treatment objectives.

~~(w) "Shift supervisor" means a certified operator who oversees and directs the operation or a phase of operation of a wastewater treatment plant during a specific work period and who reports to a supervisor or a chief plant operator.~~

~~(x) "Supervisor" means a certified operator who oversees and directs the operation of a wastewater treatment plant, who inspects the performance of other operators of a wastewater treatment plant, and who reports to the chief plant operator.~~

"Solids treatment" means a wastewater treatment process used to stabilize solids that have been removed from wastewater by using biological, chemical, or thermal treatment methods. "Solids treatment" includes using physical processes at a wastewater treatment plant to further reduce the volume of stabilized solids.

"State Water Board" means the State Water Resources Control Board.

~~(y)~~ "Tertiary treatment" ~~(advanced waste treatment)~~ means a wastewater treatment process that goes beyond secondary treatment, ~~which may include~~ and includes filtration, coagulation, and nutrient removal~~, but excluding disinfection~~.

"Waste discharge requirements" means waste discharge requirements issued pursuant to article 4, chapter 4, division 7 of the Water Code or chapter 5.5 of division 7 of the Water Code.

"Water quality objectives" means the limits or levels of water quality constituents or characteristics established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

"Wastewater treatment course" means a course that teaches operators the skills to operate a wastewater treatment plant including water quality control, wastewater treatment, wastewater engineering, wastewater chemistry, and sanitation microbiology. Operators may earn educational points for completion of wastewater treatment courses pursuant to section 3685(a).

~~(z)~~ "Wastewater treatment plant" means ~~either~~ any of the following:

(1) ~~Any~~ A facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage ~~and~~ or industrial wastes~~.~~;

(2) ~~Any~~ A privately owned facility used in the treatment or reclamation of sewage ~~and~~ or industrial wastes, and regulated by the Public Utilities Commission pursuant to ~~Sections~~ sections 216 and 230.6 of, and ~~Chapter~~ chapter 4 (commencing with ~~Section~~ section 701) of ~~Part~~ part 1 of ~~Division~~ division 1, of the Public Utilities Code~~.~~; or

(3) A privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

"Wastewater treatment plant" includes water recycling treatment plants. The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290 of the Water Code.

"Wastewater treatment process" means a process that improves the quality of wastewater before it is discharged from a wastewater treatment plant, and includes the use of preliminary, primary, pond, secondary, or tertiary treatment for liquid-solids separation of wastewater; the use of disinfection to inactivate or destroy pathogens in wastewater; and the use of solids treatment for solids stabilization and volume reduction before removal from the wastewater treatment plant site.

~~(aa)~~ "Water recycling treatment plant" (water reclamation plant) means a wastewater treatment plant that receives and further treats secondary and/or tertiary effluent from ~~a~~ another wastewater treatment plant for the purpose of meeting the uniform statewide recycling criteria established pursuant to section 13521 of chapter 7 of division 7 of the Water Code for the use of recycled water.

"Water treatment plant" means a facility that uses sedimentation, coagulation, filtration, disinfection, conditioning, softening, fluoridation, removal of tastes and odors, corrosion control, algae control, and/or aeration to reduce or remove contaminants that are present in water for the purpose of making water suitable for drinking.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

Article 2. Classification of Wastewater Treatment Plants, Owner ~~and Agency~~ Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant

§ 3675. Classification of Wastewater ~~and Water Recycling~~ Treatment Plants.

(a) ~~The division~~ Within 45 days of receiving the information required pursuant to section 3676(b) or (c), the Office of Operator Certification shall classify ~~all~~ a wastewater treatment plant~~s, including water recycling treatment plants,~~ according to the following criteria:

~~*Class Treatment Process Design Flow (in million gallons per day)*~~

~~I Pond..... All~~
~~Primary..... 1.0 or less~~

~~II Primary..... Greater than 1.0 through 5.0~~
~~Biofiltration..... 1.0 or less~~
~~Extended Aeration.. All~~

~~III Primary..... Greater than 5.0 through 20.0~~
~~Biofiltration..... Greater than 1.0 through 10.0~~
~~Activated Sludge..... 5.0 or less~~
~~Tertiary..... 1.0 or less~~

~~IV Primary..... Greater than 20.0~~
~~Biofiltration..... Greater than 10.0 through 30.0~~
~~Activated Sludge..... Greater than 5.0 through 20.0~~
~~Tertiary..... Greater than 1.0 through 10.0~~

~~V Biofiltration..... Greater than 30.0~~
~~Activated Sludge..... Greater than 20.0~~
~~Tertiary..... Greater than 10.0~~

WASTEWATER TREATMENT PLANT CLASSIFICATION TABLE

Class	Wastewater Treatment Process	**Design Flow** (in million gallons per day)
I	Primary	1.0 or less
	Conventional Treatment Pond	All
II	Primary	Greater than 1.0 through 5.0
	Biofiltration	1.0 or less
	Modified Treatment Pond	All

III	Primary	Greater than 5.0 through 20.0
	Biofiltration	Greater than 1.0 through 10.0
	Activated Sludge	5.0 or less
	Sequencing Batch Reactor	1.0 or less
	Tertiary	1.0 or less
IV	Primary	Greater than 20.0
	Biofiltration	Greater than 10.0 through 30.0
	Activated Sludge	Greater than 5.0 through 20.0
	Sequencing Batch Reactor	Greater than 1.0 through 10.0
	Tertiary	Greater than 1.0 through 10.0
V	Biofiltration	Greater than 30.0
	Activated Sludge	Greater than 20.0
	Sequencing Batch Reactor	Greater than 10.0
	Tertiary	Greater than 10.0

(b) ~~Plants~~ A wastewater treatment plant may be classified ~~in a group~~ other than as indicated in ~~this section~~ subdivision (a) if:

(1) ~~they have characteristics which make operation more difficult than the operation of other similar plants of the same flow range; or,~~ the wastewater treatment plant uses unconventional or innovative approaches due to conditions of flow or unusual requirements for discharge to a receiving water;

(2) the conditions of flow or the use of the receiving waters require an unusually high degree of wastewater treatment plant operational control; or~~,~~

(3) ~~they use~~ the wastewater treatment plant uses an approved method of wastewater treatment ~~which is~~ not included in ~~this section~~ subdivision (a).

(c) Satellite plants shall not be classified separately. A satellite plant and the main wastewater treatment plant shall be classified as a single wastewater treatment plant.

(d) Within 45 days of receiving written notice of any change in reportable items in section 3676(b) or (c), the Office of Operator Certification shall either reclassify the wastewater treatment plant or make a determination that the change does not result in a need for reclassification.

Authority: Sections 1058 and 13626, Water Code.
Reference: Section 13626, Water Code.

§ 3676. Reporting Requirements ~~by Agencies to the Division~~ for Owners of Wastewater Treatment Plants.

(a) Except as provided in subdivision (c), within 60 days from the effective date of this section, an owner shall submit to the Office of Operator Certification a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b) Except as provided in subdivision (c), in addition to providing the written acknowledgement required by subdivision (a), within 60 days from the effective date of this section, the owner of a privately owned wastewater treatment plant for which the State Water Board or a Regional Water Board has issued waste discharge requirements or any other wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control shall submit to the Office of Operator Certification a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel.

(a~~c~~) ~~Within 30 calendar~~ The owner of a wastewater treatment plant that will begin operating more than 60 days after the effective date of this section shall submit to the Office of Operator Certification at least 60 days ~~after a~~ before the wastewater treatment plant begins operating, ~~each agency shall submit to the division~~ a description and schematic of the wastewater treatment plant's treatment processes and, ~~a~~ design flow ~~of the plant~~, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, ~~and~~ job descriptions, and duty rosters for wastewater treatment plant personnel. The owner shall submit a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b~~d~~) ~~Each agency~~ The owner shall notify the ~~division~~ Office of Operator Certification in writing within 30 ~~calendar~~ days of the closure of the wastewater treatment plant or ~~a~~ any change in the ~~employment of the person designated as chief plant operator and any change in the reportable items in subsection (a) above which~~ reportable items in subdivisions (b) or (c), that may affect the classification of the wastewater treatment plant.

(e) If the person designated as the chief plant operator changes, the owner shall notify the Office of Operator Certification in writing within 30 days and shall provide a signed statement from the new chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(f) The owner shall notify the Office of Operator Certification in writing within 30 days of entering into or ending a contract with a contract operator.

~~(c) Each agency shall notify the division in writing within 30 calendar days of any final disciplinary action resulting in suspension, demotion, or discharge of a certified operator or operator-in-training if the disciplinary action is the result of the operator's commission of any of the acts which are grounds for discipline listed in Section 3710. The notice shall identify the name of the operator or operator-in-training, the specific violations and the disciplinary action taken.~~

~~(d) Reports regarding final disciplinary action received from agencies shall be retained in state board files for a period of three years unless the state board takes disciplinary action. If the state board takes disciplinary action, reports submitted by agencies shall remain in state board files for ten years.~~

(g) The owner shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action taken by the owner against an operator, provisional operator, operator-in-training, or contract operator. Disciplinary action includes reprimanding or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name of the operator, provisional operator, operator-in-training, or contract operator, the specific violations, and the disciplinary action taken. The notice also shall include the operator's certificate number or the contract operator's registration number.

(1) Except as provided in (2) below, a notice received from an owner regarding final disciplinary action shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability or takes disciplinary action pursuant to article 9 or article 12 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

Authority: Sections 1058 and 13626, Water Code.
Reference: Sections 13626, 13627, 13627.1, 13627.2, 13627.3, and 13627.4, Water Code.

§ 3677. Exemption for a Class I Wastewater Treatment Plant.

An owner of a Class I wastewater treatment plant may apply to the Office of Operator Certification for an exemption from the requirements of this chapter and Water Code, division 7, chapter 9, if the wastewater treatment plant could not, due to operator error, violate water quality objectives.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.1. Application for Exemption for a Class I Wastewater Treatment Plant.

(a) An application for exemption shall contain sufficient information to demonstrate that the wastewater treatment plant meets the criteria prescribed in section 3677, and shall include:

(1) the name, mailing and business addresses, and telephone number of the owner of the wastewater treatment plant;

(2) the name, business address, and telephone number of the wastewater treatment plant;

(3) an employee organization chart;

(4) the original signature of the owner of the wastewater treatment plant or the owner's authorized representative;

(5) the name of the Regional Water Board overseeing the wastewater treatment plant and a copy of the current waste discharge requirements issued by the State Water Board or Regional Water Board;

(6) a description and schematic of the wastewater treatment plant showing all wastewater treatment and solids handling processes including a flow diagram showing design flows and present flows for all wastewater treatment processes and a solids balance diagram for the solids handling processes;

(7) an evaluation of the operations of the wastewater treatment plant signed and stamped by a California registered professional chemical, civil, or mechanical engineer. The engineer shall identify potential operator errors, evaluate the potential effects of the identified operator errors on the operation of the wastewater treatment plant, and determine whether the operator errors could cause the wastewater treatment plant to violate water quality objectives; and

(8) additional information, evidence, statements, or documents to support the application for exemption as requested by the Office of Operator Certification.

(b) A non-refundable application fee of $800 shall accompany each application for exemption.

(c) The applicant for exemption shall provide a copy of the application for exemption to the appropriate Regional Water Board.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.2. Issuance of a Notice of Exemption for a Class I Wastewater Treatment Plant.

(a) Within 60 days of receipt of a completed application for exemption, the Office of Operator Certification shall issue a notice of exemption or inform the applicant of the reason the notice of exemption shall not be issued.

(b) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying a request for exemption.

(c) A wastewater treatment plant shall be granted an exemption only if the Office of Operator Certification determines that the wastewater treatment plant could not, due to operator error, violate water quality objectives.

(d) A notice of exemption shall include:

(1) the name of the wastewater treatment plant;

(2) the name and business address of the owner;

(3) the issue and expiration dates of the exemption;

(4) the exemption number assigned by the State Water Board;

(5) the State Water Board seal;

(6) the name "State Water Resources Control Board;" and

(7) the signature of a State Water Board member or designee.

(e) An exemption granted by the Office of Operator Certification shall be valid for four years.

(f) The Office of Operator Certification may revoke or place conditions on an exemption at any time.

(g) If an application for exemption is denied or the Office of Operator Certification revokes an exemption, the owner shall, within 365 days from the date of the denial or revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.3. Changes to the Operation of an Exempt Wastewater Treatment Plant.

(a) At least 60 days before implementing any changes to the operation of an exempt wastewater treatment plant, the owner shall notify the Office of Operator Certification in writing of the proposed changes.

(b) Within 30 days of receiving notice of proposed changes to the operation of an exempt wastewater treatment plant, the Office of Operator Certification shall provide written notification of whether the wastewater treatment plant will remain exempt if the proposed changes are implemented.

(c) The owner shall notify the Office of Operator Certification in writing if the owner decides to implement proposed changes that the Office of Operator Certification determined will result in revocation of the exempt status of the wastewater treatment plant.

(d) The Office of Operator Certification shall revoke the wastewater treatment plant's exemption if the owner implements changes that result in the wastewater treatment plant no longer meeting the criteria for exemption in section 3677.2(c).

(e) If a wastewater treatment plant's exemption is revoked pursuant to this section, the owner shall, within 365 days from the date of the revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.4. Notice of Expiration of an Exemption for a Class I Wastewater Treatment Plant.

At least 60 days before the expiration of an exemption, the Office of Operator Certification shall send a written notice of the expiration date to the owner. Failure to receive a notice of exemption expiration does not relieve the owner of the responsibility for renewing an exemption on or before the expiration date.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.5. Application for Exemption Renewal for a Class I Wastewater Treatment Plant.

(a) An application for exemption renewal shall include all of the information required for an application for exemption in section 3677.1(a) and a $300 application for exemption renewal fee.

(b)(1) The application for exemption renewal shall be received by the Office of Operator Certification no later than 30 days before the expiration of the exemption.

(2) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the exemption, the owner of the wastewater treatment plant shall pay a late fee of $100 in addition to the renewal fee.

(c) The applicant for exemption renewal shall provide a copy of the application for exemption renewal to the appropriate Regional Water Board.

(d) Within 30 days of the receipt of a complete application for exemption renewal, the Office of Operator Certification shall renew the exemption for four years in accordance with section 3677.2 or shall inform the applicant of the reason the exemption shall not be renewed.

(e) If an application for exemption renewal is denied, the owner shall, within 365 days from the date of the denial, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.6. Posting Notices of Exemption for a Class I Wastewater Treatment Plant.

An exempt wastewater treatment plant shall display its notice of exemption in an area accessible to the public at the wastewater treatment plant. If no area is accessible to the public, the notice shall be posted at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13525.1, Water Code.
Reference: Section 13625.1, Water Code.

Article 3. Grades Levels of Operator Certification ~~for the Operation of Wastewater Treatment Plants~~

§ 3680. Grades Levels of Operator Certification.

Except as provided in section 3680.1, this section applies to operators.

(a) ~~Chief Plant Operators - For all plant classes, each chief plant operator shall possess a valid operator certificate of a grade at least equivalent to the class of plant operated.~~ Except as provided in section 3680.2, each chief plant operator and designated operator-in-charge shall possess a valid operator certificate at a grade level at least equivalent to the following:

Wastewater Treatment Plant Classification	Minimum Grade Level of Chief Plant Operator	Minimum Grade Level of Designated Operator-in-Charge
I	I	I
II	II	I
III	III	II
IV	IV	III
V	V	III

(b) ~~Supervisors and Shift Supervisors -~~ Except as provided in section 3680.2, a chief plant operator shall appoint a certified operator to be the designated operator-in-charge for any period of time during which the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

~~(1) In Class II, III, and IV plants, supervisors and shift supervisors shall possess valid operator certificates no more than one grade lower than the class of plant operated.~~

~~(2) In Class V plants, shift supervisors shall possess at least valid Grade III certificates and supervisors shall possess at least Grade IV certificates~~

(c) ~~Operators - Each operator~~ All operators shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate. ~~In~~ At Class IV and V wastewater treatment plants, at least 50 percent of the operators shall possess ~~at least~~ valid ~~Grade II~~ operator or operator-in-training certificates ~~or valid operator-in-training certificates~~ at the Grade II level or higher ~~level~~.

(d) Notwithstanding subdivisions (a) through (c), if an owner of a wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control submits the reportable items in section 3676(b) and the Office of Operator Certification gives the wastewater treatment plant a higher classification than the wastewater treatment plant's prior classification, the owner shall, within 365 days from the date that the Office of Operator Certification classifies the wastewater treatment plant, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.1. Grade Levels of Operators at Privately Owned Wastewater Treatment Plants.

This section applies only to privately owned wastewater treatment plants for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

(a) No later than two years from the effective date of this section, all persons at a privately owned wastewater treatment plant performing duties that are comparable to the duties of an operator at a wastewater treatment plant shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate and meet the requirements for operators set forth in section 3680 and 3680.2.

(b) No later than two years from the effective date of this section, the owner of a privately owned wastewater treatment plant shall staff the wastewater treatment plant with operators of appropriate grade levels as prescribed in section 3680 or use a provisional operator in accordance with section 3680.2.

(c) Notwithstanding the provisions in this section, a certified operator, certified provisional operator, or certified operator-in-training working at a privately owned wastewater treatment plant shall comply with the requirements of this chapter.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.2 Provisional Operator.

(a) An owner of a Class I wastewater treatment plant must receive written approval from the Office of Operator Certification before using a provisional operator. The owner shall demonstrate that the owner has had difficulty hiring, despite due diligence, a certified operator to operate the wastewater treatment plant. The owner shall submit a written request for approval to use a provisional operator, a $1,000 request to use a provisional operator fee, a copy of the wastewater treatment plant's waste discharge requirements and standard operating procedures, and a written plan that includes:

(1) a description of the duties that the provisional operator will be performing at the wastewater treatment plant, the provisional operator's work schedule, and a requirement that the provisional operator submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification;

(2) a description of the training that the provisional operator will receive on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) the procedures for testing the provisional operator's proficiency performing proper sampling procedures and understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will communicate with, and provide assistance to, the provisional operator when the provisional operator needs

direction and the procedure that the provisional operator will use to request this assistance; and

(5) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will assist the provisional operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671 and the procedure that the provisional operator will use to request this assistance.

(b) The owner shall provide to the appropriate Regional Water Board, a copy of the request for approval to use a provisional operator and the written plan prepared pursuant to subdivision (a).

(c) Except as provided in subdivision (d), the Office of Operator Certification shall approve the request to use a provisional operator if the owner submits a complete request to use a provisional operator and the written plan prepared pursuant to subdivision (a) provides that the provisional operator:

(1) will submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification and will not supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge;

(2) will receive training acceptable to the Office of Operator Certification on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) will demonstrate proficiency performing proper sampling procedures and an understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) has the ability to communicate at all times with a certified operator; and

(5) has the ability to request assistance from a certified operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying the request to use a provisional operator. The Office of Operator Certification may refuse to approve the request to use a provisional operator if the owner fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator to operate the wastewater treatment plant, or if the written plan does not ensure the protection of human health, safety, and the environment.

(e) An approval to use a provisional operator granted by the Office of Operator Certification shall be valid for five years.

(f) The following process shall govern any changes to the written plan approved pursuant to subdivision (c):

(1) At least 30 days before implementing any changes to the written plan, the owner shall notify the Office of Operator Certification and the appropriate Regional Water Board in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (c) or notify the owner that the proposed amended plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(3) The owner shall not amend the written plan as proposed if the Office of Operator Certification notifies the owner that the proposed plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(g) The Office of Operator Certification may revoke its written approval of request to use a provisional operator if it determines that the written plan on which approval was based has been violated.

(h) A provisional operator shall be solely responsible for the operation of a Class I wastewater treatment plant. In no event shall a provisional operator supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Section 13627 and 13628, Water Code.

§ 3681. Lone Operator.

(a) A chief plant operator of a wastewater treatment plant must receive written approval from the Office of Operator Certification before assigning an operator as a lone operator. The chief plant operator shall request approval and shall submit a written plan that includes:

(1) the name(s) and grade level(s) of the lone operator(s) and the proposed duties of the lone operator(s);

(2) a work schedule showing when the lone operator(s) will be working alone; and

(3) the procedure the lone operator(s) will use to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge when the lone operator(s) needs direction.

(b) Written approval shall be given by the Office of Operator Certification if the written plan prepared pursuant to subdivision (a) provides that the lone operator(s):

(1) will perform only basic duties that require minimal judgment; and

(2) has the ability to communicate at all times with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge.

(c) The following process shall govern any changes to the written plan approved pursuant to subdivision (b):

(1) At least 30 days before implementing any changes to the written plan, the chief plant operator shall notify the Office of Operator Certification in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (b) or notify the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(3) The chief plant operator shall not amend the written plan as proposed if the Office of Operator Certification notifies the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(d) The Office of Operator Certification may revoke its written approval if it determines that the plan has been violated.

(e) In no event shall an operator-in-training be assigned as a lone operator.

Authority: Sections 1058, Water Code.
Reference: Sections 13627, Water Code.

~~**Article 4. Minimum Qualifications**~~

~~§ 3683. Education and Experience Requirements.~~

~~(a) No person shall be issued a certificate unless that person passes a written examination specified by these regulations and meets the education and experience requirements prescribed by this article.~~

~~(b) Persons may apply to take an operator certification examination if:~~

~~(1) they have completed the education necessary for the certificate prior to the final filing date for the examination, in accordance with the provisions of subsection (c) of this section; and,~~

~~(2) there is sufficient time to gain the experience necessary to qualify for the certificate for which they are applying within four years of June 30 or December 31 (whichever is sooner) following an examination for Grades II, III, IV, and V and within two years of June 30 or December 31 (whichever is sooner) following an examination for Grade I.~~

~~(c) Eligibility for certification shall be based on the following qualifications for each grade of wastewater treatment plant operator. Educational points shall be credited pursuant to the provisions of Section 3685.~~

~~(1) Grade I:~~

~~Education: Six educational points; AND,~~

~~Experience: One year of experience performing the functions of a wastewater treatment plant operator.~~

~~(2) Grade II:~~

~~(A) Education: Graduation from high school or equivalent as specified in Section 3686 and six educational points; AND,~~
~~Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(B) Experience: One and one-half years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade I operator.~~

~~(3) Grade III:~~

~~(A) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,~~
~~Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(B) Education: Graduation from high school or equivalent as specified in Section 3686 and 16 educational points; AND,~~
~~Experience: Fours years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(C) Experience: Three years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade II operator.~~

~~(4) Grade IV:~~

~~(A) Education: A bachelor's degree with a major related to wastewater treatment and which includes a minimum of 30 semester units of basic science courses; AND,~~
~~Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(B) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,~~
~~Experience: Fours years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(C) Education: Graduation from high school or equivalent as specified in Section 3686 and 32 educational points; AND,~~
~~Experience: Six years of experience performing the functions of a wastewater treatment plant operator; OR,~~

~~(D) Experience: Fours years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade III operator.~~

~~(5) Grade V:~~

(A) Credential: A valid license as a civil or chemical engineer issued by the California Department of Consumer Affairs, Board of Registration for Professional Engineers and Land Surveyors; AND,
Experience: Four years of experience performing the functions of a wastewater treatment plant operator; OR,

(B) Education: A bachelor's degree with a major related to wastewater treatment and which includes a minimum of 30 semester units of basic science courses; AND,
Experience: Five years of experience performing the functions of a wastewater treatment plant operator; OR,

(C) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,
Experience: Six years of experience performing the functions of a wastewater treatment plant operator; OR,

(D) Education: Graduation from high school or equivalent as specified in Section 3686 and 48 educational points; AND,
Experience: Ten years of experience performing the functions of a wastewater treatment plant operator; OR,

(E) Experience: Six years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade IV operator.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3684. Experience Credits.

(a) Applicants may be credited with one year of experience if they have had two or more years of full-time experience in the operation of a water treatment plant regulated by the California Department of Health Services or by a government agency in another state and while in possession of a valid water treatment plant operator certificate, if:

(1) the water treatment plant where the experience was gained uses two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, or disinfection; and,

(2) at the time of their application for certification, they have had one year of full-time experience in the operation of a wastewater treatment plant.

(b) Applicants, who have one year of experience in the operation of a wastewater treatment plant may substitute 16 educational points for one year of experience. Those educational points used to substitute for experience at one grade may not be used again to substitute for experience at another grade. The substitution may not be made by applicants qualifying under the provisions of Sections 3683(c)(1) and 3683(c)(4)(A).

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13625, Water Code.

~~§ 3685. Educational Points.~~

~~(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Educational points may be earned as follows:~~

~~(1) One completed three-unit semester course which is directly related to wastewater treatment and which is part of the curriculum of an accredited college or university is equal to eight educational points. Completed courses which result in more or less than three units or which are quarter units rather than semester units will be credited with educational points on a proportional basis.~~

~~(2) All other courses will be assigned educational points at the rate of one educational point per 10 hours of completed classroom instruction. Subjects which are directly related to wastewater treatment shall be assigned full credit for educational points. Subjects which are indirectly related shall be given one half credit.~~

~~(3) One Continuing Education Unit which is directly related to wastewater treatment is equal to one educational point.~~

~~(b) Applicants may not substitute experience for educational points.~~

~~Authority: Sections 1058 and 13627, Water Code.~~
~~Reference: Section 13625, Water Code.~~

~~§ 3686. High School Equivalence.~~

~~High school equivalence may be obtained by substituting six educational points for each uncompleted year of high school through grade 12 or by passing an approved General Educational Development test, or by obtaining a Certificate of Proficiency issued by the State Board of Education in accordance with Section 48412 of the Education Code.~~

~~Authority: Sections 1058 and 13627, Water Code.~~
~~Reference: Section 13627, Water Code.~~

Article 4. Operators-in-Training

§ 3682. Employment or Training of an Operator-in-Training.

An owner may employ or train an operator-in-training at any grade level, provided the operator-in-training is under the direct supervision of an operator at the same or higher grade level as the operator-in-training and is performing the duties at the grade level for which the certificate was issued. Operators-in-training may not supervise operators or other operators-in-training, and may not act in the capacity of a chief plant operator, designated operator-in-charge, or lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.1. Application for Operator-in-Training Certification.

(a) An application for an operator-in-training certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) the certification fee prescribed in article 10; and 3) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the applicant will be in training.

(b) An applicant for an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which an operator-in-training certification is requested.

(c) Except as provided in section 3682.5(b), an applicant for a Grade I operator-in-training certificate may, but is not required to, pass the Grade I examination before being issued the certificate.

(d) A person may apply for operator-in-training certification at the Grade II through Grade V levels if the applicant has passed an examination at that grade level or higher and the applicant's examination results have not expired.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.2. Issuance of an Operator-in-Training Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator-in-training certificate or inform the applicant of the reason the certificate will not be issued. The operator-in-training certificate shall be issued in the name of the applicant and mailed to the chief plant operator at the mailing address of the wastewater treatment plant where the applicant will be in training.

(b) An operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue an operator-in-training certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Except as provided in subdivision (e), operator-in-training certificates shall be valid for two years.

(e) The expiration date of Grade II through Grade V operator-in-training certificates shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.3. Renewal of an Operator-in-Training Certificate.

(a) An applicant for renewal of an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which a renewed operator-in-training certification is requested.

(b) Except as provided in section 3682.4(d), a valid, unexpired Grade I operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at the Grade I level or higher before the expiration of the initial certificate and the operator-in-training's examination results have not expired.

(c) A valid, unexpired Grade II through Grade V operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(d) Following an initial renewal pursuant to subdivisions (a) or (b), and except as provided in section 3682.4(d), a valid, unexpired Grade I though Grade V operator-in-training certificate may be renewed repeatedly for additional two-year periods if the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired, and the chief plant operator submits a plan for the operator-in-training to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687. The plan shall include:

(1) the chief plant operator's original signature verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(2) information regarding qualifying experience the applicant may have acquired at another wastewater treatment plant;

(3) the applicant's original signature;

(4) the average number of hours per week the applicant will be training at the wastewater treatment plant to acquire qualifying experience;

(5) an estimate of the amount of time required for the applicant to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687; and

(6) additional information, evidence, statements, or documents to support the application for renewal as requested by the Office of Operator Certification.

(e) At least 60 days before the expiration of an operator-in-training certificate, the Office of Operator Certification shall send a written notice of the expiration date to the chief plant operator at the wastewater treatment plant where the operator-in-training is training and to the operator-in-training. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(f) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, and classification or title;

(2) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the operator-in-training is in training;

(3) the renewal fee prescribed in article 10; and

(4) if the operator-in-training is applying for a renewal certificate pursuant to subdivision (c), a plan containing the information required by subdivision (c) submitted by the chief plant operator at the wastewater treatment plant where the operator-in-training is training.

(g) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the renewal application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3682.4. Issuance of a Renewed Operator-in-Training Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewed operator-in-training certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew an operator-in-training certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator-in-training certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewed operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed operator-in-training certificate shall not exceed the expiration date of the operator-in-training's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.5. Invalidation and Issuance of a New Operator-in-Training Certificate.

(a) Operator-in-training certificates are valid only while the operator-in-training is in training at the wastewater treatment plant for which the certificate was issued. When the training ceases, the chief plant operator shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the operator-in-training acquired before training ceased.

(b) Except as provided in subdivision (c), if a Grade I operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade I operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training:

(1) has passed an examination at the Grade I level or higher and the operator-in-training's examination results have not expired; or

(2) held all previous Grade I operator-in-training certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

(c) A Grade I operator-in-training certificate issued pursuant to subdivision (b)(2), shall be valid for a maximum of 24 months, including the time the applicant held all previous Grade I operator-in-training certificates.

(d) If a Grade II through Grade V operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade II through Grade V operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(e) Time and experience acquired under a previous operator-in-training certificate shall be credited to a new certificate issued pursuant to this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.6. Reporting Requirements for Operators-in-Training.

An operator-in-training shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator-in-training; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

~~**Article 5. Examination and Certification of Wastewater Treatment Plant Operators**~~

~~§ 3700. Application for Examination.~~

~~(a) Content - An application for examination shall contain but not be limited to the following information:~~

~~(1) the applicant's full name, mailing address, work telephone number, and date of birth;~~

~~(2) information regarding former employment, current operator status, other operator certificates held in California or other states, engineering registrations held, and education and experience gained;~~

~~(3) if employed as an operator, the original signature of the chief plant operator, verifying the applicant's experience as an operator;~~

~~(4) the applicant's original signature;~~

~~(5) copies of college transcripts, grade cards, or certificates of completion for courses related to wastewater treatment to verify completion of education requirements;~~

~~(6) any additional information, evidence, statements, or documents to support the application for examination as requested by the division; and,~~

(7) the application fee and examination fee as prescribed by Article 8.

(b) Submittal - Applications for examination shall be postmarked by the final filing date as specified in this subsection. Applications postmarked after the final filing date shall be held over and processed for the next scheduled examination.

Date of Examination	*Final Filing Date*
April 4, 1998	February 1, 1998
October 3, 1998	August 1, 1998
April 10, 1999	February 1, 1999
October 2, 1999	August 1, 1999
April 1, 2000	February 1, 2000
October 7, 2000	August 1, 2000
April 7, 2001	February 1, 2001
October 6, 2001	August 1, 2001
April 6, 2002	February 1, 1002
October 5, 2002	August 1, 2002
April 5, 2003	February 1, 2003
October 4, 2003	August 1, 2003
April 3, 2004	February 1, 2004
October 2, 2004	August 1, 2004

(c) Division review - The division shall review applications and supporting documents to determine eligibility for examination.

Unless otherwise specified by this chapter, division evaluation of experience gained in California will be based on work performed while employed in a position which requires operator certification in California. Evaluation of experience gained outside California will be based on work performed while employed in a position comparable to one which requires operator certification in California. Division evaluation of experience will be based on the actual work performed by the applicant without respect to job titles assigned by the employing agencies.

(d) Notice - The division shall notify applicants in writing within 30 calendar days of receipt of an application whether it is complete or deficient. If there is a deficiency, the division shall identify the deficiency and inform the applicant in writing of the specific information required.

(e) Deficient applications - Applications which do not contain proof of completion of education requirements and the correct application and examination fees shall be considered deficient applications. Deficient applications shall not be processed for the current examination. The applicant shall be required to reapply to take a subsequent examination.

(f) Processing times - the division's median, minimum, and maximum processing times for applications for examination between September 1989 and September 1991 were:

Median - 30 days
Minimum - 3 days
Maximum - 112 days

Authority: Sections 1058 and 13628, Water Code
Reference: Sections 13727, 13628 and 13629, Water Code

~~§ 3701. Examinations.~~

~~(a) Written examinations for each wastewater treatment plant operator grade shall contain questions to determine applicants' knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation will be included. Each higher grade examination will require progressively more detailed knowledge of the subject matter.~~

~~(b) Content by grade~~

~~(1) Grade I examinations shall contain questions regarding knowledge of basic safety practices and hazards related to the operation of wastewater treatment plants; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding the classification of wastewater treatment plants and operator certification.~~

~~(2) Grade II examinations shall contain questions regarding knowledge of those components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling, and digestion; routine sampling and analysis procedures for evaluation of process and overall plant performance; and basic supervision responsibilities.~~

~~(3) Grade III examinations shall contain questions regarding knowledge of those components of the Grade I and II examinations as prescribed in (1) and (2) above; limitations, controls, and performance calculations for primary and secondary treatment and sludge handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.~~

~~(4) Grade IV examinations shall contain questions regarding knowledge of those components of the Grade I, II, and III examinations as prescribed in (1), (2), and (3) above; limitations, controls, and performance calculations for tertiary treatment processes; wastewater treatment requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, and operator training and budget development and control.~~

~~(5) Grade V examinations shall contain questions regarding knowledge of those components of the Grades I, II, III, and IV examinations as prescribed in (1), (2), (3), and (4) above.~~

~~(c) Frequency - A minimum of two examinations shall be given each year.~~

~~(d) Dishonest conduct - An applicant who engages in dishonest conduct during an examination shall have his or her examination materials confiscated, shall not have the examination graded, and shall be denied the opportunity to take the next scheduled examination. The application and examination fees paid by the applicant shall not be refunded. The applicant also may be subject to administrative sanctions pursuant to Article 7 and Section 13627 of the Water Code.~~

(e) Confidentiality of examination questions - Examination questions are confidential. Any person who copies questions or removes all or part of any examination from the examination room or who conveys or exposes all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of Article 7. The applicant also may be subject to administrative sanctions pursuant to Article 7 and Section 13627 of the Water Code.

(f) Notification of results - Within 90 calendar days after an examination, the division shall notify applicants in writing whether they have passed or failed the examination.

(1) If an applicant fails the examination, he or she may be eligible to take a subsequent examination upon request and upon submitting an application and examination fee prescribed by Article 8. The request for re-examination must be postmarked by the final filing date set forth in Section 3700.

(2) An applicant who passes the examination and who had completed the education and experience requirements before taking the examination shall be instructed in the notice of examination results to remit the applicable certification fee. Within 30 calendar days of receiving the certification fee, the division shall issue the operator certificate.

(3) An applicant who passes the examination before completing the experience requirements shall apply for certification upon completing the requirements in accordance with the provisions of Section 3702.

(g) Expiration of examination results - Examination results are valid for four years from June 30 or December 31 following the examination (whichever date is sooner).

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627, 13628 13629, Water Code; and Section 15376, Government Code.

§ 3702. Application for Certification.

(a) If an applicant is qualified for certification at the time of the examination, and has documented such qualification in the application for examination, no application for certification is required. However, if an applicant must gain experience after the final filing date for the examination before being eligible for certification, an application for certification is required in accordance with the provisions of this section.

(b) An application for certification shall include but not be limited to:

(1) the applicant's full name, mailing address, work telephone number, and date of birth;

(2) all employment, education, and experience information not reported on the application for examination, including current employment and current operator status;

(3) the date when the applicant passed the examination;

(4) information regarding current employment and current operator status;

(5) the applicant's original signature;

(6) if employed at a wastewater treatment plant, the chief plant operator's original signature; AND,

(7) the certification fee prescribed by Article 8.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.1. Issuance of Certificates.

(a) Operator certificates issued by the division shall contain, but not be limited to the following:

(1) The operator's name and grade;

(2) The certificate number;

(3) The issue date of the certificate;

(4) The State Water Board seal;

(5) The name, "State Water Resources Control Board"; and

(6) The signature of a board member or board member designee.

(b) Upon successful completion of the application and examination process and within 30 calendar days of payment of the certification fee prescribed by Article 8, the board shall issue an operator certificate or operator-in-training certificate.

(c) The issue date of a certificate shall be the date of receipt of an application for examination and certification which meets the requirements of these regulations.

(d) The division may refuse to issue a certificate if it has determined that the applicant has committed any act which is grounds for disciplinary action as specified in section 3710.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.2. Application for Certificate Renewal.

(a) Renewal dates - Except as specified in Subsection 3709(d), operator certificates are renewable every two years. Certificates issued for applications with a postmark between May 1 and October 31 shall have a renewal date of June 30. Certificates issued for applications with a postmark between November 1 and April 30 shall have a renewal date of December 31.

(b) Division notice - At least 60 calendar days prior to expiration of an operator certificate, the division shall provide written notification of the expiration date to the certificate holder at his or her address of record. Failure to receive a notice of renewal does not relieve the

certificate holder from the responsibility of renewing a certificate on or before the expiration date.

(c) Content - An application for renewal shall include, but not be limited to:

(1) the applicant's name, mailing address, grade, certificate number, and classification or title;

(2) if employed by a wastewater treatment plant as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed and the name of the supervisor;

(3) the renewal fee prescribed by Article 8.

(d) Submittal - A certificate holder who wishes to renew a certificate shall submit to the division a completed application as specified in subsection (c) of this section. The application shall be postmarked no later than the expiration date on the certificate holder's renewal card.

(e) Division review - Within 15 calendar days of receipt of an application for renewal, the division shall notify the certificate holder if the application is deficient. If there is a deficiency, the division shall inform the certificate holder by telephone or letter of the specific information necessary to complete the application for renewal. Deficiencies will not prevent the Office of Operator Certification from issuing a new certificate if the application and fee are postmarked by the expiration date of the certificate.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.3. Issuance of Renewal Certificate.

An operator certificate shall indicate the first expiration date of the certificate. Thereafter, a renewal certificate shall be issued in accordance with the provisions of Section 3702.2 and this section.

(a) Within 30 calendar days of receipt of a completed application for renewal, the division shall issue a renewal certificate or inform the applicant of the reason the card will not be issued.

(b) The renewal certificate shall not be issued until any unpaid fees have been paid.

(c) The division may refuse to renew a certificate if it has determined that the applicant has operated a wastewater treatment plant while the operator certificate was expired or at a grade for which the applicant was not certified or that the applicant has committed any act which is grounds for disciplinary action.

(d) A renewal certificate shall contain, but not be limited to the following:

(1) The certificate holder's name and address;

(2) The certificate number and grade;

(3) The expiration date of the certificate.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following the expiration of the certificate, provided the holder of the expired certificate applies for renewal and reinstatement as prescribed by Subsection (b) of this section. A certificate which has been expired for more than one year shall not be reinstated. If the applicant wishes to become certified again, he or she must meet all requirements for an initial operator certificate.

(b) The application for reinstatement shall be considered complete when it includes the renewal and reinstatement fees prescribed by Article 8 and all the information required to renew the certificate as prescribed by Section 3702.2.

(c) The division may refuse to reinstate a certificate if it has determined that the applicant has operated a wastewater treatment plant while his or her certificate was expired or at a grade for which he or she was not certified or has committed any act which is grounds for disciplinary action.

(d) The expiration date of a reinstated certificate shall remain the same as if the certificate had not expired.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.5. Replacement.

A certificate which has been lost, stolen, or destroyed may be replaced by the division provided the operator or operator-in-training submits a signed statement explaining the circumstances of the loss, theft or destruction of the certificate. A replacement fee prescribed by Article 8 must be submitted with the signed statement.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3703. Posting Certificates.

Certified operators and operators-in-training shall display their valid certificates with renewal cards attached at the wastewater treatment plant where employed.

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code; and Section 15376, Government Code.

~~§ 3704. Reciprocity with Other States.~~

~~(a) The division may issue Grades I and II operator certificates by reciprocity in accordance with the procedures set forth in Article 5. No examination or examination fee will be required of persons who hold comparable certifications in other states, provided:~~

~~(1) the experience and education requirements of that state are comparable to the division's requirements;~~

~~(2) the applicant has passed a written examination within the preceding four years in another state that is comparable to the examination given by the division;~~

~~(3) reciprocal privileges are granted by the other state to operators certified by the division;~~

~~(4) the applicant completes an application for operator certification and meets the minimum qualifications for certification in California; and,~~

~~(5) the applicant pays the application, certification, and reciprocity fees prescribed by Article 8.~~

~~(b) The division may refuse to issue an operator's certificate by reciprocity if it has determined that the applicant's certificate to operate a wastewater treatment plant has been revoked or suspended in another state, or if the applicant has been otherwise disciplined in another state for any of the violations set forth in Section 3710.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Sections 13627 and 13628, Water Code.~~

Article 5. Provisional Operators

§ 3683. Employment of a Provisional Operator.

An owner of a Class I wastewater treatment plant may employ a provisional operator to be solely responsible for the operation of the wastewater treatment plant, provided the owner has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2. Provisional operators may not supervise operators, other provisional operators, or operators-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.1. Application for Provisional Operator Certification.

(a) An application for a provisional operator certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) provisional operator certification fee prescribed in article 10; and 3) the name, contact information, and signature of the owner of the wastewater treatment plant where the applicant will be employed.

(b) An applicant for a provisional operator certificate must have completed the minimum amount of education prescribed in section 3687 for certification as a Grade I operator.

(c) A person may apply for a provisional operator certificate if the applicant has passed an examination at the Grade I level or higher and the applicant's examination results have not expired.

(d) The owner of the wastewater treatment plant where the applicant will be employed must have received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.2. Issuance of a Provisional Operator Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue a provisional operator certificate or inform the applicant of the reason the certificate will not be issued. The provisional operator certificate shall be issued in the name of the applicant and mailed to the owner at the mailing address of the wastewater treatment plant where the applicant will be employed.

(b) A provisional operator certificate shall include:

(1) the name of the provisional operator;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the provisional operator will be employed;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue a provisional operator certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) A provisional operator certificate shall be valid for a maximum of 24 months, including the time the applicant held all previous provisional operator certificates. A provisional operator certificate shall not be renewed.

(e) The expiration date of a provisional operator certificate shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.3. Invalidation and Issuance of a New Provisional Operator Certificate.

(a) Provisional operator certificates are valid only while the provisional operator is employed at the wastewater treatment plant for which the certificate was issued. When the employment ceases, the owner shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the provisional operator acquired before employment ceased.

(b) If a provisional operator certificate is returned to the Office of Operator Certification because the provisional operator is no longer employed at the wastewater treatment plant for which the certificate was issued, the provisional operator may apply for a new certificate at any time in accordance with this article, provided the provisional operator held all previous provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.4. Reporting Requirements for Provisional Operators.

A provisional operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the provisional operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

~~**Article 6. Operators-in-Training.**~~

~~§ 3707. Employment of an Operator-in-Training.~~

~~An agency may employ a person to act in the capacity of any grade of certified operator, provided the person is certified as an operator-in-training, is under the direct supervision of a~~

~~certified operator of the same or higher grade, and is performing the duties of the grade of operator for which the certificate was issued.~~

~~Authority: Sections 1058 and 13627, Water Code.~~
~~Reference: Section 13635, Water Code~~

~~§ 3708. Application for Operator-in-Training Examination and Certification.~~

~~(a) Persons may apply for examination and operator-in- training certification in accordance with the procedures set forth in Article 5.~~

~~(b) Applicants for Grade I operator-in-training certification may, but are not required to, pass the Grade I examination prior to issuance of the Grade I operator-in-training certificate.~~

~~(c) Persons may apply for operator-in-training certification at the Grades II, III, IV, and V levels if they:~~

~~(1) meet the minimum education requirements and could meet the minimum experience requirements for the grade for which they are applying as prescribed in Article 4 within four years of June 30 or December 31 following the examination (whichever date is sooner); and,~~

~~(2) pass the examination at the grade for which they are applying; and,~~

~~(3) make application for examination and operator-in-training certification in accordance with the procedures set forth in Sections 3700, 3701, and 3702 of Article 5; and,~~

~~(4) supply the name and telephone number of the supervising operator.~~

~~(d) Applications for operator-in-training certification at any grade must be signed by the chief plant operator of the plant where the operator-in-training is to be employed.~~

~~Authority: Sections 1058 and 13628, Water Code.~~
~~Reference: Sections 13627-13629, Water Code; and Section 15376, Government Code.~~

~~§ 3709. Issuance, Renewal, and Replacement of Operator-in-Training Certificates.~~

~~(a) Operator-in-training certificates shall be issued in the name of the applicant to the mailing address of the employing wastewater treatment plant. Operator-in-training certificates are valid only while the operator is employed at the plant for which the certificate was issued. The expiration date of the operator- in-training certificate shall not exceed the expiration date of the applicant's examination results.~~

~~(b) Operator-in-training certificates issued by the division shall contain but not be limited to the following:~~

~~(1) The name and grade of the operator-in-training;~~

~~(2) The issue date of the certificate; and,~~

~~(3) The name of the wastewater treatment plant at which the operator-in-training is to be employed.~~

~~(c) Operator-in-training certificates shall be issued, renewed, reinstated, and replaced in accordance with the provisions of Article 5 unless other specified in this article.~~

~~(d) Operator-in-training certificates at the Grade I level are valid for up to two years. If the Grade I operator passes the Grade I examination before the expiration of the Grade I operator-in-training certificate, that certificate may be renewed one time for two years. If the Grade I operator-in-training does not pass the Grade I examination before the expiration of the Grade I operator-in-training certificate, the Grade I operator- in-training certificate shall not be renewed. Operator-in- training certificates at the Grades II, III, IV, and V levels are valid for up to two years and may be renewed once pursuant to the provisions of Section 3702.2.~~

~~(e) A person certified as an operator-in-training at any grade must complete the education and experience requirements and obtain an operator certificate at that grade or higher before being eligible to apply for an operator-in-training certificate at a higher grade.~~

~~Authority: Sections 1058 and 13627, Water Code.~~
~~Reference: Section 13625, Water Code.~~

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

§ 3684. Qualifying Experience Credit.

(a) An applicant for operator certification who has acquired at least one year of full-time qualifying experience at a wastewater treatment plant may receive qualifying experience credits as follows:

(1) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant:

(A) has acquired 3,600 or more hours of experience in the operation of a water treatment plant regulated by the California Department of Public Health, another state, a territory, or an Indian tribe;

(B) possessed a valid water treatment plant operator certificate at the time the experience was acquired; and

(C) has acquired 3,600 or more hours of experience using two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, and disinfection.

(2) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:

(A) developing wastewater treatment plant operations and maintenance, safety, or laboratory procedural manuals;

(B) conducting training in wastewater treatment plant operations, safety, or laboratory procedures;

(C) developing, testing, and evaluating process control strategies to optimize wastewater treatment plant performance; or

(D) performing physical, chemical, and biological processes that are comparable to the duties of an operator at a wastewater treatment plant.

(3) When an applicant submits an application for certification to the Office of Operator Certification, the applicant may make an irrevocable election to substitute 16 educational points for one year of full-time qualifying experience credit. Educational points substituted for qualifying experience credit may not be used to satisfy education requirements in the Operator Certification Requirements Table in section 3687 for certification or qualifying for an examination.

(b) The Office of Operator Certification shall give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and provided that during the time of employment, the applicant held a valid, unexpired certification of the appropriate grade level issued by a certifying body and the certification requirements are comparable to the requirements of this chapter.

(1) Evaluation of the experience shall be based on the actual work performed by the applicant without respect to job title.

(2) The Office of Operator Certification may refuse to give qualifying experience credit under this subdivision if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) Upon passing a written examination, each person applying for a certificate in accordance with section 3680.1 who is employed at a privately owned wastewater treatment plant before the effective date of section 3680.1, shall be credited with a minimum of one year of full-time qualifying experience.

(1) An applicant may receive more than one year of full-time qualifying experience credit if the applicant provides documentation of more than one year of experience acquired while employed at a privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and the owner verifies the experience.

(2) An applicant also may receive qualifying experience credit in accordance with subdivisions (a) and (b).

Authority: Sections 1058, 13627, and 13627.5, Water Code.
Reference: Sections 13627 and 13627.5, Water Code.

§ 3685. Educational Points.

(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Operators may receive educational points for completing wastewater treatment courses or science courses as follows:

(1) One three-unit semester course completed as part of the curriculum of an accredited college or university is equal to eight educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) One Continuing Education Unit awarded by a professional association or other nonprofit private or public agency is equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, ten classroom hours are equal to one educational point.

(b) At Grades III, IV, and V, operators may earn up to sixteen educational points for completing management courses. An operator may not earn more than four educational points in each type of management course. Educational points for a management course may be earned as follows:

(1) One completed three-unit semester course that is part of the curriculum of an accredited college or university is equal to four educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) Two Continuing Education Units awarded by a professional association or other nonprofit private or public agency are equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, twenty classroom hours are equal to one educational point.

(c) Applicants may not substitute experience for educational points.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13629, Water Code.

§ 3686. High School Equivalence.

Passing an approved General Educational Development Test, or obtaining a Certificate of Proficiency issued by the Board of Education in accordance with section 48412 of the Education Code, are equivalent to obtaining a high school diploma.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3687. Education and Experience Requirements.

(a) The education and experience requirements in this section apply to applicants for a new operator, provisional operator, or operator-in-training certificate, a renewed operator-in-training certificate, or an examination. An operator holding a valid, unexpired certificate issued before the effective date of this section does not need to meet these requirements in order to renew a certificate. Additionally, an operator holding an expired certificate issued before the effective date of this section does not need to meet these requirements in order to reinstate a certificate in accordance with section 3702.4.

(b) The Office of Operator Certification shall issue a certificate if the applicant:
(1) has completed one of the education and experience paths prescribed in this section; and

(2) has passed an examination at the appropriate grade level or higher and the applicant's examination results have not expired, or has obtained an examination waiver in accordance with section 3689.

(c) Eligibility for certification shall be based on the education and experience requirements for each wastewater treatment plant operator grade level in the following table:

OPERATOR CERTIFICATION REQUIREMENTS TABLE

PATH	EDUCATION		QUALIFYING EXPERIENCE
GRADE I			
1	High school diploma or equivalent and 6 educational points	and	1 year of full-time qualifying experience
GRADE II			
1	High school diploma or equivalent and 9 educational points	and	18 months of full-time qualifying experience as a Grade I operator
2	High school diploma or equivalent and 12 educational points	and	2 years of full-time qualifying experience

3	Associate's degree, a higher degree, or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	1 year of full-time qualifying experience
GRADE III			
1	High school diploma or equivalent and 12 educational points	and	3 years of full-time qualifying experience as a Grade II operator
2	High school diploma or equivalent and 18 educational points	and	4 years of full-time qualifying experience
3	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	2 years of full-time qualifying experience
4	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	1 year of full-time qualifying experience
GRADE IV			
1	High school diploma or equivalent and 32 educational points	and	6 years of full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	4 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	3 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, territory, or Indian tribe	and	2 years of full-time qualifying experience

GRADE V			
1	High school diploma or equivalent and 48 educational points	and	10 years full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	6 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	5 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, a territory, or an Indian tribe	and	4 years of full-time qualifying experience

(d)(1) The Office of Operator Certification may award educational points to an operator for completing wastewater treatment, science, or management courses in accordance with section 3685.

(2) The Office of Operator Certification may accept comparable education obtained outside of the United States to satisfy the educational requirements listed below.

(3) Full-time qualifying experience shall be earned at a wastewater treatment plant in accordance with the definitions of "full time" and "qualifying experience" in section 3671. An operator shall acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of qualifying experience. In addition, the Office of Operator Certification may award an operator qualifying experience credit in accordance with section 3684.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 7. Examination for Wastewater Treatment Plant Operators

§ 3689. Examination Waiver.

(a) The Office of Operator Certification shall waive the examination requirement and the examination fee if the applicant holds a valid, unexpired certificate issued by a certifying body for a position comparable to that of an operator at a wastewater treatment plant, provided:

(1) the experience, education, and examination requirements of the certifying body are comparable to the Office of Operator Certification's requirements as prescribed in article 6;

(2) the applicant meets the minimum education and qualifying experience requirements for the applicable grade level as prescribed in article 6;

(3) the applicant has passed a written examination, administered by the certifying body, that is comparable to the examination given by the Office of Operator Certification for the applicable grade of operator certification; and

(4) the applicant completes an application for operator certification and pays the certification and examination waiver fees prescribed in article 10.

(b) The Office of Operator Certification may refuse to waive the examination requirement if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) An applicant for certification who has been issued an examination waiver shall receive qualifying experience credit in accordance with section 3684(b).

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3700. Application for Examination.

(a) A person may apply to take an examination at any grade level if the applicant has completed the education required in section 3687 for that grade level before the final filing date for the examination. An application for an examination shall include:

(1) the applicant's full name, mailing address, and telephone number;

(2) the applicant's original signature;

(3) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(4) additional information, evidence, statements, or documents to support the application for examination as requested by the Office of Operator Certification; and

(5) the application fee for an examination and the examination fee as prescribed in article 10.

(b) Applications for examination shall be received by the Office of Operator Certification by the final filing date as prescribed in section 3701(a). Complete applications received after the final filing date shall not be processed for the current examination, but shall be held over and processed for the next scheduled examination.

(c)(1) The Office of Operator Certification shall notify applicants in writing within 30 days of receipt of an application whether it is complete or deficient and shall identify any deficiency.

(2) If the deficiency is not corrected before the final filing date for the examination, the application shall not be approved. The applicant shall be required to complete a new application to take a subsequent examination and pay the application fee for an examination. If the applicant has paid the examination fee, it will be applied to a future examination.

(d) An applicant who is scheduled to take an examination and wants to request a change of testing location or have the application held until the next examination date must make the request at least 30 days before the scheduled examination. If the applicant fails to attend the next examination, the applicant may apply to take a subsequent examination by submitting a new examination application and the application fee for examination.

(e) An applicant who has paid the examination fee, but does not take an examination, may request a refund of the examination fee from the Office of Operator Certification.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701. Examinations.

(a) A minimum of two examinations shall be given each year. The final filing date will be 60 days before the scheduled examination.

(b) Written examinations for each wastewater treatment plant operator grade level shall test an applicant's knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation shall be included. The examination for each progressively higher grade level shall require more detailed knowledge of the subject matter.

(c) The content of the examination for each grade level shall be as follows:

(1) Grade I examinations shall test the applicant's knowledge of: basic safety practices and hazards related to wastewater treatment plant operation; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding wastewater treatment plant classification, waste discharge requirements, and operator certification.

(2) Grade II examinations shall test the applicant's knowledge of: the components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling,

and digestion; routine sampling and analysis procedures for evaluation of process and overall wastewater treatment plant performance; and basic supervision responsibilities.

(3) Grade III examinations shall test the applicant's knowledge of: the components of the Grade II examination as prescribed in (2) above; limitations, controls, and performance calculations for primary and secondary treatment and sludge-handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.

(4) Grade IV examinations shall test the applicant's knowledge of: the components of the Grade III examination as prescribed in (3) above; limitations, controls, and performance calculations for tertiary treatment processes; requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, operator training, and budget development and control.

(5) Grade V examinations shall test the applicant's knowledge of the components of the Grade IV examination as prescribed in (4) above as applied in more difficult and complex situations.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701.1. Examination Security.

(a) An applicant shall be required to present photographic identification issued by a state or federal governmental entity to gain admission to the examination.

(b) The examination materials of an applicant who engages in dishonest conduct during an examination shall be confiscated and the applicant shall not have the examination graded, shall be denied the opportunity to take the next scheduled examination, and shall be subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710. The examination fee paid by the applicant shall not be refunded.

(c) Examination questions are confidential. Any person who copies questions or removes any examination material from the examination room or who conveys or reveals all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of section 3710. The applicant also is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710.

Authority: Sections 1058 and 13627.1, Water Code.
Reference: Section 13627.1, Water Code.

§ 3701.2. Examination Results.

(a) Within 90 days after an examination, the Office of Operator Certification shall send a notice of the examination results in writing to the applicant.

(b) An applicant who fails an examination may be eligible to take a subsequent examination upon submitting the examination application and examination fee as prescribed in article 10. Requests for reexamination shall be received by the final filing date set forth in section 3701(a).

(c) Passing examination results are valid for four years from the date on the notice of the examination results.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 8. Certification of Wastewater Treatment Plant Operators

§ 3702. Application for Certification.

(a) An application for certification shall include the applicant's full name, mailing address, work and home telephone numbers, social security number, date of birth, the grade level of certification that is being requested; if currently certified, the operator's current grade level and certificate number, and all of the following information unless previously provided to the Office of Operator Certification:

(1) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued to the applicant by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(2) the business address and telephone number of each wastewater treatment plant at which the applicant has acquired qualifying experience, including current employment, and the amount of qualifying experience acquired at each wastewater treatment plant;

(A) An applicant who is currently employed as an operator shall submit an original signed statement by the chief plant operator verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(B) An applicant who is not currently employed as an operator, but who meets all certifications requirements is not required to submit an original signature from a chief plant operator.

(C) An applicant who is a chief plant operator shall submit an original signed statement by the owner verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(3) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant;

(4) information regarding any experience for which the applicant is requesting qualifying experience credit pursuant to section 3684;

(5) the applicant's original signature;

(6) additional information, evidence, statements, or documents to support the application as requested by the Office of Operator Certification; and

(7) the certification fee prescribed in article 10.

(b) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notification, the application shall be denied.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.1. Issuance of Certificates.

(a) An operator certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue and expiration dates of the certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(b) Upon successful completion of the application and examination process and within 30 days of payment of the certification fee prescribed in article10, the Office of Operator Certification shall issue an operator certificate. If an operator is employed at more than one wastewater

treatment plant, the Office of Operator Certification shall issue duplicate operator certificates to the operator for posting at each wastewater treatment plant.

(c) The Office of Operator Certification may refuse to issue a certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Operator certificates shall be valid for two years from the date of issue.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.2. Application for Certificate Renewal.

(a) An operator certificate may be renewed repeatedly for two-year periods.

(b) At least 60 days before the expiration of an operator certificate, the Office of Operator Certification shall send a written notice of the expiration date to the operator. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(c) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, certificate number, and classification or title;

(2) if employed as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed, and the name of the chief plant operator; and

(3) the renewal fee prescribed in article 10.

(d) Within 30 days of receipt of a renewal application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application.

(e) If there is a deficiency, and the deficiency is not corrected before expiration of the certificate, the Office of Operator Certification shall not issue a renewal certificate. After the applicant pays the reinstatement fee prescribed in section 3717, the Office of Operator Certification shall issue a new certificate if the requirements of section 3702.4 are met.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.3. Issuance of Renewal Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewal certificate shall include:

(1) the operator's name and address;

(2) the certificate number and operator grade level;

(3) the issue date of the initial certificate and the expiration date of the renewal certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed certificate shall be two years from the expiration date of the certificate being renewed.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following expiration if the applicant applies for reinstatement as prescribed in this section.

(b) Experience acquired under the expired certificate shall be credited to the reinstated certificate.

(c) An application for reinstatement shall include:

(1) all the information prescribed in section 3702.2;

(2) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(3) the renewal and reinstatement fees prescribed in article 10.

(d) The Office of Operator Certification may refuse to reinstate a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(e) The expiration date of a reinstated certificate shall be two years from the date of reinstatement of the certificate.

(f) A certificate that has been expired for more than one year shall not be reinstated. Upon passing another examination at the appropriate grade level, an applicant whose certificate has been expired for more than one year may apply for a new certificate in accordance with section 3702.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.5. Reporting Requirements for Operators.

An operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3702.6. Replacement.

A lost, stolen, damaged, or destroyed certificate may be replaced by the Office of Operator Certification if the operator, provisional operator, or operator-in-training signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction and submits the replacement fee prescribed in article 10.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code.

§ 3702.7 Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, reinstate, or replace a certificate if the operator, provisional operator, or operator-in-training has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3703. Posting Certificates.

Operators, provisional operators, and operators-in-training shall display their valid certificates in an area accessible to the public at each wastewater treatment plant where employed. If no area is accessible to the public, the certificates shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article ~~7~~9. ~~Prohibited Acts~~ Administrative Civil Liability, Disciplinary Action, ~~and~~ Appeal, and Petition Process

§ 3709. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivisions (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $100 for each day of violation upon:

(1) any person who operates a wastewater treatment plant without holding a valid, unexpired certificate at the appropriate grade level as required by this chapter; or

(2) any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as an operator who does not hold a valid, unexpired certificate of the appropriate grade level as required by this chapter.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) employing fraud or deception in the course of operating a wastewater treatment plant;

(2) failing to use reasonable care or judgment in the operation of a wastewater treatment plant;

(3) willfully or negligently violating, or causing, or allowing the violation of waste discharge requirements;

(4) submitting false or misleading information to the State Water Board on an application for a certificate; or

(5) engaging in dishonest conduct during an examination.

Authority: Sections 13627.1, 13627.2, and 13627.4, Water Code.
Reference: Sections 13323, 13627.1, 13627.2, and 13627.4, Water Code.

§ 3710. Grounds for ~~Discipline~~ Disciplinary Action.

(a) ~~A certified operator or operator-in-training may be subject to administrative sanctions including reprimand or denial, suspension, probation, or revocation of a certificate pursuant to Section 13627 of the Water Code for~~ The State Water Board may refuse to grant, suspend, or revoke an operator, provisional operator, or operator-in-training certificate or may reprimand or place on probation an operator, provisional operator, or operator-in-training upon any reasonable ground, including performing, or allowing or causing another to perform, any of the following acts:

(1) willfully or negligently violating, causing, or allowing a violation of ~~these regulations~~ this chapter;

(2) without regard to intent or negligence, operating or allowing the operation of a wastewater treatment plant by a person who is not certified at ~~the~~ a grade level necessary for the position or whose operator, provisional operator, or operator-in-training certificate has expired;

(3) submitting false or misleading information on any document provided to ~~the division~~ State Water Board staff including applications for examination, certification, ~~or~~ renewal, or reinstatement, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(4) engaging in dishonest conduct during an examination, or violating confidentiality of examination questions;

(5) using fraud or deception in the course of employment as an operator, provisional operator, or operator-in-training;

(6) failing to use reasonable care or good judgment in the course of employment as an operator, provisional operator, or operator-in-training or failing to apply knowledge or ability in the performance of duties;

(7) willfully or negligently ~~causing or~~ violating, ~~or~~ causing, or allowing the violation of ~~appropriate~~ waste discharge requirements ~~as prescribed by Article 4 of Chapter 4 of Division 7 of the Water Code, or the violation of Section 402 of the Clean Water Act which contains the provisions of the National Pollutant Discharge Elimination System permit.~~;

(8) failing to notify, as required by section 3682.6, 3683.4, or 3702.5, the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than

California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(9) without regard to intent or negligence, operating a wastewater treatment plant without posting a valid operator, provisional operator, or operator-in-training certificate as required by section 3703; or

(10) committing any act that is a reasonable ground for disciplinary action pursuant to this chapter if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be a reasonable ground for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

(b) A chief plant operator may be subject to the disciplinary actions specified in ~~subsection~~ subdivision (a) for willfully or negligently failing to ensure that an operator-in-training is ~~directly~~ supervised directly as required by section ~~3707~~ 3682.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 185, 13260, and 13627, Water Code; and Title IV, 33 USC, Section 1342 (Clean Water Act).

§ 3711. Appeals of Discretionary Decisions Made by the Office of Operator Certification.

(a) ~~Applicants, or certificate holders may appeal~~ The following discretionary decisions made by the Office of Operator Certification ~~or Office of Enforcement regarding~~ are final and conclusive unless the applicant requests the Deputy Director of the Division to review the discretionary decision made by the Office of Operator Certification: 1) denial of an application, for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination~~, or disciplinary action taken~~.

(b) Appeals ~~must~~ shall be in writing and ~~postmarked within 30 calendar~~ shall be received by the Deputy Director of the Division within 45 days of ~~receipt of the Office of Operator Certification or Office of Enforcement decision. Appellants must include with their requests, all documents and evidence to be considered by division staff in its review of the appeal~~ the date of the decision being appealed.

(c) An appeal shall contain:

(1) the name, address, telephone number, and email address (if available) of the appellant;

(2) a copy of the decision that the appellant is appealing;

(3) a full and complete statement of the reasons why the decision being appealed is erroneous, inappropriate, or improper; and

(4) the specific action that the appellant seeks from the Deputy Director of the Division.

(d) The appeal shall be sent to the Deputy Director of the Division, with a copy sent to the Office of Operator Certification.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ ~~3712~~3711.1. Action by the Deputy Director of the Division.

~~After consideration of an appeal and within 30 calendar days of receipt of the appeal, Office of Operator Certification staff or Office of Enforcement staff shall make a recommendation to the division chief. The division chief shall review the evidence and the Office of Operator Certification or Office of Enforcement recommendation and shall make a determination within 30 calendar days of receipt of the recommendation. The determination shall be in writing, labeled as the division chief's determination, and shall inform the appellant that the determination is final and conclusive unless the appellant petitions the board for review in accordance with the provisions of Section 3713.~~

(a) The Office of Operator Certification may file a recommendation regarding an appeal with the Deputy Director of the Division within 30 days of receiving a copy of the appeal. The Deputy Director may allow additional time for the Office of Operator Certification to file a recommendation. The Office of Operator Certification shall provide a copy of its recommendation to the appellant.

(b) The Deputy Director of the Division shall review the evidence and any recommendation filed by the Office of Operator Certification and shall make a Final Division Decision within 90 days of receipt of the appeal. The Final Division Decision shall inform the appellant that the decision is final and conclusive unless the appellant petitions the State Water Board for review in accordance with the provisions of section 3711.2.

(c) The Deputy Director of the Division may at any time, on the Deputy Director's own motion, issue a Final Division Decision.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ ~~3713~~3711.2. Petition for Review of a Final Division Decision by the State Water Board.

(a) An ~~appellant who wishes to appeal the division chief's determination~~ applicant may petition the ~~board~~ State Water Board for ~~a~~ review of a Final Division Decision. The petition ~~must~~ shall be in writing and ~~postmarked~~ shall be received no later than 30 ~~calendar~~ days after the date of ~~receipt of~~ the ~~determination by the appellant~~ Final Division Decision.

(b) A petition for review by the ~~board~~ State Water Board shall contain:

(1) the name, ~~and~~ address, telephone number, and email address (if available) of the ~~appellant~~ petitioner;

(2) ~~the appellant's argument against the Officer of Operator Certification or Office of Enforcement decision and the division chief's determination~~ a copy of the Final Division Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement by the petitioner of the reasons why the Final Division Decision is erroneous, inappropriate, or improper; and

(~~3~~4) the specific action ~~which the appellant~~ that the petitioner seeks from the ~~board~~ State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Deputy Director of the Division.

~~(c) The appellant may make a written request for a hearing for the purpose of presenting evidence not considered by the division or for presenting oral arguments or both. Any request to present evidence not provided to the division must include a statement as to why the evidence was not presented to the division.~~

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Deputy Director of the Division, the request must include a statement that additional evidence is available that was not presented to the Deputy Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Division Decision, except that if the 30th day following the date of the Final Division Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§3712. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) A proposed disciplinary action letter is final and conclusive unless the applicant, operator, provisional operator, or operator-in-training being disciplined requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be in writing and shall be received by the Director of the Office of Enforcement within 45 days of the date of the proposed disciplinary action letter.

(c) A request for reconsideration shall contain:

(1) the name, address, telephone number, and email address (if available) of the requestor;

(2) a copy of the proposed disciplinary action letter;

(3) a full and complete statement of the reasons why the proposed disciplinary action letter is erroneous, inappropriate, or improper; and

(4) the specific action that the requestor seeks from the Director of the Office of Enforcement.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.1. Action by the Director of the Office of Enforcement.

(a) The Director of the Office of Enforcement shall review the evidence and make a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration. The Final Office of Enforcement Decision shall inform the requestor that the decision is final and conclusive unless the requestor petitions the State Water Board for review in accordance with the provisions of section 3712.2.

(b) The Director of the Office of Enforcement may at any time, on the Director's own motion, issue a Final Office of Enforcement Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.2. Petition for Review of a Final Office of Enforcement Decision by the State Water Board.

(a) The applicant, operator, provisional operator, or operator-in-training being disciplined may petition the State Water Board for a review of the Final Office of Enforcement Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Office of Enforcement Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;

(2) a copy of the Final Office of Enforcement Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement of the reasons why the Final Office of Enforcement Decision is erroneous, inappropriate, or improper; and

(4) the specific action the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Director of the Office of Enforcement.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Director of the Office of Enforcement, the request must include a statement that additional evidence is available that was not presented to the Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Office of Enforcement Decision, except that if the 30th day following the date of the Final Office of Enforcement Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ ~~3714~~3713. Defective Petitions.

~~Within 30 calendar days of receipt by the board of a petition which does not comply with the provisions of Section 3713, the board shall notify the appellant in writing in what respect the petition is defective and that an amended petition must be postmarked within 30 calendar days of receipt of notice of the deficiency. If a properly amended petition is not postmarked within 30 calendar days, the petition shall be dismissed unless the appellant can show good cause for an extension of time.~~

(a) Upon receipt of a petition that does not comply with section 3711.2 or 3712.2 of this chapter, the State Water Board shall notify the petitioner of the manner in which the petition is defective and the time within which an amended petition may be filed.

(b) If a properly amended petition is not received by the State Water Board within the time allowed, the petition shall be dismissed unless good cause is shown for an extension of time.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ ~~3715~~3714. Action by the State Water Board on a Petition.

(a) ~~After consideration of the appellant's petition and the division chief's determination, the board shall~~ The State Water Board may:

(1) at any time, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the ~~consider the~~ petition ~~if it does not meet the requirements of Sections 3713 and 3714~~ fails to raise substantial issues that are appropriate for review; ~~or,~~

(2) deny the ~~appellant's~~ petition upon a finding that the ~~division chief's determination~~ Final Division Decision or Final Office of Enforcement Decision was appropriate and proper; ~~or,~~

(3) set aside or modify the ~~division chief's determination~~ Final Division Decision or Final Office of Enforcement Decision; or,

(4) ~~direct the division to take other appropriate action~~ take any other action the State Water Board deems appropriate.

(b) The Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper.

(~~b~~c) ~~Before taking final action, the board may, in its discretion,~~ Except where an evidentiary hearing is required by law, the State Water Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both before taking final action on the petition. ~~, or the board may provide for an informal meeting between the appellant, division staff, and one or more members of the board and other persons as the board deems suitable for the purpose of attempting to resolve the dispute between the appellant and the division.~~

(d) If a hearing is ~~scheduled~~ held, ~~the board shall mail a notice to the appellant indicating the date, time, and place of the hearing and of the issues to be considered. The hearing shall be conducted in a manner deemed most suitable for securing all relevant evidence without~~

~~unnecessary delay~~ it shall be conducted in accordance with California Code of Regulations, title 23, chapter 1.5, article 2.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ 3715. Workshop Meeting.

The State Water Board may discuss a proposed order in response to a petition for review of a Final Division Decision or Final Office of Enforcement Decision in a public workshop meeting prior to formal action at a board meeting. Comments may be submitted in writing before the workshop meeting. At the workshop meeting, the State Water Board may invite comments on the proposed order from interested persons. All comments shall be based solely upon evidence contained in the record or upon legal argument.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3716. Formal Disposition.

(a)(1) Except as provided in subdivision (b), unless denied by the Executive Director pursuant to section 3714(b), formal disposition by the State Water Board of any pending petition will be taken at a regularly or specially scheduled State Water Board meeting. At the meeting the State Water Board may invite comments on the matter from interested persons. These comments shall be based solely upon evidence contained in the record or legal argument.

(2) No new evidence shall be submitted at the State Water Board meeting. Written arguments submitted after the workshop meeting shall be limited to revisions to the proposed order that was considered by the State Water Board at the workshop meeting. Such written arguments shall be filed at least two working days prior to the State Water Board meeting, unless otherwise specified by the State Water Board.

(b) This section does not limit the authority of the Executive Director to issue an order by settlement to resolve a petition on behalf of the State Water Board.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

~~§ 3716. Appeal of Division Processing Times.~~

~~(a) The Office of Operator Certification shall process applications for examination and certification within the time limits prescribed by this chapter. Persons whose applications for examination or certification have not been processed within the time limits prescribed by these regulations, may appeal to the board for a refund of fees in accordance with the~~

~~provisions of Section 3711. If the board finds that the time limits have not been met, and the Office of Operator Certification has not shown good cause why the time limits have not been met, the board shall direct the Office of Operator Certification to reimburse all fees paid by the appellant in connection with the pending application for examination or certification.~~

~~(b) The Office of Operator Certification shall have good cause for exceeding the time limits when:~~

~~(1) the number of applications to be processed exceeds by 15 percent the number processed in the same calendar quarter of the preceding year.~~

~~(2) the Office of Operator Certification must rely on another public or private entity for all or part of the processing and delay is caused by the other entity.~~

~~(3) the delay is caused by a delay or omission of the applicant.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Sections 13627 and 13628, Water Code; and Sections 15374-15378, Government Code.~~

Article 810. Fees

§ 3717. Operator, Provisional Operator, and Operator-In-Training Fees.

(a) Except ~~as provided by Section 3716, application~~ for examination fees that are refundable pursuant to section 3700(e), all fees are nonrefundable.

~~(a) Application fee for certification as an operator-in-training:~~
~~Grade I: $ 95~~
~~Grade II: 130~~
~~Grade III: 170~~
~~Grade IV: 190~~
~~Grade V: 190~~

(b) Application fees for an examination are:

Grade I:	~~$40~~ $70
Grade II:	~~50~~ $90
Grade III:	~~70~~ $130
Grade IV:	~~80~~ $140
Grade V:	~~80~~ $140

(c) Examination fees are:

Grade I:	~~$40~~ $70
Grade II:	~~50~~ $90
Grade III:	~~125~~ $220
Grade IV:	~~170~~ $300
Grade V:	~~170~~ $300

(d) The provisional operator certification fee is $170. Operator and operator-in-training certification fees are:

Grade I:	~~$95~~ $170
Grade II:	~~130~~ $230
Grade III:	~~170~~ $300
Grade IV:	~~190~~ $340
Grade V:	~~190~~ $340

(e) Operator and operator-in-training certification renewal fees are:

Grade I:	~~$95~~ $170
Grade II:	~~130~~ $230
Grade III:	~~170~~ $300
Grade IV:	~~190~~ $340
Grade V:	~~190~~ $340

(f) ~~Reinstatement fee~~ The reinstatement fee for all grade~~s~~ levels is ~~$50~~ $100.

(g) ~~Replacement fee~~ The fee for replacing a lost, stolen, damaged, or destroyed certificate is ~~$20~~ $50.

(h) ~~Reciprocal fee. In addition to the application and certification fees, applicants for reciprocal certification shall pay a fee of $50 to cover the cost of verifying and evaluating out-of-state experience and reviewing out-of-state examinations.~~ Applicants for an examination waiver shall pay an examination waiver fee of $100 in addition to the certification fee.

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article ~~9~~11. Advisory Committee

§ 3718. Advisory Committee Membership and Responsibilities.

~~(a) The advisory committee appointed pursuant to Section 13631 of the Water Code shall consist of nine members. The members of the committee in office on January 1, 1992 shall continue as members of the advisory committee, and their terms shall expire as follows:~~

~~1) On June 30, 1992, one representative from a statewide organization representing local sanitation agencies; one representative from a statewide organization representing wastewater treatment plant operators and supervisors; one representative from a university or state college; and, one representative from an organized labor union which represents wastewater treatment plant operators.~~

~~2) On June 30, 1994, the remaining five members whose terms are scheduled to expire on June 30, 1993.~~

(a) The State Water Board shall appoint an advisory committee of nine members to assist it in carrying out its responsibilities under this chapter. The committee shall consist of:

(1) two operators who are employed at a wastewater treatment plant and who are members

of a statewide organization representing operators;

(2) two individuals from statewide organizations representing municipalities, including counties or private utility wastewater treatment plants;

(3) two individuals from statewide organizations representing local sanitation agencies, other than agencies specified in (2) above;

(4) one professional engineer specializing in sanitary engineering;

(5) one individual from a university or a state university school or division of engineering; and

(6) one member of an organized labor union that represents operators.

(b) ~~Thereafter, all members~~ Members of the advisory committee shall serve for ~~a period of~~ four years at which time they shall be eligible for reappointment.

(c) The committee shall meet when necessary to review ~~all proposed regulations~~ and make recommendations to the ~~board~~ State Water Board ~~prior to adoption of any regulations or changes therein and approve any course for operator training~~ regarding all proposed regulations and to assist the State Water Board in carrying out its responsibilities under this chapter.

Authority: Sections 1058 and 13631, Water Code.
Reference: Sections 13631, 13632, and 13633, Water Code.

Article ~~10~~12. Wastewater Treatment Plant Contract Operators

§ 3719. Contract Operator Registration Requirement.

~~No person or entity shall enter a contract to operate a wastewater treatment plant unless that person or entity has been registered by the division as a contract operator. The registration authorizes the contract operator to operate one or more wastewater treatment plants. All wastewater treatment plant operators employed by the contract operator must be certified according to the provisions of this chapter.~~

Within 30 days after entering into a contract to operate a wastewater treatment plant, a contract operator must submit an application for contract operator registration to the Office of Operator Certification. The contract operator must obtain a contract operator credential for each wastewater treatment plant under contract. All operators employed by the contract operator shall be certified according to the provisions of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.10~~3719.1. Term of Contract Operator Registration.

~~Contract~~ A contract operator registration~~s~~ shall be valid for one year from the ~~date of~~ issue date.

Authority: Section~~s~~ 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.11~~3719.2. Application for Contract Operator Registration.

(a) ~~Application Content -~~An application for a contract operator registration ~~as a contract operator~~ shall include ~~but not be limited to~~:

(1) the applicant's name, ~~street addess~~ mailing and business addresses, and telephone number ~~of the person or entity contracting to operate the wastewater treatment plant(s)~~;

(2) the name, address, and telephone number~~, if known, of the wastewater treatment plant(s) to be operated and the duration of each contract~~ of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant to be operated, the name~~,~~ ~~and grade of each wastewater treatment plant operator employed at the plant(s)~~ business address, and telephone number of the wastewater treatment plant; the name of the chief plant operator(s); the name of the Regional Water Board overseeing the wastewater treatment plant; and the duration of each contract;

(4) the name and grade level of ~~the chief plant operator for each wastewater treatment plant to be operated~~ each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to ~~enter~~ sign the contract(s);

(6) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(~~6~~7) the registration fee as prescribed ~~by~~ in section ~~3719.10~~ 3719.16.

~~(b) Application submittal - For persons operating wastewater treatment plants on or before the effective date of these regulations, applications for registration shall be postmarked within 60 calendar days after the effective date of the regulations. If a contract to operate a wastewater treatment plant is entered into after the effective date of these regulations and the contract operator is not already registered, the application for registration shall be submitted and the registration issued before contract operations begin.~~

(~~c~~b) ~~Division review of application and notice to applicant. The division shall review applications for registration and~~ Within 30 days of receipt of the application, the Office of Operator Certification shall notify the applicants ~~in writing within 30 calendar days of receipt~~ whether the application is complete or deficient. If there is a deficiency, the ~~division~~ Office of Operator Certification shall inform the applicant ~~by telephone or letter~~ in writing of the specific ~~information required~~ requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.12~~3719.3. ~~Issuance/Content of Certificate of Registration~~ Issuance of Contract Operator Registration and Contract Operator Credential.

(a) ~~Content of certificate of registration.~~ The ~~certificate of~~ contract operator registration issued by the ~~division~~ Office of Operator Certification shall ~~be in the form of a wall certificate and shall contain but not be limited to~~ include:

(1) the applicant's name, business address, and registration number;

(2) the issue and expiration dates of the registration;

(3) the State Water Board seal; ~~AND,~~

(4) the name, "State Water Resources Control Board," and

(45) the signature of a State Water Board member or ~~member~~ designee.

(b) ~~Issuance of certificate of registration. Unless otherwise specified~~ Except as provided in ~~subsection~~ subdivision (c), within 30 ~~calendar~~ days of receipt of a complete ~~and approved~~ application for registration, the ~~division~~ Office of Operator Certification shall issue a contract operator ~~certificate of~~ registration to the contract operator or inform the applicant of the reason the registration will not be issued. The ~~division~~ Office of Operator Certification also shall ~~also~~ issue one ~~wall certificate to the~~ contract operator credential to the contract operator for each wastewater treatment plant operated. The ~~certificate~~ contract operator credential shall include the name of the wastewater treatment plant to be operated in addition to the ~~items in subsection~~ information required in subdivision (a)~~(1) through (4) above~~. ~~Certificates~~ Contract operator registrations and contract operator credentials are ~~not transferrable~~ nontransferable.

(c) ~~Refusal to issue a certificate of registration.~~ The ~~division~~ Office of Operator Certification may refuse to issue a ~~certificate of~~ contract operator registration if it ~~has determined~~ determines that the applicant has committed ~~any act which is grounds for disciplinary action as specified in section 3710 of Article 7 or section 3719.17 of this article~~ any act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.13~~3719.4. Renewal of Contract Operator Registration.

(a) ~~Division notice of renewal date.~~ At least 60 ~~calendar~~ days ~~prior to~~ before the expiration of a contract operator registration, the ~~division~~ Office of Operator Certification shall ~~provide~~ send a written notification of the expiration date to the ~~registration holder~~ contract operator ~~at his or her address of record~~. Failure to receive a notice of ~~renewal~~ the expiration date does not relieve the ~~registration holder~~ contract operator from the responsibility of renewing a registration on or before the expiration date.

(b) ~~Content of renewal application.~~ An application for renewal of a contract operator registration shall include~~, but not be limited to~~:

(1) the contract operator's name, mailing and business ~~address~~ addresses, telephone number, and registration number ~~of the person or entity contracting to operate the wastewater treatment plant(s)~~;

(2) the name, address, and telephone number of ~~all wastewater treatment plants operated and the duration of each contract~~ the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant operated, the name, business address, and telephone number of the wastewater treatment plant, the name of the chief plant operator, the name of the Regional Water Board overseeing the wastewater treatment plant, and the duration of each contract;

(~~3~~4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

~~(4) the name and grade of the chief plant operator for each wastewater treatment plant to be operated;~~

(5) the original signature of the person authorized by the contract operator to ~~enter~~ sign the contract(s); ~~AND~~ and

(6) the renewal fee as prescribed in section ~~3719.19~~ 3719.16.

(c) ~~Renewal application submittal.~~ A ~~registration holder~~ contract operator who wishes to renew a contract operator registration shall submit to the ~~division~~ Office of Operator Certification a completed application as specified in ~~subsection~~ subdivision (b). The application for renewal shall be ~~postmarked~~ received no later than 30 ~~calendar~~ days before the expiration of the registration. If the application for renewal is ~~postmarked later~~ received less than 30 ~~calendar~~ days before the expiration date, the ~~registration holder~~ contract operator shall pay a late fee ~~in an amount~~ as prescribed ~~by~~ in section ~~3719.19~~ 3719.16.

(d) ~~Division review of renewal application and notice to applicant.~~ ~~The division shall review the renewal application and shall notify the registration holder within~~ Within 30 ~~calendar~~ days of receipt of the application for renewal, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the ~~division~~ Office of Operator Certification shall inform the ~~registration holder~~ contract operator ~~by telephone or letter~~ in writing of the specific ~~information~~ requirements necessary

to complete the application for renewal. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.14~~3719.5. ~~Issuance/Content of Renewed Certification of Registration~~ Issuance of Renewed Contract Operator Registration and Contract Operator Credential.

(a) ~~Content of renewed certificate of registration.~~ A renewed contract operator registration shall ~~be in the form of a wall certificate and shall contain, but not be limited to~~ include:

(1) the ~~registration holder's~~ contract operator's name, business address, and registration number;

(2) the ~~original~~ issue date of the initial registration and ~~next~~ expiration date of the renewal registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board;" and

(45) the signature of a State Water Board member or ~~member~~ designee.

(b) ~~Issuance of renewed certificate of registration.~~ Within Except as provided in subdivision (c), within 30 ~~calendar~~ days of the receipt of a complete ~~and approved renewal~~ application for renewal, the ~~division~~ Office of Operator Certification shall issue a ~~certificate of~~ renewed contract operator registration or inform the applicant of the reason the ~~certificate~~ registration will not be issued. The ~~division~~ Office of Operator Certification shall ~~also~~ issue one ~~wall certificate to the~~ contract operator credential to the contract operator for each wastewater treatment plant operated. The ~~certificate~~ credential shall include the name of the wastewater treatment plant operated in addition to the requirements in ~~subsection~~ subdivision (a)~~(1) through (4) above~~ for a renewed contract operator registration. Contract operator registrations and contract operator credentials are nontransferable.

(c) ~~Refusal to renew registration. The registration shall not be renewed until any unpaid fees or fines have been paid.~~ The ~~division~~ Office of Operator Certification may refuse to renew a contract operator registration if it ~~has determined~~ determines that the applicant has operated a wastewater treatment plant ~~while the~~ with an expired contract operator registration ~~was expired~~ or has committed any other act ~~which is grounds for disciplinary action pursuant to section 3710 of Article 7 or section 3719.17 of this article~~ in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.6. Application for Additional Contract Operator Credential.

(a) Within 30 days after entering into a contract to operate a wastewater treatment plant not included in the original application, a contract operator shall submit an application to the

Office of Operator Certification requesting an additional contract operator credential. The application shall include the following:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, telephone number, and registration number of the owner of the wastewater treatment plant;

(3) the name, address, telephone number, and chief plant operator of the wastewater treatment plant, the Regional Water Board overseeing the wastewater treatment plant, and the duration of the contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant;

(5) the original signature of the person authorized by the contract operator to enter the contract; and

(6) the fee for issuing a new contract operator credential as prescribed in section 3719.16.

(b) Within 30 days of receipt of an application for an additional contract operator credential, the Office of Operator Certification shall issue a contract operator credential in accordance with section 3719.3.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.15~~3719.7. Replacement of ~~Certificate of~~ Contract Operator Registration or Contract Operator Credential.

~~A certificate of registration which has been lost, stolen, or destroyed may be replaced by the division. The replacement fee as prescribed by section 3719.19 must be submitted with a request for replacement.~~

A lost, stolen, damaged, or destroyed contract operator registration or contract operator credential may be replaced by the Office of Operator Certification if the registration or credential holder signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction of the registration or credential and submits the replacement fee prescribed in section 3719.16.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.8. Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, or replace a contract operator registration or contract operator credential if the contract operator has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.16~~3719.9. Posting ~~the Certificate of Registration~~ Contract Operator Credentials.

A valid, unexpired ~~certificate of registration~~ contract operator credential shall be displayed ~~and clearly visible~~ in an area accessible to the public at each wastewater treatment plant where the ~~registration holder~~ contract operator has a contract to provide services. If no area is accessible to the public, the contract operator credential shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.10. Reporting Requirements for Contract Operators.

(a) A contract operator shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action by the contract operator against an operator, provisional operator, or operator-in-training. Disciplinary action includes reprimanding or placing on probation an operator, provisional operator, or operator-in-training, or suspending, demoting, or discharging an operator, provisional operator, or operator-in-training for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name and certificate number of the operator, provisional operator, or operator-in-training, the specific violations, and the disciplinary action taken by the contract operator.

(1) Except as provided in (2) below, a notice regarding final disciplinary action received from a contract operator shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability as set forth in section 3709 or takes disciplinary action pursuant to section 3710 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

(b) A contract operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the contract operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code

§ 3719.11. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivision (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts: (1) failing to use reasonable care in the management or operation of the wastewater treatment plant;

(2) willfully or negligently causing or allowing a violation of waste discharge requirements; or

(3) submitting false or misleading information to the State Water Board on an application for a registration.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $1,000 for each day of the violation upon any person for failure to comply with section 3719.

Authority: Section 13627.3, Water Code
Reference: Sections 13323, 13627.3, and 13627.4, Water Code

§ ~~3719.17~~3719.12. ~~Prohibited Acts and~~ Grounds for Disciplinary Action.

~~Grounds for discipline.~~ The State Water Board may refuse to grant, or may suspend or revoke, ~~any~~ a registration for good cause, including~~, but not limited to~~ any of the following reasons:

(a) willfully or negligently violating, causing, or allowing ~~the~~ a violation of ~~Articles 1 through 10 of Chapter 26~~ this chapter;

(b) without regard to intent or negligence, ~~operating or~~ allowing the operation of a wastewater treatment plant by a person who is not certified at ~~the~~ a grade level necessary for the position or whose certificate has expired;

(c) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, ~~and current~~ unexpired registration;

(1) It has been no more than 30 days after the contract operator entered a contract to operate a wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration to the Office of Operator Certification within 30 days of entering into a contract to operate a wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(d) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired contract operator credential;

(1) It has been no more than 30 days after the contract operator entered a contract to operate the wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration or an application for an additional contract operator credential to the Office of Operator Certification within 30 days of entering into a contract to operate the wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(de) submitting false or misleading information on any document provided to ~~the division~~ State Water Board staff including applications for registration or registration renewal, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(ef) using fraud or deception in the course of contracting to operate a wastewater treatment plant, including~~, but not limited to,~~ submitting false or misleading documents to the owner~~(s)~~ of ~~the~~ any wastewater treatment plant under contract;

(fg) failing to use reasonable care or good judgment while operating a wastewater treatment plant;

(gh) willfully or negligently causing or ~~violating or~~ allowing ~~the~~ a violation of ~~appropriate~~ waste discharge requirements ~~as prescribed by Article 4 of Chapter 4 of Division 7 of the Water Code, or the violation of Section 402 of the Clean Water Act which contains the provisions of the National Pollutant Discharge Elimination System permit.~~;

(i) failing to notify, as required by section 3719.10(b), the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(j) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who has not posted an operator or operator-in-training certificate as required by section 3703 or failing to post the contract operator credential as required by section 3719.9; or

(k) committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be good cause for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.18~~3719.13. Appeals of Discretionary Decisions made by the Office of Operator Certification.

(a) ~~Applicants~~ An applicant or contract operator ~~registration holders~~ may appeal discretionary decisions made by the Office of Operator Certification ~~or Office of Enforcement~~ regarding denial of an application for registration~~,~~ or registration renewal~~, or disciplinary action taken~~.

(b) Appeals shall be processed in accordance with the provisions of sections 3711 and ~~3712~~ 3711.1 ~~through 3716~~ of ~~Article~~ article ~~7~~ 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.14. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) An applicant or contract operator may request that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be processed in accordance with the provisions of sections 3712 and 3712.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.15. Petitions.

(a) An applicant or contract operator may petition the State Water Board for review of a Final Division Decision or a Final Office of Enforcement Decision.

(b) Petitions shall be processed in accordance with the provisions of sections 3711.2, 3712.2, and 3713 through 3716 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.19~~3719.16. Wastewater Treatment Plant Contract Operator Registration Fees.

~~Contract operator fees are as follows:~~

(a) ~~Initial Registration Fee -~~The initial contract operator registration fee is ~~$100~~ $350. For each operator employed in California by the contract operator, ~~in California, the~~ the contract operator shall pay a fee of ~~$25 shall also be paid by the contract operator~~ $75 up to a maximum of ~~$500~~ $1,500 in combined contract operator registration fees and employee registration fees.

(b) ~~Renewal Fee -~~The annual renewal fee is ~~$100~~ $350 plus ~~$25~~ $75 for each ~~person~~ operator employed in California by the contract operator ~~in California~~ up to a maximum of ~~$500~~

$1,500 in combined contract operator registration renewal fees and employee registration fees.

(c) ~~Late fee - Each contract operator who fails to have a renewal application postmarked at least 30 days before expiration shall pay a late fee of $50 in addition to the renewal fee.~~ If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the contract operator registration, the contract operator shall pay a late fee of $100 in addition to the renewal fee.

(d) ~~Replacement Fee -~~ The fee for replacing a lost, stolen, damaged, or destroyed ~~certificates~~ contract operator registration or contract operator credential or for issuing an additional contract operator credential pursuant to section 3719.6 is ~~$30~~ $50.

Authority: Sections 1058 and ~~13627.2~~13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

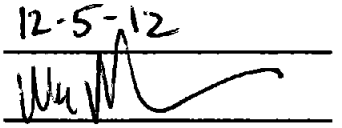
STATEMENT OF MAILING NOTICE

STATEMENT OF MAILING NOTICE

Pursuant to section 86 of title 1 of the California Code of Regulations, the State Water Resources Control Board (State Water Board) has complied with the provisions of Government Code section 11346.4, subdivisions (a)(1) through (4), regarding the mailing of the Notice of Proposed Rulemaking. The Notice was mailed on June 15, 2012, which was 45 days prior to the end of the public comment period that closed on July 30, 2012, and was posted on the State Water Board's website.

The State Water Board has complied with the requirements of section 44 of title 1 of the California Code of Regulations. On October 1, 2012, the State Water Board mailed the Notice of Modified Text and the modified text of the regulations to all persons included in section 44, subdivision (a). The public availability and comment period was between October 1, 2012 and October 15, 2012. In addition to this mailing, the Notice and the accompanying modified text was posted on the State Water Board's website and were available for inspection at the State Water Board headquarters during the public-availability period.

Dated: 12-5-12

Signature: 

Wes Wilkinson, Manager
Office of Operator Certification
Division of Financial Assistance

WRITTEN COMMENTS SUBMITTED DURING
45-DAY COMMENT PERIOD

Cockrell, Debra@Waterboards

From: Manuel Moya <ManuelMoya@cqrollcall.com>
Sent: Friday, June 15, 2012 7:51 AM
To: Cockrell, Debra@Waterboards
Subject: request for draft of recently proposed rule

Categories: Personal

Hello,

May I please obtain a draft (showing the strikethroughs and revisions) of the recently proposed rule which "proposes to amend California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) relating to the Waste-water Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program)"?

Thank you,

Manuel Alex Moya
CQ-StateTrack

PS. I'm specifically referring to the rule described in the notice below, published on today's state register:

PROPOSED ACTION ON REGULATIONS

TITLE 23. STATE WATER RESOURCES CONTROL BOARD

STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS

CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) relating to the Waste-water Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program).

PUBLIC HEARING

The State Water Board will hold a hearing beginning at 9:00 a.m. on Tuesday August 7, 2012 in the Coastal Hearing Room at the Joe Serna Jr./Cal-EPA Headquarters Building, 1001 I Street, Sacramento, California 95814. The Joe Serna Jr./Cal-EPA Headquarters Building is accessible to people with disabilities. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described in the Informative Digest/Policy Statement Overview. The State Water Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The State Water Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modifications of the proposed regulations. The State Water Board will not accept oral statements subsequent to the public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes at 5:00 p.m. on **July 30, 2012**. The State Water Board will only consider comments received by that time at the addresses below.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if 15 megabytes in size or less), (916) 341-5620 (fax), or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, **"Comment Letter - Proposed Operator Certification Regulations."**

Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341-5600.

To be added to the mailing list for this rulemaking and to receive notification of updates to this rulemaking, you may subscribe to the listserve for public notices regarding the Operator Certification program by going to: www.waterboards.ca.gov/resources/ email_subscriptions/swrcb_subscribe.shtml. You may also call Ms. Debra Cockrell at (916) 341-5648 or email her at dcockrell@waterboards.ca.gov.

AUTHORITY AND REFERENCE

Water Code section 1058 and chapter 9 of the Water Code authorize the State Water Board to adopt, amend, or repeal the regulations for the Operator Certification program. The proposed regulations implement, interpret, or make specific chapter 9 of the Water Code, commencing with section 13625. References to specific code sections are identified in the proposed amendments to the regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under chapter 9 of the Water Code, the State Water Board is responsible for the administration of the Operator Certification program.

In order to implement amendments to the Water Code enacted by chapter 422, statutes of 2002, the State Water Board proposes to amend the definition of "waste-water treatment plant" (WWTP) to include privately owned WWTPs. The amended definition of WWTP clarifies that a water recycling treatment plant is included in the definition of WWTP, but it specifically excludes onsite sewage treatment systems.

In accordance with Water Code section 13627.5, which was added by chapter 422, statutes of 2002, operators at privately owned WWTPs will receive qualifying experience credit for a minimum of one year of experience after they pass an examination. The State Water Board also proposes regulations setting forth the procedures and timeframes by which owners of privately owned WWTPs and operators at privately owned WWTPs must comply with the regulations. No later than two years from the effective date of the regulations, all operators at privately owned WWTPs must be certified at the appropriate grade level.

The State Water Board is adding provisions regarding Class I WWTP exemptions to the regulations, including provisions for applying for an exemption, issuing an exemption, and renewing an exemption to implement Water Code section 13625.1, which was added by chapter 422, statutes of 2002. The fee for applying for an exemption will be $800. The fee for renewing an exemption will be $300.

The State Water Board is adding administrative civil liability provisions to the regulations to incorporate changes to the Water Code enacted by chapter 869, statutes of 2001 and chapter 664, statutes 2002.

The State Water Board has determined that it is necessary to amend the regulations to clarify ambiguities in the existing regulations, for consistency with chapter 9 of the Water Code and between different provisions in the regulations, and to address issues previously unforeseen by the State Water Board. This includes adding definitions for several previously undefined terms and defining terms that are added to the regulations. The State Water Board has explained these amendments in detail in the statement of reasons. To the extent that these definitions merely clarify existing regulations or are necessary to implement other proposed amendments discussed in this notice, they are not identified in this notice.

Existing regulations require certain documents to be sent to the State Water Board, the Division of Financial Assistance (Division), or the Division Chief of the Division and postmarked by a certain date in order to be considered timely. The State Water Board proposes to amend all regulations so they specify a date by which the State Water Board, the Deputy Director of the Division, the Director of the Office of Enforcement (OE), or the Office of Operator Certification (OOC) must receive a document in order for it to be considered timely.

As explained in the statement of reasons, the State Water Board has proposed certain changes to the regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (e.g., changes without regulatory effect). These amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross-references, grammar, punctuation, capitalization, or renumbering or relocating regulatory provisions. Additionally, the titles of articles and sections are amended to reflect the relocation of regulatory provisions and for clarification purposes.

Finally, the proposed amendments incorporate the change in the title of the person formerly referred to as the "Division Chief" of the Division to the "Deputy Director" of the Division and references to the Division are replaced with references to the OOC where appropriate. In many cases the State Water Board has explained these amendments in the statement of reasons to avoid any confusion with the substantive revisions. To the extent that many of these amendments without regulatory effect are non-substantive and their purpose is self-evident or merely editorial, they are not identified in this notice.

The specific benefits anticipated will protect public health and the environment by providing for the effective operation of public and privately-owned WWTPs.

The proposed regulation is consistent with and compatible with other existing state regulations governing WWTPs.

Summary of Proposed Regulations:

The number of applications and the associated costs of the Operator Certification program have increased significantly since the last fee increase in 2003, although the level of effort to review applications remains steady. In order to cover the costs of the Operator Certification program, the State Water Board is increasing operator and operator-in-training (OIT) fees by 78 percent. The State Water Board is also increasing the reinstatement fee, the certificate replacement fee, and the reciprocity fee, which is renamed the examination waiver fee.

The contract operator fees were established on August 29, 1994, and have never been increased. The costs of registering contract operators have increased significantly since 1994 and the fees collected do not cover the costs.

In order to cover the costs of the contract operator program, the State Water Board is increasing the initial contract operator registration fee and annual renewal fee by 250 percent and the fee for employee registration by the contract operator must increase by 200 percent. The State Water Board is also increasing the late fee and the registration replacement fee.

The State Water Board is establishing a provisional operator certificate to help Class I WWTPs train and retain qualified operators when the owner has had difficulty hiring a certified operator to operate the WWTP. The owner of the WWTP will be required to submit a written plan for the provisional operator's operation of the WWTP that meets specific requirements. The provisional operator must submit a copy of the WWTP's monitoring reports to the OOC and cannot supervise operators, other provisional operators, or OITs or appoint a designated operator-in-charge. In addition, the provisional operator must receive training acceptable to the OOC on proper sampling procedures, the WWTP's standard operating procedures, and the WWTP's waste discharge requirements and the WWTP must have procedures for testing the provisional operator's proficiency on each of these subjects. The WWTP must have a written agreement with a certified operator, a registered contract operator, or another WWTP, ensuring that a certified operator will be available to assist the provisional operator when the provisional operator needs direction or if the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator." The fee for an owner to request approval to use a provisional operator will be $1,000. The fee to apply for a provisional operator certificate will be the same as the fee to apply for a Grade I OIT certificate or a Grade I operator certificate.

The definition of "operates" is expanded to require a person to hold an operator certificate in order to take actions or make decisions that control the performance or outcome of one or more wastewater treatment processes, regardless of the person's job title. The definition of "operates" is also expanded to include the supervision of other operators whose actions or decisions control the performance or outcome of one or more wastewater treatment processes. These people, who share in the responsibility of operating a WWTP, must demonstrate their competency by being certified as operators because of the effect that their activities or decisions can have on WWTP operations and compliance with the WWTP's waste discharge requirements. Additionally, the definition of "wastewater treatment process" is added to clarify the use of this term in the definition of "operates," as well as other provisions in the regulations.

Existing regulations use the term "year of experience" to refer to the amount of experience operators or OITs must have to advance to a higher grade level. The existing term "year of experience" is replaced with the term "full-time qualifying experience" and the definitions of "full time" and "qualifying experience" are added to the regulations. In addition, the proposed regulations provide that an operator will acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of "qualifying experience."

The proposed definition of "qualifying experience" means experience acquired by an operator or an OIT while operating a WWTP. The term "qualifying experience" may include the performance of some minor maintenance.

Because the State Water Board recognizes that a person may have other experiences that add to the knowledge and skills necessary to operate a WWTP, the OOC may give "qualifying experience credit" for specified activities. Once the OOC awards qualifying experience credit, it is treated the same as qualifying experience acquired while operating a WWTP.

The definition of "water recycling treatment plant" is amended to clarify that a water recycling treatment plant receives and further treats effluent from a WWTP in order to distinguish water recycling treatment plants from other WWTPs.

In existing regulations, the term "pond treatment" means both "modified treatment pond" and "conventional treatment pond." The term "pond treatment" is replaced with the terms "modified treatment pond" and "conventional treatment pond" and these two types of ponds are classified separately.

Extended aeration is deleted as a criterion for classifying WWTPs because WWTPs using extended aeration are using an activated sludge treatment process and should be classified accordingly.

Sequencing batch reactor technology is a relatively new, advanced technology that uses microprocessor controllers to automatically sequence treatment stages to meet targeted waste discharge requirements. The use of this technology is added as a criterion for classifying WWTPs.

The term "satellite plant" is added to the regulations to describe a WWTP that is so closely related to the main WWTP that both the "satellite plant" and the main WWTP should be classified as a single WWTP.

The terms "shift supervisor" and "supervisor" are deleted from the regulations and replaced with the term "designated operator-in-charge." With the exception of provisional operators, a chief plant operator must appoint a designated operator-in-charge to be responsible for the operation of the WWTP whenever the chief plant operator is unable to carry out the responsibilities of the position of chief plant operator.

In order to ensure that a chief plant operator is aware of his or her duties, the definition of "chief plant operator" is amended for clarification purposes. As amended, the definition incorporates the new provisional operator certificate. With the exception of provisional operators, the amended definition emphasizes the chief plant operator's responsibility for compliance with applicable waste discharge requirements and ensuring that OITs are supervised directly as required by the proposed regulations. Additionally, owners of WWTPs are required to submit a statement signed by the person designated as the chief plant operator accepting the responsibility of a "chief plant operator" as defined in the proposed regulations.

The definition of "direct supervision" in the existing regulations is ambiguous and has led to confusion and misinterpretation within the industry. The definition is amended for clarification purposes and to state the specific intent of the State Water Board. Additionally, to ensure that OITs are properly supervised at all times, this definition is amended to require that the supervising operator be present at the WWTP or otherwise available to consult with, and provide assistance to, the OIT in order to ensure the safe and proper execution of the OIT's duties.

Currently, the chief plant operator of a WWTP may obtain permission for a WWTP to be operated by a lone operator certified at no more than one grade level lower than that required for a shift supervisor. Pursuant to the proposed regulations, the State Water Board will allow any certified operator to operate a WWTP as a lone operator so long as the lone operator is permitted to perform only basic duties that require minimal judgment.

An OIT may not be assigned as a lone operator. The proposed regulations establish the requirements and the procedures for obtaining approval for assigning lone operator shifts.

Chief plant operators currently must verify an applicant's experience on an application for an examination or certification. Applicants will no longer be required to provide information regarding experience on an application for an examination. Therefore, chief plant operators do not need to sign an application for an examination. Additionally, chief plant operators are only required to verify the qualifying experience that the applicant acquired at that WWTP.

Currently, the regulations require operator and OIT certificates to be backdated to the date that OOC receives the application for certification. Additionally, all operator and OIT certificates are given either a June 30 or December 31 expiration date. As amended, the issue date for a certificate will now be the date the OOC actually issues the certificate and the expiration date for a certificate will be two years from the date of issuance.

The provisions regarding OITs currently incorporate by reference many provisions regarding the procedures for applying for and issuing operator certificates and renewal operator certificates. The provisions regarding the procedures for applying for and issuing operator certificates and renewal operator certificates have been made specific to OITs.

Existing regulations allow an OIT to renew an OIT certificate only one time. This means that an OIT has a maximum of four years to obtain experience for Certification at that grade level. OITs will now be allowed to renew an OIT certificate repeatedly for additional two-year periods under certain conditions. The OIT must have passed an examination at that grade level or higher and the examination results must not have expired. The chief plant operator also must submit a plan to the OOC for the OIT to gain the experience necessary to become certified at that grade level.

A new provision has been added regarding the invalidation and issuance of a new OIT certificate. An OIT certificate is only valid while the OIT is in training at the WWTP for which the certificate was issued. Chief plant operators will be required to return an invalidated certificate with a statement as to the amount of qualifying experience the OIT acquired before leaving the WWTP. This provision also sets forth the conditions that a person must meet to obtain a new OIT certificate. All time and experience acquired under a previous OIT certificate will be applied to a new certificate.

Under existing regulations, the OOC issues Grades I and II operator certificates by reciprocity to people who hold comparable certifications in other states. To be issued a certificate via reciprocity, the applicant must meet all of the State Water Board's experience and education requirements. The only requirement currently waived is the examination requirement. In order to clarify that no other requirement will be waived, the current reciprocity provision is replaced with an examination waiver. Additionally, the requirements for an examination waiver are not as limited as existing requirements for reciprocity. Finally, the OOC may issue an examination waiver to an applicant at any grade, provided the applicant holds a comparable certification issued by a certifying body. In order to implement this change, the State Water Board has added definitions for "certifying body" and "Indian tribe."

Under the proposed regulations, the OOC may give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land within the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of a WWTP operator.

In order to be given qualifying experience credit, the applicant must have held a valid, unexpired certification of the appropriate grade level issued by a certifying body to perform duties comparable to the duties of an operator at a WWTP. The certifying body's certification requirements also must be comparable to the State Water Board's requirements. This requirement ensures that the experience obtained at a facility that treats waste-water but that is not a WWTP is comparable to the experience acquired by operators at WWTPs.

The State Water Board is amending the regulations to emphasize education. The educational requirements for certain paths for certification are increased. As amended, all operators and OITs must have a high school degree or equivalent. Also, educational points can no longer be substituted for uncompleted years of high school. Additional paths for certification are added to allow people with higher levels of education to become certified at one grade level lower than existing regulations allow.

The State Water Board has reviewed the education and experience requirements for each path for certification to ensure consistency. For Grade IV certification, the experience requirement for someone with at least a bachelor's degree is increased from two years to three years to be consistent with other paths.

The regulations make it clear that operators who were issued operator certificates before the effective date of these regulations do not have to meet the new requirements for education and experience in order to renew their certificates. Additionally, operators holding expired certificates do not have to meet the new requirements for education and experience in order to reinstate their certificates. These requirements apply to people applying for a new operator, provisional operator, or OIT certificate, a renewed OIT certificate, or an examination on or after the effective date of these regulations, including operators who request certification at a higher grade.

Operators may currently earn educational points for having taken courses "directly related to wastewater treatment" or "indirectly related to wastewater treatment." For clarification purposes, the term "directly related to wastewater treatment" is replaced with the term "wastewater treatment course," which is defined in the regulations. Also, the term "indirectly related to waste-water treatment" is replaced with the term "management course," which is defined in the regulations.

The term "basic science courses" is replaced with "science course" and is expanded to include courses in engineering. As amended, operators may now earn educational points for taking science courses.

The grounds for disciplinary action against operators, OITs, and contract operators are amended to ensure that the State Water Board may exercise its full disciplinary authority under Water Code sections 13625(e) and 13627.3(c). The regulations will now specify that the State Water Board may discipline an operator, provisional operator, or OIT "upon any reasonable ground," including the acts specified in the regulations. In addition, the regulations will now specify that the State Water Board may take disciplinary action against an operator, provisional operator, OIT, or contract operator who orally provides false or misleading information during an investigation or fails to post a certificate or contract operator credential.

A person who commits an act that is a reasonable ground or good cause for a disciplinary action pursuant to these regulations at any facility that treats waste-water, including facilities operated in another state, in a territory, or on land under the jurisdiction of an Indian tribe, may not possess the technical qualifications, integrity, and respect for the law necessary to operate a WWTP. Therefore, the regulations are amended so that the State Water Board may discipline an operator, provisional operator, OIT, or contract operator for committing any act that is a reasonable ground or good cause for disciplinary action pursuant to these regulations if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP and the act would be a reasonable ground or good cause for a disciplinary action pursuant to these regulations if associated with performing duties at a WWTP.

Additionally, an operator, provisional operator, OIT, or contract operator may be disciplined for failing to comply with the new requirement to notify the OOC if a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a WWTP, takes final action: to discipline; to impose administrative civil liability; or to impose civil or criminal liability against the operator, provisional operator, OIT, or contract operator.

Under existing regulations, Proposed Disciplinary Action Letters issued by the Director of the OE may be appealed to the Division Chief (to be retitled "Deputy Director") of the Division. The Division Chief may then uphold, overturn, or amend the proposed disciplinary action. Typically, appeals go up through the chain of command in an organization. In this case, however, the Director of the OE is independent of the Deputy Director of the Division and the Director of the OE and the Deputy Director of the Division have comparable levels of authority within the State Water Board. Therefore, the State Water Board has determined that the Deputy Director of the Division should not review appeals of Proposed Disciplinary Action Letters issued by the Director of the OE. Instead, a person to whom a Proposed Disciplinary Action Letter has been issued may request reconsideration by the Director of the OE.

The appeal and petition process is amended to make the appeal and petition process for the Operator Certification program consistent with the process for other State Water Board programs.

Existing regulations state that no person or entity may enter into a contract to operate a WWTP unless that person is a registered contract operator. To establish existing practice in regulation, the regulations are amended to provide that within 30 days after entering into a contract to operate a WWTP, a contract operator must submit an application for contract operator registration with the OOC.

The use of the term "certificate of registration" in existing provisions regarding contract operators is confusing because it is used for both the certificate issued by the OOC upon registering contract operators and for certificates that must be posted at each WWTP operated by the contract operator. Therefore, the certificates that must be posted at each WWTP are renamed "contract operator credentials." Additionally, new provisions are added regarding applying for an additional contract operator credential if the contract operator enters into a new contract after obtaining or renewing the contract operator's certificate of registration. A contract operator must submit an application for an additional contract operator credential within 30 days of entering into a contract to operate another WWTP.

LOCAL MANDATE

These proposals do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

COSTS OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that this regulation requires approximately $380,000 in additional expenditures to: 1) develop and implement the new provisional operator certificate; 2) bring approximately 434 privately owned WWTPs into the Operator Certification Program, including plant classification, registering contract operators, and processing certificate applications and giving examinations to the additional 468 certified operators, certified provisional operators, or certified OITs; and 3) maintain the current workload of certifying operators and registering contract operators at publicly owned WWTPs.

It is anticipated that the State Water Board will request an increase in the currently authorized budget level for the 2012-13 fiscal year. The increase of authority will be supported by the fee revenue collected by the Operator Certification Program.

COST OR SAVINGS IMPOSED ON LOCAL AGENCIES

The State Water Board has determined that this regulation imposes additional expenditures on local agencies of approximately $350,258, which are not reimbursable by the State pursuant to section 6 of article XII B of the California Constitution and sections 17500 et seq. of the Government Code because this regulation will be fully

financed from the sewer assessments collected by publicly owned WWTPs authorized by section 5470 et seq. of the Health and Safety Code.

OTHER NONDTSCRETIONARY COSTS OR SAVINGS ON LOCAL AGENCIES

The State Water Board has determined that there are no nondiscretionary costs or savings imposed on local agencies as a result of the proposed regulations.

COST OR SAVINGS IMPOSED ON SCHOOL DISTRICTS

The State Water Board has determined that there are no costs or savings imposed on school districts as a result of the proposed regulations.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

The State Water Board has determined that there are no costs or savings in federal funding to the state as a result of the proposed regulations.

BUSINESS IMPACT/SMALL BUSINESSES

Contract operators will pass their increased costs on to the WWTPs in the form of increased service rates.

All private WWTPs are considered small businesses. No initial (capital) costs are required by the regulation.

A privately owned WWTP may comply with the regulation by either employing its own certified operators or contracting for operator services from a registered contract operator. The average annual cost for a small business employing operators is $4,000. The average annual cost for a small business contracting for operator services is $2,967. The average annual cost for a small business employing operators or contracting for operator services is $3,483.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Assessment Regarding Effect on Jobs/Businesses

There will be minimal impact on both creation and elimination of jobs because uncertified operators at privately owned WWTPs will probably become certified. The State Water Board has determined that the regulation will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Benefits of the Regulation for Public Health, Safety, and Welfare

The State Water Board did not estimate the benefits of the proposed regulation. The proposed regulation will protect public health and the environment by providing for the effective operation of privately owned WWTPs. The regulation also provides additional revenue for operation of the Operator Certification Program.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The small business is the typical business therefore the economic impacts estimated in the previous section entitled "Business Impact/Small Businesses" also applies here.

The State Water Board expects that privately owned WWTPs will pay for or reimburse operators, provisional operators, and OITs for their fees and education costs. The State Water Board also expects that half of publicly owned WWTPs will pay or reimburse operators, provisional operators, and OITs for their fees and half of the publicly owned WWTPs will not pay or reimburse operators, provisional operators, and OITs for their fees. No initial (capital) costs are required by the regulation. The average annual cost for operators, provisional operators, and OITs employed at publicly owned WWTPs that will not pay or reimburse operators, provisional operators, and OITs for their fees is $100. The average annual cost for operators, provisional operators, and OITs at privately owned WWTPs and publicly owned WWTPs is $47.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

There will be no Adverse Economic Impact.

EFFECT ON HOUSING COSTS

None.

ALTERNATIVES

The regulation implements chapter 422, statutes 2002 by setting forth the procedures and timeframes by which operators at privately owned WWTPs must obtain operator certificates, owners of privately owned WWTPs must comply with the regulations, and contract operators at privately owned WWTPs must register with the State Water Board. The Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND THE RULEMAKING FILE

The State Water Board has prepared an Initial Statement of Reasons for the proposed action. The statement includes the specific purpose for each amendment, interpretation, or requirement, and the factual basis for determining the necessity of each regulatory interpretation or requirement. All the information upon which the proposed regulations are based is contained in the rule-making file. The Initial Statement of Reasons, the express terms of the proposed regulations, and the rule-making file are available from the contact person listed below or at the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, the State Water Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for written comment at least 15 days before the State Water Board adopts the regulations as modified.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available from the contact person listed below or at the website listed below.

CONTACT PERSONS

Requests for copies of the text of the proposed regulations, the Statement of Reasons, or other information upon which the rulemaking is based, or other inquiries, should be addressed to the following:

The contact person is:

Name:	Debra Cockrell
Address:	State Water Resources Control Board Office of Operator Certification 1001 "I" Street Sacramento, CA 95814
Telephone No.:	(916) 341-5648
Fax No.:	(916) 341-5734
E-Mail Address:	dcockrell@waterboards.ca.gov

The backup contact person is:

Name:	Debbie Zuccala
Address:	State Water Resources Control Board Office of Operator Certification 1001 "I" Street Sacramento CA 95814
Telephone No.:	(916) 341-5639
Fax No.:	(916) 341-5734
E-Mail Address:	dzuccala@waterboards.ca.gov

The documents relating to this proposed action may also be found on the State Water Board's website at the following address: http://www.waterboards.ca.gov/water_issues/programs/operator_certification/.

This e-mail may contain confidential material. If you are not an intended recipient, please notify the sender and delete all copies. It may also contain personal views which are not the views of CQ Roll Call or its owner. The Economist Group. We may monitor e-mail to and from our network. For company information go to http://legal.economistgroup.com.

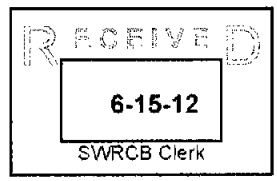
RECEIVED
6-15-12
SWRCB Clerk

My District, under contract operates and maintains a WWTP for the Chumash Tribe here in Santa Ynez. The federal government has required them to have a Grade III operator. Two of our other employees have been trained to operate that plant, but I understand that the State does not recognize a Tribe's plant, so the other two guys can't get certified. Is there anything that might change in that regard in the future? Thank you.

Bobbie Martin
Santa Ynez Community Services District
General Manager

(805) 688-3008 Work
roberta@sycsd.com

P.O. Box 667
Santa Ynez, CA 93460



To whom it may concern:

I just received a notice via email that said the SWRCB will recognize operator hours attained at or on tribal land WWTP's. What I would like to know is, will these hours be retroactive? And if so, how do I go about getting my operator certification. I have already passed up to the Grade 2 Operators exam and have taken several wastewater courses.

Please let me know about these matters as they will mean a great deal to me and my fellow coworkers. Thank you for your time and attention to this matter.

Regards,

Bryan J. Davis
(909) 815-5016
bryandavis45@yahoo.com

RECEIVED
6-15-12
SWRCB Clerk

Hi Debra

In reading the Initial Statement of Reasons, I noticed that the definition of a wastewater treatment plant (below) excludes Onsite Wastewater Treatment Systems (OWTS). This appears to also exclude Package Treatment Plants that our office regularly permits and requires a Grade 2 or 3 level WWTO. In the final draft of the OWTS regs: http://www.waterboards.ca.gov/water_issues/programs/owts/docs/proposed_owtspolicy2012.pdf
Section 2.6 The following owners of OWTS shall notify the Regional Water Board by submitting a Report of Waste Discharge for the following:
2.6.32 any existing OWTS, not currently under individual waste discharge requirements or a waiver of individual waste discharge requirements issued by a Regional Water Board, with the projected flow of over 10,000 gallons-per-day;

We are often faced with privately owned and operated package treatment plants (Francis Ford Coppola for example) ranging from 3500 gpd to 20,000 gpd. Would the Operator Certification Program regs apply to the wastewater treatment plant operators we are currently requiring? And if not, should there be a separate category in either your regs or the OWTS regs?

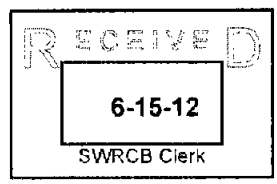
Thank you
James

James A. Johnson, REHS III
Permit and Resource Management Dept
Well and Septic Division
2550 Ventura Ave
Santa Rosa, CA 95403
707/565-1677

"When the well is dry, we learn the worth of water."
-Benjamin Franklin

43. **"Wastewater treatment plant"** – (amended) The existing definition is amended to be
consistent with changes to the Water Code enacted by chapter 422, statutes of 2002, which amended the definition of WWTP in Water Code section 13625.
11
The proposed definition states clearly that a water recycling plant is a type of WWTP. It also states that an onsite sewage treatment system is not a WWTP because there are separate regulatory standards for onsite sewage treatment systems. Additionally, the

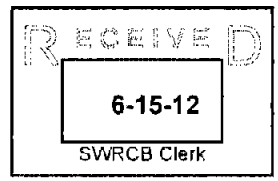
responsibilities involved in installing and maintaining these systems are unrelated to the day-to-day activities of an operator at a WWTP. For these reasons, it is not necessary to regulate people installing and maintaining onsite sewage treatment systems under these regulations.



Hello Debra,

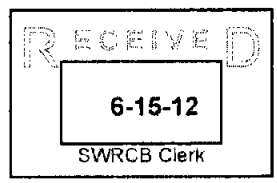
I currently hold a T2 license with the CA Department of Public Health. I read the portion of the proposed changes to Title 23 and was wondering about Section 3670.1. I am not sure if I understand it properly when it says a T2 water license crosses over to a WW2 license. I am currently an OIT and am wondering if this would allow me to obtain my WW2 license sooner than if I were to get my hours on the job. Also when do these changes take place. I appreciate your time.

Thank you,
Matthew Dabner



For my clarification, will this proposed waste treatment operator certification apply to industrial facilities who treat wastewater and dischage to the local POTW? Please advise.

Steve Delmar
Director of Environmental Health & Safety
Concorde Battery Corporation
Tel: (626) 813-1234, Ext: 252
Email: sdelmar@concordebattery.com



Debra
Thanks for sending the new regulations newsletter-I have some questions

1) I received a class B Florida waste water treatment operator certification after submitting my experience in California private waste water treatment plant, taking exam, submitting CEU from sac state water classes-can I receive reciprocity of the certification from Florida to California based on the new regulations?
2) There was an assembly bill 2971 which gave credit for experience in working in private waste water treatment plant-note: the waste water treatment plant I worked at required monthly submittals to SWRCB NPDES permit of sampling result as well as the county department of health-why wouldn't the state recognize the experience and will the new regulations accept the experience?
Henry Lopez

RECEIVED
6-18-12
SWRCB Clerk

Dear OOC,

I have reviewed the proposed regulatory action to amend sections of the water code, specifically section 3670.1 which would allow Certified Water Treatment Plant Operators to operate Water Recycling Facilities. My question is will water recycling plant operators be eligible for certification as prescribed by DPH for water treatment plants?

David Martin
Reclamation System Director
Napa Sanitation Distirct
(707) 258-6000 xt 529
(707) 258-6048 fax

#8

RECEIVED
6-19-12
SWRCB Clerk

Honorable Board Members, Advisory Committee Members and Staff:

The following are my comments regarding the proposed amendments to the California Code of Regulations, title 23, division 3,
chapter 26 (commencing with section 3670) relating to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program).

The new section 3702.2 (b) states in part "...shall send written notice of expiration to the operator." The term "operator" has been changed from the current code which, purposefully, uses the term "certificate holder." The reason why the term "certificate holder" was used was so as not to limit certificate renewals to those who are currently employed in the operation of a treatment plant. For instance, a certificate holder may be in between operator jobs when it is time for renewal. I was the one who commented when the regulations last were revised 12-15 years ago, and the term "certificate holder" replaced "operator" in various sections.

The reasoning still holds. Please do not use the more restrictive term "operator" in section 3702.2 (b). Instead, use the more inclusive term "certificate holder."

Thank you for your consideration.

David Michel,
2561 20th Avenue
Kingsburg, CA 93631
(559) 897-7738
WWTPO V, No. 4160

From: commentletters
To: STaber@buttecounty.net
Date: 6/25/2012 12:50 PM
Subject: Re:

Thank you for your submittal.

NOTE: If your submittal was received prior to the stated comment deadline, it will be considered an official submittal of comments.

If it is received after the deadline period (time and/or date), it will be considered a late comment and will not be part of the record.

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
916-341-5600

>>> "Taber, Stephanie" <STaber@buttecounty.net> 06/25/12 12:49 >>>

Regulations re Wastewater Treatment Plans - RERC The Barbed Wire. Paragraph states to "click here" to see what the regulations are - but the site comes up as non certified and will not bring up the regulations. Is there another way to review them?

Stephanie L. Taber

Exe Asst to Supervisor Larry Wahl

Butte County, District Two

commentletters - Comment Letter - Proposed Operator Certification Regulations

From: "Cockrell, Debra@Waterboards" <DCockrell@waterboards.ca.gov>
To: "commentletters@waterboards.ca.gov" <commentletters@waterboards.ca.gov>
Date: 6/28/2012 1:43 PM
Subject: Comment Letter - Proposed Operator Certification Regulations

Debra Cockrell
Office of Operator Certification
State Water Resources Control Board
1001 I Street

Sacramento, CA 95814
(916) 341-5648 -- Fax (916) 341-5734
DCockrell@waterboards.ca.gov

From: Cash, Greg@Waterboards
Sent: Thursday, June 28, 2012 12:53 PM
To: Cockrell, Debra@Waterboards
Subject: Question about new proposed regs - for Operators

Hi Debra, I was looking at the proposed regs, and can you tell me if my assessment is correct:

On page 8 of the proposed regs, it lists the definition of Wastewater treatment plant" as :

"The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290
of the Water Code."

However, Section 13290 of the Water Code is as follows:

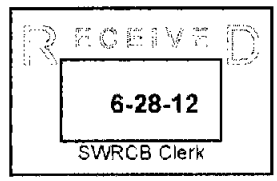
13290. For the purposes of this chapter:
(a) "Local agency" means any of the following entities:
(1) A city, county, or city and county.
(2) A special district formed pursuant to general law or special act for the local performance of functions regarding onsite sewage treatment systems within limited boundaries.
(b) "Onsite sewage treatment systems" includes individual disposal systems, community collection and disposal systems, and alternative collection and disposal systems that use subsurface disposal.

So if a regulated site has subsurface disposal system, it does not require operation by a certified operator? Is this correct?

Thanks,
Greg

Gregory D. Cash, P.G.
Senior Engineering Geologist
Chief, South Regulatory Unit

California Regional Water Quality Control Board
Central Valley Region - Redding Office
364 Knollcrest Drive, Suite 200
Redding, CA 96002
front desk: (530) 224-4845
direct: (530) 224-3208
fax : (530) 224-4857
email : gdcash@waterboards.ca.gov
web: http://www.waterboards.ca.gov/centralvalley/
****
Our mission is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.
****



Regarding the proposed regulations: I have concerns about the Lone Operator Provision.

As contract operators, our niche is small treatment plants. Typically these are in a geographical clusters which we service with a "circuit staff" working alone. The circuit staff includes operators, technicians, engineers. In most cases a person works alone from a service vehicle, but under the direction of a Chief Plant Operator (CPO) The circuit operators are constantly under direction of the CPO and the CPO is available to come on-site, answer questions or resolve situations. Other circuit staff are also available to assist someone as necessary. All process control decisions are made by the CPO and in most cases the CPO has remote access to the facilities' SCADA systems..

Currently many of these plants are private, but will fall under the proposed regulations. We support including private owned plants with municipal owned plants.

My concern is that the proposed regulations seem to prohibit an OIT from being assigned as a circuit operator, due to the fact they would be alone. Also SCADA technology seems to be overlooked. We have no plants where there are multiple staff on-site routinely. How does an OIT get experience is they can't work alone, under supervision. In fact, how close does a fellow operator have to be to oversee the OIT? 5 feet, 20 feet, across the plant, or available within say and hour or two?

Another area of concern is that the trend in smaller treatment plants is automation and SCADA monitored and controlled systems, including video surveillance. Many actual process control functions are now performed over the Internet through SCADA systems. Actual on-site work is becoming more of a maintenance functions to mix chemicals, visually inspect the facilities, take samples and do service maintenance work. The actual on-site time may only be a few hours per week, although the facilities are constantly monitored by SCADA with operators in contact with the facilities and on-call 24/7 via smart phones and laptops. How does this fit into the proposed regulations and earned time?

I hope these regulations are carefully reviewed and unintended consequences are minimized.

Thank you,

PHILLIPS & ASSOCIATES
Management & Technical Resources

Gary W. Phillips, MBA
Principal
Environmental Systems Engineer
Office: 707 254-1931 Mobile: 707 372-1941
www.PhillipsWaterServices.com

#12

RECEIVED
7-3-12
SWRCB Clerk

Dear Office of Operator Certification:

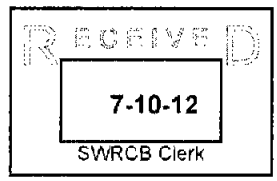
I read the proposed regulations posted on the Operator Certification Program website. Would you clarify the meaning of §2670.1? If I understand correctly, a water recycling plant is considered a wastewater treatment plant, and a water recycling plant can be operated by someone holding a water treatment certification of the appropriate level. Does experience gained at a water recycling plant while holding a water treatment license count toward water treatment certification, wastewater treatment certification, or both? It seems recycled water will increasingly be a part of the public drinking water supply, and I was wondering if the above section reflected that eventuality.

Sincerely,

Scott Biocic

Scott Biocic
O&M Technician, OIT
Veolia Water North America
18800 Christopher Way, Lathrop, CA 95330
Tel: 209-858-1645, Fax: 209-858-1613
Cellular: 925-518-1544
E-mail: scott.biocic@veoliawaterna.com

#13



Please accept my comments on the proposed changes to Chapter 26 Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration:

The proposed application, examination, and renewal fees are **too high**. It is **absurd to consider increases up to 80% right now** at a time when every municipality and individual are hard pressed to find additional funds. Municipal employees have taken pay cuts, departments have slashed budgets, cities are going bankrupt! Certified operators looking for work or others wanting to enter the wastewater field, will find it especially difficult to pay the hiked fees. **The proposed fee increases will prove terribly burdensome to municipalities, districts, and individuals alike**. Sewer service customers would come unglued to see their rates increase 80% overnight. Every municipality, sewer district, and operator in California should be equally upset with the proposed operator fee increases. Please postpone the fee increases at this time.

Kent Perkes
Engineering Technician
USBR MPCO
phone: (530) 934-1339

Zuccala, Debbie@Waterboards

From: Lyndy Lewis <lewisl@emwd.org>
Sent: Tuesday, July 17, 2012 3:14 PM
To: Zuccala, Debbie@Waterboards
Subject: FW: Proposed Amendments to CCR, Title 23, Division 3, Chapter 26

Hello Ms. Zuccala,

Please see my email below. Thank you!!

Sincerely,

Lyndy Lewis
Sr. Environmental Compliance Analyst
Eastern Municipal Water District
Office: (951) 928-3777 ext. 4318

From: Lewis, Lyndy
Sent: Tuesday, July 17, 2012 3:12 PM
To: 'dcockrell@waterboards.ca.gov'
Subject: Proposed Amendments to CCR, Title 23, Division 3, Chapter 26

Hello Ms. Cockrell,

I wanted to inquire whether the public hearing set for Tuesday, August 7, 2012 regarding the proposed amendments to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program was an informative public hearing only, or whether the State Board may potentially take action (i.e. approve) on the proposed amendments. Thank you!

Sincerely,

Lyndy Lewis
Sr. Environmental Compliance Analyst
Eastern Municipal Water District
2270 Trumble Road
Perris, CA 92572-8300
Office: (951) 928-3777 ext. 4318
Fax: (951) 928-6152
Email: lewisl@emwd.org

#15

Wilkinson, Wes@Waterboards

From: Cockrell, Debra@Waterboards
Sent: Thursday, July 26, 2012 1:58 PM
To: Wilkinson, Wes@Waterboards
Subject: Andy Heckman

With regards to the proposed changes to the regulatory measures set forth in Title 23. Waters, I suggest the following:

-Sec.3685 (c) Proposed changes eliminate the ability to exchange education points for experience. The previous regulation should NOT be eliminated because the pursuance of higher levels of education not only verifies a growth in knowledge, but shows the ability and desire to move upward in the organization. By allowing less motivated individuals the same opportunity of advancement is a poor decision.

-Sec. 3687 Each separate "path" outlined in the Operator Certification Requirement Table should all include educational POINT requirements, instead of listing only the semester unit requirements (this should apply to ALL grade levels). As the proposed regulations read, the only applicability of education points is if one only has a high school diploma. These point should apply to and be clarified in the table to higher education levels.

Debra Cockrell
Office of Operator Certification

State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
(916) 341-5648 -- Fax (916) 341-5734
DCockrell@waterboards.ca.gov

16

RECEIVED
7-26-12
SWRCB Clerk

With regards to the proposed changes to the regulatory measures set forth in Title 23. Waters, I suggest the following:

-Sec.3685 (c) Proposed changes eliminate the ability to exchange education points for experience. The previous regulation should NOT be eliminated because the pursuance of higher levels of education not only verifies a growth in knowledge, but shows the ability and desire to move upward in the organization. By allowing less motivated individuals the same opportunity of advancement is a poor decision.

-Sec. 3687 Each separate "path" outlined in the Operator Certification Requirement Table should all include educational POINT requirements, instead of listing only the semester unit requirements (this should apply to ALL grade levels). As the proposed regulations read, the only applicability of education points is if one only has a high school diploma. These point should apply to and be clarified in the table to higher education levels.

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

California
Water
Environment
Association
7677 Oakport Street, Suite 600,
Oakland, CA 94621-1935

RECEIVED
7-26-12
SWRCB Clerk

Via Electronic Mail

July 26, 2012

Charles R. Hoppin, Chair, and Members
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

ATTN: Jeanine Townsend, commentletters@waterboards.ca.gov

SUBJECT: Comment Letter – Proposed Operator Certification Regulations

Dear Chairman Hoppin and Members of the Board:

Thank you for the opportunity to provide input to the Office of Operator Certification (OOC) as it develops amendments to the Operator Certification Regulations.

The California Water Environment Association (CWEA) supports the purpose of the Wastewater Treatment Plant Operator regulations to:

> "protect public health and the environment by providing for the effective operation of wastewater and water recycling treatment plants through the certification of wastewater treatment plant operators."

CWEA is in a unique position to provide feedback: CWEA is the organization that founded the Operator Certification Program. CWEA has been a certifying body for the water environment field for the past 75 years. And, CWEA nominates two members of the State Water Board's Operator Certification Advisory Committee.

INTRODUCTION

CWEA is a tax-exempt California nonprofit corporation, with over 9,200 members. Our mission is to enhance the education and effectiveness of California wastewater professionals through training, certification, dissemination of technical information, and promotion of sound policies to benefit society through protection and enhancement of the water environment. CWEA is an active Member Association of the Water Environment Federation (WEF).

California has built a strong certification program over the last 75 years. Formed in the 1920s, CWEA initiated Operator Certification in 1937, administering the program until turning it over to the State in the 1970s when the Clean Water Act was being implemented. The Office of Operator Certification has since managed the program, including plant classification, examinations, and enforcement.

CWEA continues to offer validated, competency-based Certification for six wastewater professions, including Collection Systems Maintenance, Wastewater Treatment Plant Maintenance (both Mechanical and Electrical), Laboratory Analysis, Biosolids Land Management, Environmental Compliance Inspection, and Industrial Treatment Plant Operations. While CWEA's Certification Program is voluntary, many employers require it as a condition of employment or for promotion. Currently, there are close to 6,000 valid Certificates issued by CWEA, which are held by more than 5,000 individuals. CWEA manages about 1,600 certification candidates each year.

RELATIONSHIPS

Organizational relationships are important to CWEA. We seek to serve as a resource to our partners for training, technical information, and promotion of sound regulatory policy throughout California and the nation.

CWEA appreciates the deepening of our relationship with Doug Wilson, Christine Gordon, Wes Wilkinson, and the Office of Operator Certification (OOC) over the past year. Our members benefit greatly from the ongoing interaction with OOC staff at training conferences. We believe CWEA can add value to the OOC by sharing our experiences with technical certification. By growing in our cooperative efforts, both organizations will benefit as we uphold our closely aligned missions to protect the public health and environment by demonstrating competency through certification.

Recent collaborative efforts are:

1. The OOC has contracted with CWEA to provide testing venues and proctor exams for Plant Operators twice each year since at least 1999.
2. CWEA entered into a Memorandum of Understanding with the State in June 2006 to provide training to collections system personnel on the Sanitary Sewer System Waste Discharge Requirements (SSS WDR).
3. The SWRCB staff routinely attend CWEA conferences and add value by participating in forums that help educate the regulated community to achieve the desired result, namely, compliance.

CWEA is an active Member Association of the Water Environment Federation (WEF), with representation on several Operator-related initiatives at the national level:

1. WEF Operations & Maintenance Committee: CWEA Member, and Past President, is the Chairperson
2. WEF House of Delegates Operator Outreach: CWEA Board Member is a Co-Chair
3. WEF Wastewater Operator Apprenticeship: CWEA Member, and Past Board Member, is active participant, working with Department of Labor to develop a nationally recognized program.

CWEA is also a member of the Summit Partners (five state and regional water environment associations in California) and participates in regular discussions related to the training needs of various groups, including Plant Operators.

These relationships enable CWEA, with unique perspective, to better serve Plant Operators, members, and partners within California.

OPERATOR EXAMINATION

Moving forward, CWEA is keenly interested in exploring how it can help the State enhance the examination and certification of Operators, so that the OOC remains effective in helping Plant Operators achieve permit compliance and in protecting public health in an increasingly complex environment.

CWEA uses Computer-Based-Testing (CBT) to allow examination takers to select the most convenient testing location and time--including evenings and Saturdays. CWEA certification exams are given at professional test centers throughout the State. The test centers provide a carefully controlled and comfortable testing environment, allowing candidates to take the test under peak performance conditions while maintaining strict test security. CBT allows for more efficient scoring and tracking of test performance metrics. It also minimizes scoring errors and provides quicker results to individuals, which in turn, helps Agencies assign staff more effectively.

If the State decides to update the examination and testing process, the California Water Environment Association is well-equipped to assume a greater role with Operators. For example, CWEA routinely performs a job/task analysis for each certificate it offers. CWEA stands ready to discuss this work with the State in order to update the exam content, which reflects the Knowledge, Skills, and Abilities (KSAs) required for Operators. These updated KSAs can then be used to update the test questions for the various skill levels being tested. CWEA has the experience, including expert volunteer power, to offer assistance in this area as well.

EDUCATION

CWEA supports the advancement of minimum education requirements to ensure the public's confidence in the Operator Certification Program. We support the proposed requirement that Grade I Operators have a High School Diploma or GED equivalent.

We believe there is value in the State establishing a requirement for Continuing Education (CE) to ensure Operators stay current with evolving technologies and best practices. The purpose of a CE requirement is to ensure that Certified Operators remain knowledgeable of regulatory requirements, technology, and practices required in the ever-changing, and increasingly complex, field of wastewater treatment. Many states require CE for their Wastewater Treatment Plant Operators to remain certified; California does not; an unusual position for a State committed to leading in environmental protection. Ongoing education enhances the operation, maintenance, and management skills of the certificate-holders, thereby positively influencing the quality of wastewater reaching receiving waters.

Both CWEA and the California Department of Public Health (CDPH) require CE prior to the renewal of certificates. A CE program does not have to be burdensome or labor intensive to be effective. Many Operators are in a continuous training mode already, and for the Operators who are not, a CE requirement will ensure their skills are kept current during each renewal cycle. There is a wide variety of training options for CE, and it doesn't have to be burdensome on the agency or the individual. The training could come from free sources, in-plant sources, correspondence courses, vendor sources, etc.

CWEA believes CE is long overdue for wastewater Operators. Treatment technologies are changing, water reuse and energy recovery are topics of emerging concern in California, and the regulatory environment is rigorous. Continuing education assists Agencies in maintaining a workforce that is more adept at incorporating change and improving effectiveness of operations. Not requiring CE would likely have a greater cost...to agencies and to the environment.

A one-page summary of CWEA CE Information is attached for reference. The CDPH (potable water certification) has a few definitions in place that could be adapted for a CE requirement for Wastewater Operators as well:

> **Section 63750.35. Contact Hour.** "Contact hour" means not less than 50 minutes of specialized training or a continuing education course.
> **Section 63750.40. Continuing Education Course.** "Continuing education course" means a presentation that transmits information related to the operation of a treatment facility and/or distribution system.

The CDPH has some simple regulatory language that states its requirement:

> **(Section 63840)** To be eligible for certificate renewal, certified operators possessing certificates that expire after December 31, 2003, shall have completed continuing education contact hours since the previous renewal or issuance of the certificate pursuant to Table 63840-A. No more than 25% of the contact hours shall be courses in operator safety.

Table 63840-A. Required Continuing Education Contact Hours for Certificate Renewal

Water Treatment Operators	Contact Hours Required
Grade T1	12
Grade T2	16
Grade T3	24
Grade T4	36
Grade T5	36

CWEA has developed over 20 Study Guides to assist wastewater personnel in seven (7) wastewater vocations, including Operator, with certification preparation. Study guides are a

member benefit. CWEA is also experienced with hosting and conducting Study Sessions throughout the State.

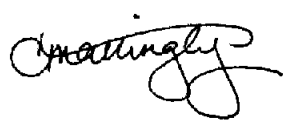
CLOSING

CWEA is supportive of the State's efforts to update the Operator Regulations. Much discussion and collaboration occurred with the various stakeholders over many years and we understand the herculean effort required by Staff to make it happen.

We appreciate our ongoing relationship with the Office of Operator Certification and believe Operators are best served with a continued collaboration between our two organizations for training and certification. CWEA's experience with 9,200 members, 5,000 certificate-holders, and 1,600 annual certification candidates, provides us a unique perspective to assist the State in maintaining service to our Operators so that they can continue to protect the public and our environment.

Thank you for the opportunity to offer feedback and we look forward to continued collaboration. If you have any questions regarding our input, please contact me at cmatting@slocity.org or (805) 781-7215.

Sincerely,



Carrie Mattingly
President
California Water Environment Association
Grade 4 Certificate Holder CWEA Technical Certification Program,
Collection Systems Maintenance and Environmental Compliance Inspector

C: Doug Wilson; Christine Gordon

Certification

Info Page

Re-certification and Continuing Education

Certificate holders are required to participate in at least 12 hours of continuing education or training every two years. (Also known as contact hours.)

Continuing Education helps to ensure that you continue to be knowledgeable of technological advancements and regulatory requirements in the wastewater fields. Continuing education enhances the operation, maintenance and management skills of the certificate holders, and ensures the quality of wastewater treatment. This ultimately increases the value of your certificate and the professionalism of the wastewater vocations.

All contact hours need to be earned in the two year period just before the "Contact Hours Due Date" .

How To Earn Contact Hours

Contact hours can be earned 4 ways:

1. **Participating in a CWEA vocation related training or education program**

   Examples:

   - On-the-job training
   - Technical conferences, workshops and college courses
   - Self-study and distance learning courses

   1 (one) contact hour is earned for each 50 minutes of participation in a CWEA pre-approved training program. (Pre-approval not required)

2. **Conduct a CWEA pre-approved training or education program**

   Examples:

   - Training others
   - Teaching technical courses
   - Writing technical articles or books
   - Giving technical presentations

   2 (two) contact hours are earned for each 50 minutes of training or teaching.

3. **In-house Training can be approved for the contact hour requirement. The training must be relevant to the vocations certified by CWEA.**

   1 (one) contact hour is earned for each 50 minutes of participation in a CWEA pre-approved training program. (Pre-approval not required)

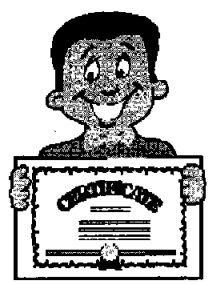
4. **Membership in a professional society**

   Examples:

   - WEF or any WEF Member Association
   - American Public Works Association
   - American Society of Civil Engineers
   - American Water Works Association

   1 (one) contact hour given for each organization membership held during the two year renewal period for a maximum of 6 (six) contact hours.

Certificates of Completion



Once training is completed, trainers will need to issue certificates of completion. Trainees need to submit copies of the certificates to CWEA along with their renewal payment when their *contact hours* are due (every two years). Certificates of completion that are received at any other time, or without payment of renewal fees, will be rejected.

Certificates of completion can be in any form, but they must include the following information:

- Name of the training organization
- Program title or brief description of vocations addressed
- Name of the attendee who completed the program
- Number of Contact Hours earned
- Date of completion with signature or stamp

Continuing Education Checklist

- ✓ Check your *Contact Hour Due Date* on the right section of your Certificate #. This is the date your contact hours are due.
- ✓ Attend at least 12 hours of pre-approved training or educational training during the two years before your *Contact Hour Due Date*.
- ✓ Send in copies of your continuing education with your certificate renewal fee by your *Contact Hour Due Date*.
- ✓ You may apply your CH to more than one certificate as long as the training program focuses on some of the Essential Duties of each vocation.

California Water Environment Association
7677 Oakport St., #600, Oakland, CA 94621
Phone: 510-382-7800 Fax: 510-382-7810 Email: tcp@cwea.org
Website: www.cwea.org/cert_certholders_recertrenew.shtml

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7-27-12
SWRCB Clerk

To,

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board

Ms. Townsend,

Veolia water has reviewed the proposed amendment to Title 23, Division 6 Chapter 26 Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration. We recognize that there has been a lot of work that has been put in to gather comments, review and finalize this amendment.

In general Veolia Water is very pleased to see the proposed changes in this amendment that should allow more flexibility for the owners to utilize their staffing such as changing the definition of a "shift-supervisor" to "operator-in-charge" , addition of lone operator provision, etc.

As contract operators we face similar staffing challenges as other agencies or municipality with an aging work force that will soon retire. We hope to see some change in the regulations in the future that will allow grade level reciprocity across the board with other states, such as Grade 1 for 1, grade 2 for 2, Grade 3 for 3 and so on.

We greatly appreciate the efforts of the State Board in addressing a lot of issues in this amendment. We are willing to assist you in any way we can that would mutually benefit the state, our company and our clients. Please free to contact me if you have any questions.

Sachin

Sachin Chawla
District Manager –Southern California
Veolia Water West Operating Services Inc.
Cell: (310) 863-4749
Fax: (310) 921-5348

#18

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7-29-12
SWRCB Clerk

The new fees shown starting on page 62 of the proposed regulations are outrageous! 80% to 100% increases! Really? In a time when city's are going bankrupt, budgets are stretched past their limits, operators are furloughed, and high grade certified operators are hard to find? The additional burden of the overreaching fee structure will prove problematic for many municipalities, districts, and individual operators. You must reconsider such an untimely and dramatic increase in fees. The fees should not be increased at this time.

As well, I see that CWEA is presenting a sales pitch for the State to consider adding Continuing Education requirements to WWTP operator certification. This serves CWEA well as they would increase their own training classes and plant themselves securely as a nonregulated entity having certain control over certification renewal. Again, additional burdens toward certification and renewal does not serve the communities well. It will be difficult to fund the required training, and provide additional staff while operators are training up to 40 hours/year. CWEA is dead wrong when thay claim that a CEU program would not be an additional burden to operators and budgets. A continuing education requirement for certification renewal should not be considered at this time.

Kent Perkes
WWTP Operator IV-9940

Via Electronic Mail

July 31, 2012

RECEIVED
7-30-12
SWRCB Clerk

Charles R. Hoppin, Chair, and Members
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

ATTN: Jeanine Townsend, commentletters@waterboards.ca.gov

SUBJECT: Comment Letter: PROPOSED OPERATOR CERTIFICATION REGULATIONS

Dear Chairman Hoppin and Members of the Board:

My name is **Hugh Logan** and I appreciate the opportunity to submit comments concerning the Operator Certification Regulations. While I have several areas of concern, I am pleased with the overall package and know first-hand the effort of OOC Staff to facilitate collaboration with a host of stakeholders over the past several years. This effort is noteworthy and has helped unify the wastewater community around our common purpose of advancing the protection of public health.

I am a Grade V Wastewater Treatment Plant Operator (V-8277) and a T2 Water Treatment Operator (33406), am registered as a Wastewater Contract Operator (CO-0167), and am a certified Project Management Professional (PMP 1509548). I have 21 years of experience in the operation, maintenance, management, and project management of wastewater and recycled water treatment facilities. My technical roles have included field Operator, Shift Supervisor, and Supervisor. My management roles have included Operations Supervisor, Assistant Plant Manager, and Capital Improvement Program Manager at a Class V treatment plant.

I am a representative on the SWRCB Office of Operator Certification Advisory Committee since 2002, nominated from the California Water Environment Association. As a member of the Advisory Committee, I have participated with ad-hoc groups for Title 23 Regulations Update, Certification Exam Review, and Exam Validation.

Currently, I serve on the Board of Directors for the California Water Environment Association. I also serve on the Water Environment Federation House of Delegates and am co-chair of Operator Outreach subgroup, working to improve the training of Operators nationwide. I am a credentialed instructor for wastewater operations with the Tri-Valley Regional Occupational Program (ROP) and have provided numerous presentations concerning Title 23 Regulations and Operator Ethics to wastewater professionals throughout the state.

INTRODUCTION

California has an excellent track record in the safe and effective operations of wastewater treatment plants. The existing certification program has produced competent Operators to implement requirements of the Clean Water Act and has helped ensure continued permit compliance as many new initiatives were implemented since.

Certification is based on three pillars: Experience, Education, and Examination. Each of these pillars is necessary to ensure the minimum competency of Operators throughout the state as they operate complex treatment systems. Maintaining the certification standard ensures that all

Operators possess the knowledge, skills, and abilities necessary to protect the public health and the environment and ensure the public's confidence.

We have worked hard over the years to develop a strong certification program that enjoys the public confidence. Now is not the time for the SWRCB to relax standards for certifying Operators. Rather, it's time to improve the program by enhancing the minimum requirements. With ever-increasing water quality demands, and as the need for wastewater infrastructure investment reaches to the billions of dollars, Operators are on the front line of protecting these critical assets and in utilizing the assets in a cost-effective manner. It is important that changes to the Certification Program do not have unintended consequences that reduce the public's confidence that took years to establish.

I will address five (5) particular areas of the proposed regulations: Experience Requirement, Education Requirement, Examination Requirement, Fees Required for Operators/Contract Operators, and Enforcement. Recommendations for changes are listed at the end of each area.

EXPERIENCE REQUIREMENT

The OOC should maintain the minimum standard of competency demonstrated through actual hands-on experience in plant operations. I agree with the proposed regulations to maintain the minimum requirement for 1 year of hands-on experience at a wastewater plant, regardless of education, while certified with the OOC. While the State is allowing increased participation in the Certification program from individuals with somewhat related experiences, there simply is no substitute for real world experience at a wastewater treatment plant to become an effective Operator.

The skill that an existing Operator has gained was earned while under the obligation to comply with the agency's permit and the SWRCB OOC regulations. This is not theoretical operation, but very practical experience that an existing Operator demonstrates *while performing the job* to achieve permit compliance in the real world. This methodology has worked well for decades and the State is well served by it.

When we speak of gaining initial Operator experience, most folks in the wastewater community understand this to be physical performance of day-to-day activities of monitoring and control at an actual treatment plant. Even with today's technology and remote operations made possible through automation, Operators must be experienced to operate the plant when automatic systems are out of service. It is not a book exercise. It takes time in the field to become expert in a wastewater facility and learn the ropes. While advanced education is laudable and helps shave some of the learning curve, there simply is no shortcut around the need for hands-on training, under real world conditions at a functioning wastewater treatment plant.

A typical way for a new person to enter the Operator trade follows like this: A new person is recruited based on an agency's specific requirements and standards; an OIT certificate is issued, meaning a Chief Plant Operator has assumed responsibility for the training and supervision of the individual; the OIT learns the plant process from a journey-level Operator over the course of a year or so; the OIT applies for wastewater education courses and examination; after 1 year, the individual is eligible to become certified as a Grade 1 Operator. The newly certified Operator then gains more experience in real world conditions, is able to progress to Grade II and

Grade III and is considered journey-level. Advanced certification to Grade IV and V are earned with combination of further education and deepening experiences and examinations. At this point, Operators are in position of leadership, training coordination, project development, and management and can continue the program.

While there are other pathways that can work, the path I described above works every time it is tried. It's a proven method to achieve the desired result.

Suggested Changes to Proposed Regulations:

1. Section 3684 (a) (2) (A and B): Remove/Strike experience credit for Lab Procedures or Safety Procedures. This experience is nice, but is not an equivalent experience for purpose of the certification program.
2. Section 3684 (c): Individuals at private plants should be currently employed and have at least one year of experience in order to qualify for 1 year of equivalent experience with SWRCB. Otherwise, unscrupulous individuals may employ several folks for only 1 day before the regulations are in force, and then be granted full access to the Op Certification. Depending on their education levels, they could theoretically qualify for Grade V certification. This would violate the spirit of the regulation change.

EDUCATION REQUIREMENT

I support the advancement of minimum education requirements and the proposed requirement that Grade I Operators have a High School Diploma or GED equivalent.

I believe there is value in the State establishing a requirement for Continuing Education (CE) to ensure existing Operators stay current with evolving technologies and best practices. The purpose of a CE requirement is to ensure that Certified Operators remain knowledgeable of regulatory requirements, technology, and practices required in the ever-changing, and increasingly complex, field of wastewater treatment. Many states require CE for their Wastewater Treatment Plant Operators to remain certified; California does not; an unusual position for a State committed to environmental protection. Ongoing education enhances the operation, maintenance, and management skills of the certificate-holders, thereby positively influencing the quality of wastewater treatment.

Both CWEA and the California Department of Public Health (CDPH) require CE prior to the renewal of their certificates. A CE program does not have to be burdensome or labor intensive to be effective. Many Operators are in a continuous training mode already, and for the Operators who are not, a CE requirement will ensure their skills are kept current during each renewal cycle. There is a wide variety of training options for CE, and the training could come from free sources, in-plant sources, correspondence courses, vendor sources, etc.

I believe that CE is long overdue for wastewater Operators. Treatment technologies are changing, water reuse and energy recovery are topics of emerging concern in California, and the regulatory environment is rigorous. Continuing education assists Agencies in maintaining a workforce that is more adept at incorporating change and improving effectiveness of operations. Additionally, a CE requirement helps the State ensure there is a ready source of trained

Operators to step into the Grade III, IV, and V positions if the pending retirement bubble materializes.

The CDPH (potable water certification) has a few definitions in place that could be adapted for a CE requirement for Wastewater Operators as well:

> **Section 63750.35. Contact Hour.** "Contact hour" means not less than 50 minutes of specialized training or a continuing education course.
> **Section 63750.40. Continuing Education Course.** "Continuing education course" means a presentation that transmits information related to the operation of a treatment facility and/or distribution system.

The CDPH has some simple regulatory language that states its requirement:

> **(Section 63840)** To be eligible for certificate renewal, certified operators possessing certificates that expire after December 31, 2003, shall have completed continuing education contact hours since the previous renewal or issuance of the certificate pursuant to Table 63840-A. No more than 25% of the contact hours shall be courses in operator safety.

Table 63840-A. Required Continuing Education Contact Hours for Certificate Renewal

Water Treatment Operators	Contact Hours Required
Grade T1	12
Grade T2	16
Grade T3	24
Grade T4	36
Grade T5	36

While the CDPH requires up to 36 hours of contact hours for renewal, that renewal cycle is based on 3 years. The SWRCB standard should be 12 contact hours each year.
Suggested Changes to Proposed Regulations:

1. Section 3702: Certificate Renewal: Add CE Requirement that is consistent with CDPH language. Use the CDPH or CWEA guidelines in order to be consistent with folks holding dual certification.

EXAMINATION REQUIREMENT

California has built a strong certification program over the last 75 years, dating back to the inception by the California Water Environment Association in 1937 and thru the State's leadership after the Clean Water Act in the early 1970's. Improvements are needed, but this principle remains the same: The examination process is meant to ensure a consistent competency is met by all Operators of the same Grade based on the same body of knowledge. This principle is critical to ensure a well-balanced certification program.

While the Office of Operator Certification has existing discretion in accepting Experience and Education qualifications from other certifying bodies, along with Examination for Grade I and II, the Examination for Grade III, IV, and V is unique to California in that it reflects the regulatory

requirements and heightened environmental protection expectations by our public that is not necessarily shared by all other certifying bodies. In order to ensure integrity of the certification, the waiver of examination for Grade III, IV, and V allowed in Section 3689 should be based upon a true comparison of examinations with other certifying bodies. California utilizes long-form math and essay questions for these higher grades to test real-world situations. The Operators on the Advisory Committee agreed with this methodology when asked by the OOC. I urge the state to reject the proposal to allow a waiver of the examination for Grade III, IV, and V, unless an individual has taken a similar exam in the past four (4) years.

There are several needs to improve the Examination process: Faster grading, computerized testing, and validation of exam questions

For Grade I and II exams, Computer-Based-Testing (CBT) should be utilized. CWEA uses CBT to allow examination takers to select the most convenient testing location and time--including evenings and Saturdays. CWEA certification exams are given at professional test centers throughout the State. The test centers provide a carefully controlled and comfortable testing environment, allowing candidates to take the test under peak performance conditions while maintaining strict test security. CBT allows for more efficient scoring and tracking of test performance metrics. It also minimizes scoring errors and provides quicker results to individuals, which in turn, helps Agencies assign staff more effectively. While there is an upfront cost to setup the CBT process, the ongoing benefits will be helpful to the State and to Operators that are advancing in their career.

If the State decides to update the examination and testing process for Grade I and II, the California Water Environment Association is well-equipped to assume a greater role with Operators. For example, CWEA routinely performs a job/task analysis for each certificate it offers. A job/task analysis for each grade of Operator is appropriate at this time and will serve as a basis to update the common set of Knowledge/ Skills/Abilities (KSAs) for each grade of Operator. Afterward, the existing repository of test questions should be validated to represent the newly revised KSA's. While this is not an easy task, there are resources available to assist, either through the Advisory Committee or through CWEA, to help in this area. The fees that are being paid by Operators should be utilized to cover a complete revalidation process. These updated KSAs can then be used to update the test questions for the various skill levels being tested. CWEA has the experience to offer assistance.

If using CBT, the Grade I and II should receive test results in near real-time. In the interest of improving service, the maximum turnaround time for the State OOC to provide "pass/fail" information to Grade III, IV, and V test takers should be reduced from 90 days to 45 days so that agencies and operators can more quickly adapt to changing staffing levels after retirements or organizational changes.

Suggested Changes to Proposed Regulations:

1. Article 7: Section 3701.2: Reduce grading time from 90 days to 45 days
2. Article 7: Section 3689: Waiver of examination for Grade III, IV, and V should not be allowed unless an exam of similar content (see same section, (a) (3)) was passed in the past 4 years (similar to Section 3701.2 (c)).

FEES FOR APPLICATION, CERTIFICATION and RENEWAL FOR OPERATORS AND CONTRACT OPERATORS

The State Water Board is proposing an increase of nearly 80% to Operators and 350% for contract operators. This increase is a significant burden, at a time when municipalities and individuals are hard pressed to find additional funds. Additionally, the higher fees can deter new people from entering the wastewater field. While Operators understand the program should be self-funded, I believe the fee increase is too sudden and drastic. The State should consider a gradual increase of fees over several years to allow Operators, Contract Operators, and agencies to adjust their budgets accordingly.

Operators also need to know that the fees are kept within the OOC to serve the Certification Program, and not diverted by transferring staff to other programs within the SWRCB. Transparency and accountability is important to demonstrate the fees are used for the OOC purpose. Better measurement of costs will allow the State to seek cost-saving ideas and the Advisory Committee is a useful tool for the OOC in this regard.

The OOC administers a series of three (3) fees paid by the Operator for certification: Application, Examination, and Renewal every 2 years.

It makes sense that examination fees will vary for the different grades, based on the amount of time to prepare and grade the exams. However, Grade 1 and 2 exams are similar in nature and should be priced the same. Similarly, Grade 3, 4, and 5 exams should also be priced the same. This will simplify the budgeting process for agencies.

The same holds true for application fees. I believe Grade 1 and 2 application fees should be the same and the application fees for Grade 3, 4, and 5 should be the same.

The renewal fees should be the same for all grade levels and reduced to cover the cost only. Certificate renewals do not vary significantly based on the grade level. Based on the current services provided, administering a renewal of an existing certificate is very simple and not time-consuming. I believe all renewal fees should be the same, no more than $100, based on the level of service provided. NOTE: if Continuing Education (CE) is implemented, a higher fee above $100 may be justified for Renewals so that Staff can perform review and random audits of the applications.

If the State is open to reducing costs, then a tri-annual renewal period would be more efficient and still provide regulatory oversight necessary to ensure compliance.

The registration fee for contract operators is increasing 350%. This fee requires annual renewal, as opposed to biannual renewal for operators. These fees are passed on to the individual wastewater treatment plants that rely on contract operators, often due to the economic hardship of hiring full-time operators. The proposed change represents a sizeable burden. I believe the renewal fee of $350/year plus $75/employee is unwarranted. The registration fee should be consistent with the fees imposed on a Grade V Operator in Article 10.

The Contract Operator should have a biannual renewal instead of annual requirement which is burdensome and not justified.

Lastly, the date of effective certification is important to the Operator. The effective date should remain the date that the Operator meets the certification requirement, not the date that the OOC gets around to the approval of the certification. This proposed change by the OOC has potential to cost individual Operators significant money in the way of delayed pay raises that are tied to certification by their Agencies or in missed promotional opportunities.

Suggested Changes to Proposed Regulations:

- Article 10: Section 3717: Application Fees for Grade 1 and 2 should be the same at $80. Application Fees for Grade 3, 4, 5 should be the same at $130.
- Article 10: Section 3717: Examination Fees for Grade 1 and 2 should be the same at $80. Examination Fees for Grade 3, 4, 5 should be the same at $250.
- Article 10: Section 3717: Renewal Fees for all Grades 1-5 should be the same at no more than $100 for the stated service of issuing a renewed certificate.
- Article 10: 3702.2. Application for Certificate Renewal: Consider extension of renewal period to 3 years instead of 2 years.
- Article 12: 3719 Wastewater Treatment Plant Contract Operator Registration Fees capped at no more than that of a Grade V Operator in Article 10. The Renewal Fee should be no more than $100, in keeping with our recommendation for Grade V renewals. The Renewal fee for each Operator that works for a Contract Operator should not be more than $50/year.
- Article 12: 3719.1. Term of Contract Operator should be changed to 2 years instead of the proposed 1 year time frame.
- Article 10: Section 3717: Fees for Provisional Operators should be consistent with those of other Operators in Article 10.
- Article 8: exact Section not listed: Effective Date of Certification: keep existing practice that indicates the date the Operator qualified for the certificate and not the date the OOC approves the application.
- Article 8: Section 3702.1(d): consider extending renewal after initial certification from two (2) years to three (3) years to reduce cost and improve efficiency. This suggestion works best for implementing CE requirement as well, to balance the added burden of the renewal process.

ENFORCEMENT

Operators assume a significant responsibility as they obtain certification and operate treatment facilities. As a whole, we are conscientious about our actions and take pride in meeting the strenuous discharge requirements imposed by the Permit. Sometimes, permit compliance is difficult and requires a herculean effort from the Operator as we seek innovative solutions to immediate problems that arise during the day-to-day, 24-7 operation of complex processes. Most times, these actions go under appreciated as just a 'matter of course'. However, Operators understand it's a big deal when a plant responds well to unusual conditions and still meets the permit requirements.

Operators are also taught ethics from the beginning of their career and training. Since wastewater plants are tasked with self-monitoring and self-reporting, the Operator must develop and maintain trust with our public and with the State. This trust is earned over a period of time and Operators take this responsibility serious. The trust is well placed from the Public, as I've seen first-hand, the attention to detail provided by well-trained Operators. It is seen in the writing of SOP's, the training of new Operators, the communication with Plant Management about potential problems, the willingness to be called back to work after a long shift to correct process problems, and the ability to admit when the plant didn't perform as expected during difficult times. All in an effort to maintain permit compliance and demonstrate the highest ethics expected of our profession.

Sometimes, a plant does not perform as expected and a violation of the Permit occurs. All Operators experience this during a career. It is important for Plants and Operators to be accountable for permit compliance, but it is also important for the State to understand the totality of the situation before initiating punitive sanctions. The State has shown appreciation for this in the past, and I encourage the State Office of Enforcement to continue with wise judgment before pursuing enforcement actions against well-meaning Operators. Unless there is a pattern of misconduct or lack of compliance demonstrated over time, the default position should be to reach out and help the Agency and the Operator achieve compliance.

I have read the response from the Summit Partners concerning enforcement. I encourage the State to ensure the enforcement actions are not overly complex and are meant to deter the unethical individuals from bad behavior. Most Operators are well-meaning and are responsive to the needs of their plant, their public, and their wastewater process in order to achieve permit compliance. Punitive enforcement actions should be reserved for unscrupulous individuals, while collaborative efforts should continue to be the normal course of action by the Office of Enforcement. Any new regulations related to Enforcement should be kept simple, non-duplicative, and focused on compliance.

CLOSING

Thank you for your consideration of these ideas and I look forward to discussing further at the Public Hearing on August 7th in Sacramento. Please contact me at hlogan@loganservicescorp.com or (510) 427-5547.

Sincerely,

Hugh Logan, Grade V Wastewater Operator and Advisory Committee Member
CWEA Board Member and WEF Delegate, 2011-2014

Santa Maria
All-America City

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

CITY OF SANTA MARIA
UTILITIES DEPARTMENT
Business Services • Fleet Services
Flood Control • Regulatory Compliance
Solid Waste Services
Water Resources • Wastewater Resources

2065 EAST MAIN STREET • SANTA MARIA, CALIFORNIA 93454-8026 • 805-925-0951, EXT. 7270 • FAX 805-928-7240

July 27, 2012

RECEIVED
7-30-12
SWRCB Clerk

Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

SUBJECT: COMMENT LETTER – PROPOSED OPERATOR CERTIFICATION REGULATIONS

Dear Ms. Townsend:

The City of Santa Maria (City) submits these comments on the Proposed Operator Certification Regulations. The City appreciates the positive clarifications that the State Board has made in the Proposed Regulations. However, additional clarification would enable current and potential Operators to have a better understanding of the process of becoming certified, and to enable wastewater agencies to ensure that their facilities meet the expectations of the State Water Resources Control Board.

The City struggles with Operator certification based on the existing, as well as with the proposed Classification of Wastewater Treatment Plants shown in Article 2. The City operates a secondary trickling filter plant with discharge to percolation ponds. The facility has a design flow of 13.5 MGD but an actual current flow of 8.0 MGD. The facility serves a disadvantaged community of over 100,000 residents in a largely rural setting. The certification regulations classify this plant as a Grade IV facility, namely due to the design flow.

Operators at the City of Santa Maria's treatment facility have no exposure to nutrient removal, activated sludge, tertiary treatment, mechanical sludge drying, pond treatment, or disinfection of any kind, which puts them at a significant disadvantage when attempting to pass the higher level certification exams necessary to meet the certification requirements for this facility. In addition, their experience at this facility would not prepare them to work at more complex facilities, even if they were successful at passing the exams. The City highly recommends that the State revisit the classification of treatment facilities and consider the classification of potable water treatment plants as a reference for classifying wastewater treatment plants by more specific technologies, rather than by generic function and size. In addition, facilities

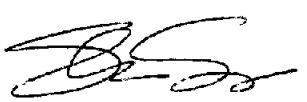
should not be penalized with higher classification for facilities that have been built for future growth when their influent flows have not yet reached the next classification grade.

Treatment facilities in metropolitan areas have the benefit of a large pool of qualified candidates for operations, better funded facilities due to population served, and typically, larger facilities with more opportunity for training programs. Most rural communities have few of these advantages, and find it difficult to pay Operators at the same wages that are available in metropolitan areas. Increased costs resulting from required continuing education units, more certification requirements, or higher fees, will economically impact rural communities more so than metropolitan areas. Consideration of economic impact on disadvantaged communities would be appreciated when applying additional requirements on operator certification.

The City appreciates the opportunity for Operators to substitute educational points for full-time qualifying experience. However, both the Initial Statement of Intent as well as the text of the proposed regulation in Section 3684 (a)(3) are vague and appear to contradict each other as to the intent of the State Board in this regard. Without a clearer explanation as to the intent of the State, it is not possible to provide alternative language that would clarify this requirement.

The City appreciates the opportunity to provide comments and asks that the Board consider them. If you have any questions, please contact me at (805) 925-0951, extension 7416.

Sincerely,



Shannon Sweeney
Water Resources Manager

Pacific Union College
Wastewater Plant
205 Highland Oaks Ave.
Angwin, CA 94508
(707) 965-7141
gaylegrove@sbcglobal.net

RECEIVED
7-30-12
SWRCB Clerk

Jeanine Townsend
Water Boards
Office of Operator Certification
Sacramento, CA

Subject: Comment Letter-Proposed Operator Certification Regulations.

Dear Jeanine Townsend,

Pacific Union College supports the proposed requirements for operator certification for privately owned WWTP's.

Pacific Union College has been successfully operating It's privately owned 0.2 MGD WWTP located in the Northwest Bay Section of the CRWQCB for several decades. The Pacific Union College WWTP is located in Angwin, which is located in the scenic Napa Valley.

Pacific Union College requests that the Water Boards and the OOC be generous awarding qualifying experience credit to existing Pacific Union College plant operators, so that upon successfully passing the exam for the appropriate grade level, experienced plant operators may be fully certified thus forgoing the need for a contract operator to supervise an OIT program. Pacific Union Collage is concerned about the possibility of a shortage of contract operators, and the budgetary impact of hiring a contract operator.

Sincerely,
Gayle Grove

#22

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
Telephone: (562) 699-7411, FAX: (562) 699-5422
www.lacsd.org

GRACE ROBINSON CHAN
Chief Engineer and General Manager

July 30, 2012

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7-30-12
SWRCB Clerk

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Dear Ms. Townsend:

Comments on Amendments to California Code of Regulations, Title 23, Divisions 3, Chapter 26 (commencing with Section 3670) Relating to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program)

The Sanitation Districts of Los Angeles County (Districts) appreciates the opportunity to comment on the proposed amendments to the California Code of Regulations, Title 23, Division 3, Chapter 26 (commencing with Section 3670) relating to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program (Operator Certification Program). By way of background, the Sanitation Districts are a confederation of 23 individual special districts providing wastewater and solid waste management services to approximately 5.7 million people in 78 cities and unincorporated areas of Los Angeles County. The Sanitation Districts' sewerage system consists of 11 wastewater treatment plants, approximately 1,400 miles of sewer, and 52 active pump stations.

We have reviewed the proposed amendments and support the proposed changes to the Operator Certification program. We believe the changes clarify various definitions, improve the reciprocity process and increase the options of paths to obtain qualifying experience to become a certified operator.

If you have any questions concerning this letter or need additional information, please contact the undersigned at (562) 908-4288, extension 1701.

Very truly yours,

Grace Robinson Chan

Victoria O. Conway

Victoria O. Conway
Departmental Engineer
Wastewater Management Department

VOC:drs

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Sacramento Regional Wastewater

Treatment Plant

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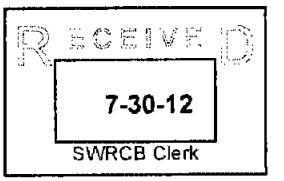
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July 30, 2012



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Via email to commentletters@waterboards.ca.gov

SUBJECT: Comment Letter – Proposed Operator Certification Regulations (SRCSD)

Dear Ms. Townsend:

The Sacramento Regional County Sanitation District (SRCSD) appreciates the opportunity to comment on the proposed revisions to the regulations governing Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration (Proposed Regulation). SRCSD provides wastewater conveyance, treatment and reclamation for over 1.4 million residents in the Sacramento metropolitan area. We appreciate the efforts to improve the rules governing the operator certification program and support the overall goals of the program. However, after reviewing the proposed regulations, we have a few comments that we believe are necessary to provide more clarity. We believe our concerns could be resolved with minor changes that are provided in more detail below. The Proposed Regulation text is shown in black, SRCSD's additions are in green text, and deletions are shown in red strikethrough.

Comment #1: ***Article 1. General Provisions - Section §3671Definitions***

The proposed language in this section is unclear as to what is meant by "when the chief plant operator is unable to carry out the responsibilities" and when a designated operator in charge must be appointed. "Unable" as used in this section is left open to interpretation and could mean several different things such as being off-shift, being physically off-site, or not being available by phone temporarily. We recommend the following clarifying changes to this section:

> *"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall be the person(s) that report to the chief plant operator and is assigned responsibility as the lead operator(s) responsible for the operation of the wastewater treatment plant during the various daily work shifts.*

We also recommend addition of the term "Unable / Unavailable" as follows to ***General Provisions §3671 Definitions:***
Unable / Unavailable

> *"Not capable of providing a timely assessment and timely control or direction for control of the wastewater treatment facility."*

Comment #2: ***Article 1. General Provisions - Section §3671 Definitions***

SRCSD has concerns that reducing actual full-time experience may lessen the value of the on-the-job training that is part of the minimum qualifications for operator certification. As written, the full-time experience includes vacation hours and sick leave hours which are not actually work hours. We recommend replacement of the term "full-time experience" with a new term called "Qualifying Time" that would be added to the General Provisions § 3671. This revision would require the Provisional Operator to acquire a full 1,800 hours of time to become a Wastewater Treatment Plant Operator. We propose the following added definition:

> *"Qualifying time" means that one year of full time employment is attained after 1,800 hours of qualifying experience as defined in this section. Qualifying time does not include paid vacation or sick leave or other time off.*

Comment #3: ***Article 1. General Provisions - Section §3671 Definitions***

The definition of "operates" is proposed to be expanded to require certification for a person who takes actions or makes decisions that control the performance or outcome of wastewater treatment processes. This could include engineers who work in the operations department for a wastewater treatment plant. The definition of "qualifying experience" is limited to an operator or OIT while operating a wastewater treatment plant. This strict definition precludes engineers working in an operations department from gaining qualifying experience. We recommend that the definition of qualifying experience be changed as follows:

> *"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training or engineer while operating a wastewater treatment plant as defined in this section. The term may include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.*

Comment #4: ***Article 1. General Provisions - Section §3671 Definitions***

The definition of tertiary treatment should be clarified to remove nutrient removal and replace this term with sequencing batch reactor with filtration as follows:

> *"Tertiary treatment" ~~(advanced waste treatment)~~ means a wastewater treatment process that goes beyond secondary treatment, ~~which may include~~ and includes filtration, coagulation, ~~and nutrient removal~~ or sequencing batch reactor with filtration. ~~but excluding disinfection.~~*

Comment #5: ***Article 2. Classification of Wastewater Treatment Plants, Owner Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant - Section §3675 Classification of Wastewater Treatment Plants***

In this section, the term "Sequencing Batch Reactor" is used several times throughout the "Wastewater Treatment Plant Classification Table". We recommend removing the term "Sequencing Batch Reactor" from this table and replacing it with "Tertiary Treatment" to be consistent with the revised definition proposed in the comment above.

Comment #6: ***Article 2. Classification of Wastewater Treatment Plants, Owner Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant - Section §3676 Reporting Requirements for Owners of Wastewater Treatment Plants, item (g)***

We recommend the following minor revision to this section to clarify that only written reprimands are reportable:

> *(g) The owner shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action taken by the owner against an operator, provisional operator, operator-in-training, or contract operator. Disciplinary action includes formal written reprimands* ~~*reprimanding*~~ *or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name of the operator, provisional operator, operator-in-training, or contract operator, the specific violations, and the disciplinary action taken. The notice also shall include the operator's certificate number or the contract operator's registration number.*

Comment #7: ***Article 3. Grade Levels of Operator – Section §3680.1(c) Grade Levels of Operators at Privately Owned Wastewater Treatment Plants***

This section provides a grandfather clause for an operator that works for a privately operated wastewater treatment plant before the effective date of these regulations with one year of "Experience Credit" for what could potentially be very little time worked. We recommend reconsidering this exemption to account more accurately for the real-time qualifying experience and propose the following revision:

> *(c) Upon passing a written examination, each person applying for a certificate in accordance with section 3680.1 who is employed at a privately owned wastewater treatment plant before the effective date of section 3680.1, shall be credited with* ~~*a minimum of one year of full-time*~~ *an appropriate amount of qualifying experience.*

Comment #8: ***Article 4. Operators-in-Training – Section §3682.1 Application for Operator-in-Training Certification***

The changes proposed in this section impose a new requirement for a Grade I Operator in Training (OIT) to complete the educational requirements for certification prior to submitting the application for an OIT Certificate. Based on SRCSD's experience, one year of qualifying time as an OIT Grade I is

sufficient time to complete the educational requirements to apply for a Grade I Operator. SRCSD recommends allowing the qualifying time and education to be completed simultaneously as allowed in the previous version of this regulation for Grade I. This would mean that the education is NOT required at the time of submittal of the application for a Grade I OIT certificate. A recommended change to the text is provided as follows:

> *(b) ~~An applicant~~ Applicants for ~~an~~ Grade II through Grade V operator-in-training certificates must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which an operator-in-training certification is requested. A Grade I OIT applicant is exempt from meeting the educational requirement at the time of submitting the OIT application (but must meet the requirements of §3700).*

Comment #9: ***Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification - Section §3684 Qualifying Experience Credit (a)(1) and (2)***

The phrase "one time credit" as used in these sections is unclear. A recommended change to the text is provided as follows to ensure that experience credits are applied appropriately:

> *Section 3684(a)(1) An applicant may receive a ~~one-time~~ credit for one year of full-time qualifying experience that that may be applied only once in each Grade Level if the applicant:*
>
> And
>
> *Section 3684(a)(2) An applicant may receive a ~~one-time~~ credit for one year of full-time qualifying experience that may be applied only once in each Grade Level if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:*

Comment #10: ***Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification - Section 3684 Qualifying Experience Credit (a)(2)(A) and (a)(2)(B)***

These sections include preparation of safety and laboratory procedures manuals as creditable toward full-time qualifying experience. Since these manuals can be developed without significant knowledge of wastewater treatment or operation, we recommend removal of these items as qualifying experience. The recommended changes are as follows:

> *(2) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:*
> *(A) developing wastewater treatment plant operations and maintenance, ~~safety, or laboratory procedural~~ manuals;*
> *(B) conducting training in wastewater treatment plant operations, ~~safety, or laboratory procedures~~;*

Comment #11: ***Article 8. Certification of Wastewater Treatment Plant Operators – Section §3702.3 Issuance of Renewal Certificate***

This section adds a new requirement to include the operator's address on the renewal certificate which is typically posted or displayed openly at the workplace. We propose deleting the address from the renewal certificate as indicated below due to privacy issues:

§ 3702.3. Issuance of Renewal Certificate.
(c) A renewal certificate shall include:
(1) the operator's name ~~and address;~~

Comment #12: ***Article 10. Fees - Section §3717 Operator, Provisional Operator, and Operator-In-Training Fees***

This section provides for new proposed fees that vary in cost based on the operator grades. Renewal fees should represent the actual costs and should be equal for all grades of operators assuming there is no difference in processing costs incurred by the Office of Operator Certification. We recommend changing the certification renewal fees to be equal for all operator grades.

SRCSD is supportive in general of the new proposed regulation if the above recommended changes are incorporated. If you have any questions or concerns regarding our comments, please contact me directly at 916-876-6092 or mitchellt@sacsewer.com or Lysa Voight at 916-876-6038 or VoightL@sacsewer.com.

Sincerely,

Terrie L. Mitchell

Terrie Mitchell
Manager, Legislative and Regulatory Affairs

cc: Stan Dean, SRCSD District Engineer
Prabhakar Somavarapu, SRCSD Director of Policy and Planning
Ruben Robles, SRCSD Director of Operations
Glenn Bielefelt, SRCSD Treatment Plant O&M Manager II
Michael Berklich, SRCSD Treatment Plant O&M Manager I
Jeff Brewi, SRCSD Treatment Plant O&M Manager I
Kurt Ohlinger, SRCSD Chief Scientist
Mitch Maidrand, SRCSD Principal Civil Engineer

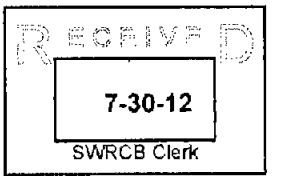
Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM



BACWA
BAY AREA
CLEAN WATER
AGENCIES

July 30, 2012

Charles R. Hoppin, Chair, and Members
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812



ATTN: Jeanine Townsend, commentletters@waterboards.ca.gov

SUBJECT: Comments on Proposed Changes to the Title 23 Regulations for Operator Certification

Dear Chairman Hoppin and Members of the Board:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to comment on the State Water Resource Control Board's Proposed Changes to the Title 23 Regulations for Operator Certification. BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 6.5 million people in the nine county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals charged with protecting the environment and public health.

Most of our member agencies own and operate wastewater treatment plants and have employees that are licensed wastewater treatment plant operators. Therefore, the operator certification regulations directly impact the operations, maintenance, and cost for our members, which determine the rates that our members charge their customers. Consequently, our members are very interested in the proposed regulation changes, and we offer the following suggested changes to the regulations.

Article 3. Grade Levels of Operator Certification

3680. Grade Levels of Operator Certification (page 16)

(a) In the table, for a Class V Plant, change the Minimum Grade Level of the Designated Operator-in-Charge from Grade III to Grade IV
(b) Leave the existing wording in the section as is. Don't make the suggested changes.

3681. Lone Operator

We recommend deleting Section 3681. Since unattended operations of a plant are allowable, the proposed regulation seems unnecessary. As written, the regulation requires burdensome paperwork for the agencies to submit, which means more paperwork for the SWRCB to review with its limited resources.

If the Lone Operator category is included, we suggest the following changes:

- The proposed reporting requirements imply the need for pre-approval of schedules, which will create a burden for plants to develop and submit, and for the SWRCB to review the plans. If a lone operator compliance plan is needed, we suggest requiring plants to have a general plan for the grade level and duties for a lone operator, and a list of the personnel that qualify for this position. The plant would keep the plan on file for review at any time, and could submit to the state as a record, but the plan would not be subject to specific review and approval.
- The proposed regulations indicate than an OIT cannot be a lone operator, which we believe is appropriate. Further, we believe that a lone operator should have the appropriate Grade level for the plant classification, and should not make any process decisions without supervision or consultation

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

3684. Qualifying Experience Credit

- Paragraph (a)(1)(A), in the last line, replace "or an Indian tribe" with "or an Indian tribe; and"
- Paragraph (a)(2)(A), delete "safety, or laboratory procedural"
- Paragraph (a)(2)(B), delete "safety, or laboratory procedures"

3687. Education and Experience Requirements

- In Paragraph (c), add a requirement that an OIT must take an examination within 18 months of starting as an OIT.

3689. Examination Waiver

We do not believe a waiver to the examination requirement should be allowed, and recommend deleting Section 3689 in its entirety. In Section 3687, Paragraph (b), remove the reference to Section 3689.

Article 9. Administrative Civil Liability, Disciplinary Action, and Petition Process

3710. Grounds for Disciplinary Action

In Paragraph (10), first line:

- remove the word 'any' and replace with word 'an'

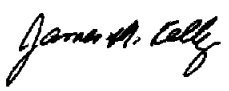
Article 10. Fees

3717 Operator, Provisional Operator, and Operator in Training Fees

- The fees in general are too high. Please indicate the justification for the proposed increases.
- Indicate how the fees per grade classification were developed. Is it based on cost recovery for administration of each grade category?
- Indicate how the fees were developed for each category of fees? (Application fees, examination fees, renewal fees, etc.)
- Overall, the fees should be equitable, and it's not clear if this has been done.

If you have any questions on our comments, please do not hesitate to call. BACWA appreciates the opportunity to comment on the proposed regulations, and is willing to work with the SWRCB in any way to make the regulations successful.

Respectfully Submitted,



James M. Kelly
Executive Director
Bay Area Clean Water Agencies

cc: BACWA Executive Board
Operation Information Share Group

Clean Water Summit Partners

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Sacramento, CA 95814
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Summit Partners
- Bay Area Clean Water Agencies (BACWA)
- California Association of Sanitation Agencies (CASA)
- Central Valley Clean Water Association (CVCWA)
- California Water Environment Association (CWEA)
- Southern California Alliance of Publicly Owned Treatment Works (SCAP)

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

Via Electronic Mail

July 30, 2012

Charles R. Hoppin, Chair, and Members
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

RECEIVED
7-30-12
SWRCB Clerk

ATTN: Jeanine Townsend, commentletters@waterboards.ca.gov

SUBJECT: COMMENTS REGARDING PROPOSED OPERATOR CERTIFICATION REGULATIONS

Dear Chairman Hoppin and Members of the Board:

On behalf of the Clean Water Summit partners, thank you for the opportunity to submit comments on the proposed revisions to the regulations governing Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration (the "proposed regulations"). The Clean Water Summit is a coalition of regional and statewide associations representing municipal agencies throughout California that provide wastewater collection, treatment, biosolids, renewable energy and recycled water services to millions of Californians.

Many of our member agencies own and operate treatment facilities, and are very interested in the proposed regulations, as are the individual certified operators who are members of the California Water Environment Association. The revisions to the regulations are long overdue, and we appreciate the time and effort that have been expended to update and improve the rules governing the operator certification program. We concur with many aspects of the proposed regulations, which we believe will improve program implementation. Our concerns with the proposed regulations fall into four main categories, each of which is discussion below: Definitions, Certification Requirements, Fees and Enforcement.

1. Definitions (Section 3671)

We commend the State Water Board staff for their desire to modify the regulations to "clarify ambiguities in the existing regulations." (see Notice of Proposed Regulatory Action) (NPRA). However, there are several definitions that fall short of this goal and require further modification.

A. "Full time"

The definition of full time includes three separate paths. The second two alternatives seem designed to capture situations where smaller facilities may not have sufficient eligible duties to reach the minimum

hours requirements set forth in the first prong. However, as written, the other alternatives are too open-ended. "Less than an average of 40 hours" could actually mean less than one hour per week. One option would be to limit the two additional prongs of the new "full-time" to only the first year of qualifying experience for the Grade I or Grade II operator level. This would still assist smaller facilities or the small private WWTPs, while not lessening the higher grades of professional certification. Under the currently proposed regulations one could take advantage of this wording and allow less than adequately trained staff to attain Grade III – V in a relative short time frame. Limiting this to one year and then requiring the 1,800 hours for additional years of higher certification would help to ensure the integrity and professionalism of the certification.

B. "Certifying body" and "Indian Tribe"

Our concerns with these definitions relate to the issue of reciprocity for operators certified by other jurisdictions. (See Section 3689.) While we understand the need for some flexibility in hiring qualified operators from other states, we are concerned that the process and criteria used to determine qualifying certifications for reciprocity purposes will lack transparency. Therefore, we recommend that the regulations require the OOC to supply a table of "Comparable Certifications" within one year of regulation adoption and update it every two years.

2. Minimum Certification Requirements

The Summit Partners strongly support the purpose of the Wastewater Treatment Plant Operator regulations to "protect public health and the environment by providing for the effective operation of wastewater and treatment plants, including water recycling treatment plants, through the certification of wastewater treatment plant operators and the registration of contract operators."

The primary mechanism for achieving this purpose is the efficient and effective certification of competent operators. California has an excellent track record of safe and effective operations of wastewater treatment plants, and relaxation of the minimum certification requirements should only be undertaken where there s a sound supporting rationale. The Summit Partners strongly encourage the State Water Board to revise the regulations within the context of maintaining minimum competencies necessary to protect public health and the environment.

Certification is based on three pillars: Experience, Education, and Examination. Each of these pillars is necessary to ensure the minimum competency of operators throughout the state as they operate complex treatment systems. Maintaining the certification standard ensures that all operators possess the knowledge, skills, and abilities necessary to protect the public health and the environment and ensure the public's confidence.

a. Experience

It takes time in the field to become expert in a wastewater facility and learn the ropes. It is reasonable to expect an individual to spend at least one year in the field working before qualifying to become a journey level operator. There are no shortcuts in the training of operators; time is required to become a proficient operator of the complex technologies used in wastewater treatment.

We are concerned that too much discretion is given to the Office of Operator Certification, without sufficient guidelines, to certify experience from numerous facilities as 'qualifying'. Once an individual is granted 'qualifying experience', he or she can substitute education for additional years of experience, thereby avoiding minimum time-in-grade learning the wastewater treatment process.

The Department of Public Health regulations for Water Treatment Operators, in contrast, require that, regardless of advanced education, actual experience in the treatment plant is required for its certificate program. (See Cal. Code Regs., tit. 22, §§ 63750.65, 63800.) Other education and other experience may be helpful, but there still must be a minimum of time spent in the particular field of expertise.

Suggested Changes to Proposed Regulations:

i. Section 3684: Remove/Strike experience credit for Lab Procedures or Safety Procedures. This experience is not credible for Plant Operations.
ii. Section 3684: Allow maximum of 1 year experience to be granted by the OOC after individuals pass a certification examination. This will ensure, if other suggestions are implemented, that no Operator will obtain Grade V certificate without at least 1 year of in-plant experience while being regulated by the SWRCB and OOC.

b. Education

Advancing minimum education requirements is important to ensure the public's confidence in the Operator Certification Program. We support the proposed requirement that Grade I Operators should have a High School Diploma or GED equivalent.

We also believe the State Water Board should establish a new requirement for Continuing Education so operators stay current with evolving technologies and best practices. The Summit Partners suggest a program similar to that used by the California Water Environment Association (CWEA) for its Technical Certification Program or the California Department of Public Health for Water Treatment Operators (Cal. Code Regs., tit. 22, § 63840).

Suggested Change to Proposed Regulations:

Add Continuing Education requirement for all Operators, similar to California Water Environment Association's Technical Certification Program and California Department of Public Health for Water Treatment Operators.

c. Examination

California has built a strong certification program over the last 75 years, dating back to the inception by the California Water Environment Association in 1937 and through the State's leadership after the Clean Water Act in the early 1970's. Improvements are needed, but the

principles remain the same as in the past. The examination process is meant to ensure a consistent competency is met by all operators of the same Grade based on the same body of knowledge.

While the Office of Operator Certification has discretion in accepting Experience and Education qualifications from other certifying bodies, the Examination is unique to California, in that it reflects the regulatory requirements and specific environmental protection expectations by our public that may not exist to the same degree for other certifying bodies. In order to ensure integrity of the certification, the waiver of examination for Grade III, IV, and V allowed in Section 3689 should be based upon a true comparison of examinations with other certifying bodies. For example, California utilizes long-form math and essay questions for these higher grades to test real-world situations.

A job/task analysis for each grade of operator is appropriate at this time and will serve to update the common set of Knowledge/ Skills/Abilities (KSAs). Afterward, the existing repository of test questions should be updated and validated to represent the newly revised KSA's. The Summit Partners stand ready to assist the State with this effort, knowing it is not an easy task. We have volunteers who can lend expertise through the Advisory Committee or through CWEA to help the State's leadership in this area.

In the interest of improving efficiency, the maximum turnaround time for the State Water Board to provide "pass/fail" information to test takers should be reduced from 90 days to 45 days so that agencies and operators can more quickly adapt to changing staffing levels after retirements or organizational changes. Lastly, we continue to support the long-form essay and math questions for Grades III, IV, and V to fully test these operators in areas that will be expected of them as they ascend to leadership roles at the various plants. At the same time, we believe significant improvements can be made by shifting to computer-based testing for Grade I and II exams, streamlining the test and reducing labor requirements for grading and providing quicker results to the participants. The Summit Partners, and in particular, CWEA, are ready to assist the Office of Operator Certification and leverage past successes with its Technical Certification Program for the benefit of Plant Operators.

Suggested Changes to Proposed Regulations:
i. Section 3701: Reduce grading time from 90 days to 45 days

3. Enforcement

The Summit Partners have concerns with various enforcement provisions of the draft regulations (i.e., proposed Article 9), including Sections[1] 3709, 3711.1, 3712, 3712.1, and 3714. For the following reasons, we respectfully request that you delete or modify these provisions as suggested below. Our comments and suggested changes focus primarily on the need for timely resolution of disputed issues and certainty regarding compliance requirements and civil liability to ensure that wastewater treatment facilities will be staffed and operated in a manner that complies with the law and protects public health and the environment.

[1] As used in this letter, "Section" refers to a section of the proposed regulations unless otherwise provided.

A. Section 3709 Should Be Deleted, as it Is Unnecessary and Duplicative and May Conflict With the Water Code

Section 3709 pertaining to the imposition of administrative liability is unnecessary and duplicative, may create confusion regarding compliance requirements, and has the potential to become inconsistent with the Water Code. For example, the stated purpose of Section 3709 is to implement "sections 13627.1, 13627.2, and 13627.4 of the Water Code, which were added to the Water Code by chapter 422, statutes of 2002." (Initial Statement of Reasons at p. 37.) However, regulations are unnecessary to "implement" these Water Code sections, as they already authorize the State Water Board to impose civil liability as proposed in Section 3709. The grounds for administrative liability and penalty amounts provided for in Section 3709(b) and (c) are found in existing law at Water Code sections 13267.1 and 13627.2. In addition, Section 3710 would serve to describe these grounds in greater detail. Moreover, Water Code section 13627.4 specifically authorizes the State Water Board to impose civil liability on these and other grounds in accordance with the statutory provisions identified in Section 3709(a). In fact, the State Water Board (including the Executive Director on the State Water Board's behalf) has consistently issued civil liability on the grounds and within the amounts stated in Section 3709.[2]

Accordingly, adoption of Section 3709 would fail to satisfy the requirement that a regulation be necessary to effectuate the purpose of a statute or other provision of law. (See Gov. Code, §§ 11349(a), 11349.1(a)(1); see also Cal. Code Regs., tit. 1, § 10.) Adoption of Section 3709 would also fail to satisfy the requirement that a regulation not serve the same purpose as (i.e., duplicate) a state statute. (See Gov. Code, §§ 11349(f), 11349.1(a)(6); Cal. Code Regs., tit. 1, § 12.)

Further, restating the existing statutory grounds for legal liability in State Water Board regulations is likely to result in confusion among the regulated community. In particular, such an approach gives the appearance that the State Water Board is expanding existing compliance requirements and associated liability in Section 3709 when presumably this is not the case. Operators and others subject to any newly adopted regulations must have reasonable certainty with regard to compliance expectations. (See Gov. Code, §§ 11349(c), 11349.1(a)(3); Cal. Code Regs., tit. 1, § 16; see also *In the Matter of the Petition of Aerojet General Corp. et al.*, No. WQ 80-4 (March 20, 1980) at p. 34; *In the Matter of the Petitions of National Steel and Shipbuilding Co. et al.*, Order No. WQ 98-07 (Sept. 17, 1998) at p. 15.)

Because Section 3709 would merely duplicate existing statutory law (i.e., Wat. Code, §§ 13627.1, 13627.2, and 13627.4), the section could become inconsistent with any future amendments to that statutory law. For example, were the Legislature to amend Water Code sections 13627.1 and 13627.2 to increase the maximum penalty amounts, the State Water Board's regulations would squarely conflict with any such an amendment.

For the foregoing reasons, we request that you delete Section 3709 in its entirety.

---

[2] See e.g., *In the Matter of Mr. Charles Grace*, Order WQ 2011-0016-EXEC, Imposing Operator Certification Discipline Pursuant to Settlement Agreement (Oct. 12, 2011); *In the Matter of Mr. Michael Popichak*, Order WQ-2011-0017-EXEC (Oct. 12, 2011); *In the Matter of Tito Balling*, Order WQ-2009-0002-EXEC, Imposing Administrative Civil Liability and Operator Certification Discipline Pursuant to Settlement Agreement (April 14, 2009).

B. Section 3711.1 Should Be Modified in the Interest of Timely Resolution of Disputed Issues

Section 3711.1 would specify procedures related to the appeal of a decision by the Office of Operator Certification (OOC) to the Deputy Director of the Division. The second sentence of Section 3711.1(a) would authorize the Deputy Director to allow additional time for the OOC to file a recommendation. In the interest of timely resolution of disputed issues, we request that you delete this sentence. In the alternative, we request that you amend the provision to cap the additional amount of time that may be allowed at 10 days. Presumably, the OOC has the information necessary to make a recommendation within the initial 30-day period, as the OOC investigated the matter and commenced the enforcement action. However, as a matter of fairness, if the OOC is given additional time to build its case, the appellant should have the opportunity to request additional time to file an appeal, as well as an opportunity to reply to any new evidence or issues raised in the OOC recommendation.

Section 3711.1(b) would provide the Deputy Director up to 90 days from receipt of an appeal to issue a final decision. This represents up to 30 days of additional time as compared to existing regulations. (Cal. Code Regs., tit. 23, § 3712.) While we appreciate the State Water Board's desire to allow the Deputy Director sufficient time to give the matter on appeal full consideration, we also understand that staffing and other constraints may result in the State Water Board being unable to meet its own regulatory and statutory deadlines. We request that you amend Section 3711.1 to allow an appellant to file with the State Water Board a petition for review of the discretionary decision made by the OOC in the event the Deputy Director does not issue a final decision within 75 days.

Section 3711.1(c) states: "The Deputy Director of the Division may at any time, on the Deputy Director's own motion, issue a Final Division Decision." We support the Deputy Director having the authority to review enforcement matters where an appeal has not been timely filed. (See Initial Statement of Reasons at p. 39.) However, we believe that this provision should require that any such decision must be issued within 45 days after the time for an appeal of a decision by the OOC to the Deputy Director has passed. We also believe that the provision should not use the phrase "own motion," as this generally refers to the State Water Board's review of actions or inactions of the regional water quality control boards. (Wat. Code, § 13320(a) ["The state board may, on its own motion, at any time, review the regional board's action or failure to act".].)

For these reasons, the Summit Partners recommend that Section 3711.1 be revised as follows:

§ 3711.1. Action by the Deputy Director of the Division.

(a) The Office of Operator Certification may file a recommendation regarding an appeal with the Deputy Director of the Division within 30 days of receiving a copy of the appeal. ~~The Deputy Director may allow additional time for the Office of Operator Certification to file a recommendation.~~ The Office of Operator Certification shall provide a copy of its recommendation to the appellant.

(b) The Deputy Director of the Division shall review the evidence

and any recommendation filed by the Office of Operator Certification and shall make a Final Division Decision within 75~~90~~ days of receipt of the appeal. The Final Division Decision shall inform the appellant that the decision is final and conclusive unless the appellant petitions the State Water Board for review in accordance with the provisions of section 3711.2.

(c) In the event that the Deputy Director of the Division does not issue a Final Division Decision within 75 days of receipt of the appeal, the appeal shall be deemed dismissed. Where an appeal is deemed dismissed, the appellant may file a petition for review of the decision made by the Office of Operator Certification in accordance with section 3711.2. The petition shall be in writing and shall be received by the State Water Board no later than 30 days after the date that the appeal was deemed dismissed.

(d)~~(c)~~ The Deputy Director of the Division may, within 45 days after the time for an appeal of a decision by the Office of Operator Certification pursuant to Section 3711 has passed~~at any time, on the Deputy Director's own motion~~, issue a Final Division Decision.

C. Requesting Reconsideration of a Proposed Disciplinary Action Letter Should Be Optional

Section 3712 would require the party subject to a disciplinary action letter issued by the Office of Enforcement (OE) to request reconsideration by the Director of the OE before the State Water Board may review the action. Section 3712 should be revised to allow, but not require, a party to request such reconsideration since the reconsideration process would significantly delay the resolution of disputes. For example, Section 3712(b) would allow a party up to 45 days from the date of the disciplinary action letter to request reconsideration. After receipt of the request, the Director of the OE would have up to 90 days under Section 3712.1(a) to make a final decision. As a result, a wastewater treatment facility or appellant may have to wait more than 4.5 months before the Director of the OE reaches a decision and any further action may be taken.

Therefore, we recommend that Section 3712 be revised as follows:

§ 3712. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) A proposed disciplinary action letter is final and conclusive and constitutes a Final Office of Enforcement Decision unless the applicant, operator, provisional operator, or operator-in-training being disciplined requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be in writing and shall be received by the Director of the Office of Enforcement within 45 days of the date of the proposed disciplinary action letter.

(c) A request for reconsideration shall contain:
(1) the name, address, telephone number, and email address (if available) of the requestor;
(2) a copy of the proposed disciplinary action letter;
(3) a full and complete statement of the reasons why the proposed disciplinary action letter is erroneous, inappropriate, or improper; and
(4) the specific action that the requestor seeks from the Director of the Office of Enforcement.

(d) An applicant, operator, provisional operator, or operator-in-training subject to a proposed disciplinary action letter shall not be required to request reconsideration in accordance with this section as a precondition to seeking review of a Final Office of Enforcement Decision pursuant to section 3712.2.

D. Section 3712.1 Should Be Modified in the Interest of Timely Resolution of Disputed Issues

Section 3712.1(a) would provide the Director of the OE up to 90 days after the receipt of a request for reconsideration to issue a Final Office of Enforcement Decision. As previously mentioned, we understand that staffing and other constraints may result in public agencies being unable to meet their regulatory and statutory deadlines. We therefore request that you add a provision stating that after the 90-day period has passed, the request for reconsideration is deemed denied and the appellant may file a petition for review of the proposed disciplinary action in accordance with Section 3712.2. Further, for reasons similar to those stated in section 3.D of this letter, we ask that you revise the "own motion" review provisions of Section 3712.1(b) as suggested below.

We request that the State Water Board revise Section 3712.1 as follows:

§ 3712.1. Action by the Director of the Office of Enforcement.

(a) The Director of the Office of Enforcement shall review the evidence and make a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration. The Final Office of Enforcement Decision shall inform the requestor that the decision is final and conclusive unless the requestor petitions the State Water Board for review in accordance with the provisions of section 3712.2.

(b) In the event that the Director of the Office of Enforcement does not issue a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration, the request shall be deemed dismissed. Where a request is deemed dismissed, the requestor may file a petition for review of the decision made by the Office of Enforcement in accordance with section 3712.2. The petition shall be in writing and shall be received by the State Water Board no later than 30 days after the date that the request was deemed dismissed.

(c)~~(b)~~ The Director of the Office of Enforcement may, within 45 days after the time for a request for reconsideration pursuant to section 3712 has passed ~~at any time, on the Director's own motion~~, issue a Final Office of Enforcement Decision.

E. Section 3714 Should Specify Timeframes Within Which the State Water Board Must Take Action

Section 3714 would specify the actions that the State Water Board or its Executive Director may take in response to receiving a petition for review filed in accordance with Section 3711.2 or Section 3712.2. However, Section 3714 does not specify any timeframes in which the State Water Board or Executive Director must act. In the interest of timely resolution of disputes and certainty regarding compliance requirements and civil liability, we request that you revise Section 3714 as follows:

§ 3714. Action by the State Water Board on a Petition.

(a) The State Water Board may:

(1) ~~at any time,~~ refuse to review the Final Division Decision or Final Office of Enforcement Decision if the fails to raise substantial issues that are appropriate for review;

(2) deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper;

(3) set aside or modify the Final Division Decision or Final Office of Enforcement Decision; or

(4) take any other action the State Water Board deems appropriate.

(b) The Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper.

(c) No later than 90 days after the date of the receipt of a petition filed in accordance with section 3711.2 or 3712.2, the State Water Board, or the Executive Director on behalf of the State Water Board, shall decide whether to refuse to review the petition or whether to take further action on the petition, and shall inform the petitioner in writing of the decision.

(d)~~(c)~~ Except where an evidentiary hearing is required by law, the State Water Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both before taking final action on the petition.

(e)~~(d)~~ If a hearing is held, it shall be conducted in accordance with California Code of Regulations, title 23, chapter 1.5, article 2.

4. Fees

The Summit Partners agree that the OOC should be user-funded, provided that the fees are not diverted to other programs. It is important to be transparent and upfront with expenditures charged to the OOC. The proposed increases in fees for applications, examinations, and renewal present a significant burden. The State Water Board staff is proposing an increase of nearly 80% to operators and 350% for contract operators at a time when municipalities and individuals are hard pressed to find additional funds. Additionally, the higher fees may be a deterrent to people contemplating entering the wastewater field.

Examination fees vary for the different grades based on the amount of time to prepare and grade the exams. We understand the rationale for this proposal. Grade 1 and 2 exams are similar in nature and should be priced together. Grade 3, 4, and 5 exams are similar in nature and should also be priced together. This will simplify the budgeting process for agencies and is reflective of the actual work done by the State Water Board.

The same logic does not apply, however, to the proposed application fees. As proposed, these fees will also vary for the different grade levels based on the amount of time to review education and experience of each individual: But the time to review applications does not get progressively get harder with advancing grade level. We believe Grade 1 and 2 application fees should be the same and the application fees for Grade 3, 4, and 5 should be the same.

Certificate renewals do not vary significantly based on the grade level. We believe the renewal fees should be the same for each grade level and reduced to cover the cost only. Based on the current services provided, it costs considerably less to administer a renewal of an existing certificate as it does to administer and grade the exam. We believe all renewal fees should be the same, no more than $100, based on the level of service provided.

The registration fee for contract operators is increasing 350%. This fee requires annual renewal, as opposed to biannual renewal for operators. These fees are passed on to the individual wastewater treatment plants that rely on contract operators, often due to the economic hardship of hiring full-time operators. The proposed change represents a sizeable burden for these agencies. We believe the renewal fee of $350/year plus $75/employee is unwarranted. The registration fee should be consistent with the fees imposed on a Grade V Operator in Article 10.

Suggested Changes to Proposed Regulations:

i. Article 10: Section 3717: Application Fees for Grade 1 and 2 should be the same at $80. Application Fees for Grade 3, 4, 5 should be the same at $130.

ii. Article 10: Section 3717: Examination Fees for Grade 1 and 2 should be the same at $80. Examination Fees for Grade 3, 4, 5 should be the same at $250.

iii. Article 10: Section 3717: Renewal Fees for all Grades 1-5 should

	be the same at no more than $100 for the stated service of issuing a renewed certificate.
iv.	Article 12: 3719 Wastewater Treatment Plant Contract Operator Registration Fees capped at no more than that of a Grade V Operator in Article 10. The Renewal Fee should be no more than $100, in keeping with our recommendation for Grade V renewals. The Renewal fee for each Operator that works for a Contract Operator should not be more than $50/year.
v.	Article 10: Section 3717: Fees for Provisional Operators should be consistent with those of other Operators in Article 10.

Thank you for the opportunity to review and comment on the proposed regulations. We hope that the State Water Board will work closely with the Operator Certification Advisory Committee to further refine these regulations prior to adoption. If you have any questions regarding our concerns, please contact Roberta Larson, CASA's Executive Director, at (916) 446-0388.

Sincerely,

James Kelly, Executive Director
Bay Area Clean Water Agencies

Carrie Mattingly, President
California Water Environment Association

Roberta Larson, Executive Director
California Association of Sanitation Agencies

John Pastore, Executive Director
Southern California Alliance of POTWs

Debbie Webster, Executive Officer
Central Valley Clean Water Association

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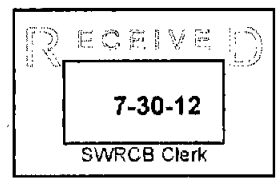
#14 Direct supervision in 367(i) ". . . on site or otherwise available to consult with . . ." leaves the back barn door open. " Otherwise available to consult with" could mean by cell phone from a grass mat in Waikiki. How about ". . . on site."(period) It jacks me up what supervisors/management have un- supervised personnel perform at WWTP's alone.

I don't remember what section I saw it in but your revision to require that applications be received by the department on the due date puts the efficiency of the U.S. Post office on the applicants back. Sometimes it is all we can do to get an application in by the postmark date. Please reconsider this.

Thank you for listening,

Ron Tyler
Senior Operator
Sonoma County Water Agency

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board



To: State Water Board

Please do away with the 4 year requirement for reciprocity with other states. I have been an operator for 30 years and feel this requirement is ridiculous and demeaning to long term operators who have maintained licenses by continuing education and other means. Thanks for considering my opinion on this matter.

Jim Boyes
Class 3 Water Ohio
Class 3 Wastewater Ohio

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

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AQUALITY
WATER MANAGEMENT

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-17-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

To the Board:

As the owner of a Contract Operations company that operates water and wastewater treatment facilities on tribal lands, I am pleased to see that the Board has decided to accept experience gained on tribal lands as reciprocal experience for operator certification. I would like to indicate my support for the proposed amendments to the Operator Certification Regulations stated in section Article 6, Minimum Qualifications for Wastewater Treatment Plant Operator Certification.

It has long seemed unfair that our operations team could not become State-certified due to a simple oversight in the regulations. Section 3684 (Qualifying Experience Credit) appears to correct this problem by allowing operators to gain qualifying experience credit for experience at water treatment plants regulated by a territory or an Indian tribe when the work performed is comparable to the experience gained working at treatment plants regulated by California or other states. This change is important to ensuring that tribal facilities are able to hire and retain skilled and reliable operations staff. Operators need to know at the beginning of their careers that the time and experience they gain at these facilities will be recognized by the State. Otherwise, they will seek work elsewhere. This change is vital to ensuring that our facilities remain fully staffed and run by professional, career-oriented staff.

Aquality Water Management, formerly HydroScience Operations, has supported these proposed changes since the inception of including tribal facilities was first discussed. Although the process has taken much longer than we anticipated, we implemented programs to put our staff through the training and certification process in anticipation of the changes. As a result several members of our staff have trained for, studied for, and passed the certification examinations at several grade levels during this process and would have been able to demonstrate that they had the requisite experience for the grades within the required time frames, however due the length of time this process has taken the time limits have expired. We currently have staff at our facilities that may be required to retest in order to acquire their certificates due to the amount of time that has passed. I hope the Board will consider

retroactively granting these operators certificates based on their qualifications and experience at the time they took the test and the allowed time periods. As you are aware the preparation for the examinations is difficult and time consuming and the expenses for application and testing costly. I believe in fairness to their dedication to the process that these operators should be grandfathered into the program without retesting.

I thank you for making these changes going forward.

Sincerely,

Aquality Water Management

Donald Brown, General Manager

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-18-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

To the Board:

As an uncertified operator currently working at a facility on tribal land, I would like to indicate my support for the proposed amendments to the Operator Certification Regulations stated in section Article 6, Minimum Qualifications for Wastewater Treatment Plant Operator Certification.

Section 3684 (Qualifying Experience Credit) now appears to allow operators to gain qualifying experience credit for experience at water treatment plants regulated by a territory or an Indian tribe when the work performed is comparable to the experience gained working at treatment plants regulated by California or other states. I have been working at a treatment facility on Indian tribal land for several years without being able to acquire certification.

The Board began the process of incorporating reciprocity for tribal lands into the regulations several years ago. Operators like me took certifying examinations in good faith, under the belief that the regulations would change soon enough that our experience would count towards certification before the sanctioned 4-year window expired. We have taken operations courses, put in our time onsite, and taken the required exams, yet due to the timing of this decision, we will not become certified operators unless we retest. Because testing is only offered twice a year, this will extend the wait for certification, as well as costing us in additional testing fees.

I hope the Board will take into consideration people like me, who followed the rules and had the requisite experience within the time frame required for certification, but were unable to acquire certificates without these changes to the Operator Certification Regulations. Those of us who have already put the time, effort, and expense into preparing for and taking our certification exams should be retroactively granted certificates without needing to retest.

I thank you for making these changes going forward.

Sincerely,

Joshua Brown

(916) 420-1966
jbrown@aqualitywm.com

#30

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-18-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

To the Board:

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The Board began the process of incorporating reciprocity for tribal lands into the regulations several years ago. Operators like me took certifying examinations in good faith, under the belief that the regulations would change soon enough that our experience would count towards certification before the sanctioned 4-year window expired. We have taken operations courses, put in our time onsite, and taken the required exams, yet due to the timing of this decision, we will not become certified operators unless we retest. Because testing is only offered twice a year, this will extend the wait for certification, as well as costing us in additional testing fees.

I hope the Board will take into consideration people like me, who followed the rules and had the requisite experience within the time frame required for certification, but were unable to acquire certificates without these changes to the Operator Certification Regulations. Those of us who have already put the time, effort, and expense into preparing for and taking our certification exams should be retroactively granted certificates without needing to retest.

I thank you for making these changes going forward.

Sincerely, Juan C. Cardenas 7/16/12
Juan C. Cardenas

#31

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-18-12
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The Board began the process of incorporating reciprocity for tribal lands into the regulations several years ago. Operators like me took certifying examinations in good faith, under the belief that the regulations would change soon enough that our experience would count towards certification before the sanctioned 4-year window expired. I have taken operations courses, put in my time onsite, and taken the required exams. If the Board counts past time working at a facility on tribal lands, I will be able to receive my certificate. I hope the Board will be basing certification on time worked prior to this decision.

I hope the Board will take into consideration people like me, who followed the rules and had the requisite experience within the time frame required for certification, but were unable to acquire certificates without these changes to the Operator Certification Regulations. Those of us who have already put the time, effort, and expense into preparing for and taking our certification exams should be allowed to receive certification based on past time worked.

I thank you for making these changes going forward.

Sincerely,

Norman DeSilva

#32

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-18-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

To the Board:

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I hope the Board will take into consideration operators who fall between the lines. Some of my colleagues have taken certification tests, and have sufficient experience at facilities on tribal lands, but will be unable to acquire certificates without retesting due to the timing of these changes to the certification regulations. I hope the Board will consider these individuals as well.

I thank you for making these changes going forward.

Sincerely,

Cassandra Reidenbach

Cassandra Reidenbach

#33

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

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Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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RE: Letter of Support for Proposed Operator Certification Regulations

To the Board:

As someone who recently passed the Grade I exam and who is currently performing work at a facility on tribal land, I would like to indicate my support for the proposed amendments to the Operator Certification Regulations stated in section Article 6, Minimum Qualifications for Wastewater Treatment Plant Operator Certification.

Section 3684 (Qualifying Experience Credit) now appears to allow operators to gain qualifying experience credit for experience at water treatment plants regulated by a territory or an Indian tribe when the work performed is comparable to the experience gained working at treatment plants regulated by California or other states. I have been working at a treatment facility on Indian tribal land for several years with colleagues that have been unable to acquire certification even as their knowledge and skills have increased. I took the certification exam in the hopes that this issue would be resolved to allow me to gain a certificate. It is good to know that going forward, operators working on tribal lands will have their work recognized by the State.

I hope the Board will take into consideration operators who fall between the lines. Some of my colleagues have taken certification tests, and have sufficient experience at facilities on tribal lands, but will be unable to acquire certificates without retesting due to the timing of these changes to the certification regulations. I hope the Board will consider these individuals as well.

I thank you for making these changes.

Sincerely,

Andreas A. Christensen

#34

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JUL - 0 2012
SWRCB EXECUTIVE

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

RECEIVED
7-20-12
SWRCB Clerk

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I thank you for making these changes.

Sincerely,

Bryan J. Davis

Public Comment
Operator Certification Regulations
Deadline: 7/30/12 by 5 PM

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SWRCB EXECUTIVE

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-20-12
SWRCB Clerk

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I thank you for making these changes.

Sincerely,

Joel Barton

#36

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JUL 20 2012
SWRCB EXECUTIVE

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

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7-20-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

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I thank you for making these changes going forward.

Sincerely,

Steve Gonzales

#37

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

RECEIVED
7-23-12
SWRCB Clerk

RE: Letter of Support for Proposed Operator Certification Regulations

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I thank you for making these changes.

Sincerely,

Stan Dunsford
Cert # 6590

#38

PUBLIC HEARING DVD RECORDING

AUGUST 28, 2012
OPERATOR CERTIFICATION ADVISORY COMMITTEE NOTICE
AND AGENDA

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

PUBLIC NOTICE

Interested Parties:

The State Water Resources Control Board's Operator Certification Program Advisory Committee will be holding meeting on: (See attached agenda)

Date: Tuesday, August 28, 2012

Time: 9:00 a.m.

Location: CALEPA Building
Conference Room 230, 2nd Floor
1001 I Street
Sacramento, CA 95814

For a map to our building, visit: http://www.calepa.ca.gov/EPABldg/location.htm. All visitors are required to sign in and receive a badge prior to attending any meeting. Valid picture identification may be required due to the security level, so please allow up to 15 minutes for this process. Individuals who require special accommodations are requested to contact Office of Employee Assistance, at (916) 341-5881.

State Water Resources Control Board

MEETING AGENDA

WASTEWATER OPERATOR CERTIFICATION ADVISORY COMMITTEE

Tuesday August 28, 2012 (9:00 A.M.)
Conference Room 230 - 2nd Floor, Cal/EPA Building
1001 I Street, Sacramento, CA 95814

1. Introductions – All
2. Agenda Review All
3. Public Comments*
4. Database Update Phase II – Sue Boucher (30 minutes)
5. OCT Academy – Robert Funk (15 minutes)
6. Enforcement Update – Matthew Buffleben (30 minutes)
7. Proposed Regulations/Discussion - Christine Gordon / Wes Wilkinson
8. Schedule Next Advisory Committee Meeting- All

CLOSED SESSION:**

9. Exam Analysis – Bob Been (30 minutes)

* Any member of the public may address the Committee on any matter within the Committee's jurisdiction that is not on the agenda. Comments will be limited to three minutes per speaker or otherwise at the discretion of State Water Board Staff. Members of the public are encouraged to provide their comments in writing to the Committee members and State Water Board staff.

** Closed sessions are not open to the public. Authority: California Government Code Section 11126(c)(1).

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NOTICE OF MODIFIED TEXT,
TEXT,
AND COMMENTS ON MODIFIED TEXT

State Water Resources Control Board

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of title 1 of the California Code of Regulations, the State Water Resources Control Board (State Water Board) is providing notice of a change made to its proposed regulation – chapter 26 of division 3 of the California Code of Regulations, regarding wastewater treatment plant classification, operator certification, and contractor operator registration. This modification is reflected in strikeout and single underline.

If you have any comments regarding this proposed modification (strikeout and underline text), the State Water Board will accept written comments between October 1, 2012 and October 15, 2012. All written comments pertaining to the proposed modification must be **received** by the State Water Board no later than **12:00 p.m.** on **October 15, 2012**. The State Water Board will only consider comments received by that time at the addresses below.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if less than 15 megabytes in size or less), (916) 341-5620 (fax), or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, **"Comment Letter – Proposed Operator Certification Regulations."**

The rulemaking file can be viewed at the State Water Board's offices or on line at http://www.waterboards.ca.gov/water_issues/programs/operator_certification/.

All written comments received by 12:00 p.m. on October 15, 2012, which pertain to the modified text reflected in strikeout and underline, will be reviewed and responded to by the State Water Board in the Final Statement of Reasons, pursuant to section 11346.9 of the Government Code. The State Water Board will not review or respond to any additional written comments which do not pertain to the modified text reflected in strikeout and underline.

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS
CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Article 1. General Provisions

§ 3670. Purpose.

The primary purpose of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program is to protect public health and the environment by providing for the effective operation of wastewater treatment plants, including water recycling treatment plants, through the certification of wastewater treatment plant operators and the registration of contract operators.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

§ 3670.1. Certification Requirements for Operating Wastewater Treatment Plants.

(a) Except as provided in subdivision (b), no person shall operate a wastewater treatment plant without a valid, unexpired, State Water Board-issued operator, provisional operator, or operator-in-training certificate at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680, 3680.1, and 3680.2.

(b) A person certified by the California Department of Public Health as a water treatment plant operator may operate a water recycling treatment plant at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680 and 3680.1.

(1) For the purpose of this subdivision, a water treatment plant operator certificate is equivalent to a wastewater treatment plant operator certificate as follows:

Certificate Requirements for Water Recycling Treatment Plants

Wastewater Treatment Plant Classification	Water Treatment Plant Operator Certificate	Wastewater Treatment Plant Operator Certificate
I	T1	Grade I
II	T2	Grade II
III	T3	Grade III
IV	T4	Grade IV
V	T5	Grade V

(2) The State Water Board may prohibit the use of a certificate issued by the California Department of Public Health if the water treatment plant operator has committed or commits any act in violation of this chapter.

(c) Any person who operates a wastewater treatment plant without a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to sections 3710 and 3719.12.

(d) Any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person performing the duties of an operator who does not hold a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709(b)(2) and disciplinary action pursuant to sections 3710 and 3719.12.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13625, 13627, 13627.1, and 13627.3, Water Code.

§ 3671. Definitions.

The following definitions shall apply to this chapter:

"Activated sludge treatment" means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by a suspended mass of living aerobic organisms called "activated sludge." The suspended mass is subsequently separated from the treated wastewater by sedimentation either for further use in the process or for disposal.

"Appellant" means a person who appeals a discretionary decision made by the Office of Operator Certification regarding: 1) denial of an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination.

"Applicant" means: 1) a person who files an application for an examination; 2) a person who files an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 3) a person who files an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; or 4) an owner who files an application for an exemption or the renewal of an exemption for a Class I wastewater treatment plant; 5) a chief plant operator who requests approval to use a lone operator; or 6) an owner who requests approval to use a provisional operator.

"Associate's degree" means a degree issued by a college or university accredited to award associate's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education, for the completion of a program of study equivalent to the first two years of a baccalaureate degree.

"Bachelor's degree" means a baccalaureate degree issued by a college or university accredited to award bachelor's degrees by the Western Association of Schools and Colleges or another

accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education.

"Biological filtration treatment" (biofiltration) means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by masses of living aerobic organisms attached to stationary support media as the wastewater trickles over the media. Settleable material that may have sloughed from the media surfaces is subsequently separated from the treated wastewater by a sedimentation process for disposal.

"Certifying body" means a state other than California, a territory, or an Indian tribe or unit thereof, that certifies or registers any person performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant. "Certifying body" includes entities designated by an Indian tribe to administer the tribe's certification and/or contract registration program.

"Chief plant operator" means any of the following:

(1) the operator responsible for the overall operation of a wastewater treatment plant including compliance with effluent limitations established in the wastewater treatment plant's waste discharge requirements and ensuring that operators-in-training are supervised directly as required by section 3682; or

(2) the provisional operator who is solely responsible for the operation of a Class I wastewater treatment plant whose owner has received approval to use a provisional operator in accordance with section 3680.2.

"Contract operator" means a person who enters into a contract with an owner to operate one or more wastewater treatment plants.

"Conventional treatment pond" means a pond in which biological oxidation of organic matter occurs through the natural transfer of oxygen in the wastewater. A pond that uses surface aerators solely to control odors shall be considered a conventional treatment pond unless the effluent receives disinfection before it is discharged.

"Design flow" means that amount of flow for which the wastewater treatment plant was designed.

"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall report to the chief plant operator.

"Direct supervision" means the supervising operator shall oversee and inspect the work performed by an operator-in-training and provide training to ensure the safe and proper execution of the operator-in-training's duties. Direct supervision shall be carried out by an operator at the same or higher grade level as the operator-in-training. The supervising operator shall be present at the wastewater treatment plant or otherwise available to consult with, and provide assistance to, the operator-in-training in order to ensure the safe and proper execution of the operator-in-training's duties.

"Disinfection" means a wastewater or water treatment process that uses physical or chemical processes to treat the effluent to inactivate or destroy pathogens remaining in wastewater after primary, secondary, or tertiary treatment. "Disinfection" includes the removal of chlorine if it is required by the wastewater treatment plant's waste discharge requirements.

"Division" means the unit of the State Water Board in which the Office of Operator Certification is located.

"Extended aeration treatment" means a modification of the activated sludge treatment process which utilizes long aeration periods to promote aerobic digestion of the biomass.

"Full time" for purposes of qualifying experience means any of the following:

(1) an average of 40 hours worked per week by an operator or operator-in-training at a wastewater treatment plant while performing job duties that meet the definition of qualifying experience. Any used paid vacation or sick leave earned as a result of hours spent performing job duties that meet the definition of qualifying experience may be counted toward full-time employment. In no case, however, may an operator or operator-in-training be considered to be working full time if he or she spends less than 1,800 hours per year performing duties defined as qualifying experience;

(2) less than an average of 40 hours worked per week by an operator or provisional operator at a wastewater treatment plant if the operator or provisional operator is solely responsible for the operation of a wastewater treatment plant; or

(3) less than an average of 40 hours worked per week by an operator-in-training at a wastewater treatment plant if the operator-in-training works as the only operator-in-training under the direct supervision of an operator who is solely responsible for the operation of the wastewater treatment plant and who is working less than an average of 40 hours per week.

"Indian tribe" means an Indian entity recognized by, and eligible to receive services from, the United States, and included in the list of the entities periodically published by the Bureau of Indian Affairs in the Federal Register.

"Lone operator" means an operator, at a grade level lower than the designated-operator-in-charge, approved by the Office of Operator Certification pursuant to section 3681 to work alone at a wastewater treatment plant. An operator-in-training shall not be a "lone operator."

"Management course" means a course that teaches supervision and management skills including oral communication, technical writing, public administration, business management, and finance. Operators may earn educational points for completion of management courses pursuant to section 3685(b).

"Modified treatment pond" means a pond in which either the biological oxidation of organic matter is enhanced by the addition of aeration or the effluent receives disinfection before discharge.

"Office of Enforcement" means the unit of the State Water Board responsible for enforcement of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program pursuant to article 9 and article 12.

"Office of Operator Certification" means the unit of the State Water Board that administers the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program.

"Operates" means actions or decisions to control the performance or outcome of one or more wastewater treatment processes. The term also includes the supervision of other operators acting or making decisions to control the performance or outcome of one or more wastewater treatment processes.

"Operator" means a person who operates a wastewater treatment plant and who possesses a valid, unexpired operator certificate. The term "operator" includes a person who possesses a valid, unexpired operator certificate, but who is not currently employed in a position for which an operator certificate is required.

"Operator-in-training" means a person who has been issued an operator-in-training certificate by the State Water Board and who is acquiring qualifying experience at a wastewater treatment plant under the direct supervision of an operator at the same or a higher grade level as the operator-in-training.

"Owner" means a person who owns a wastewater treatment plant.

"Person" means an individual, entity, firm, association, organization, partnership, business trust, corporation, limited liability company, company, city, county, district, the state, and the United States, to the extent authorized by federal law.

"Petitioner" means a person who petitions the State Water Board seeking review of a Final Division Decision issued by the Deputy Director of the Division or a Final Office of Enforcement Decision issued by the Director of the Office of Enforcement.

"Preliminary treatment" means a wastewater treatment process to remove or reduce the size of solids that could damage equipment or reduce the effectiveness of other treatment processes.

"Primary treatment" means a wastewater treatment process that allows substances in wastewater that readily settle or float to be separated from the water being treated.

"Provisional operator" means a person who is solely responsible for the operation of a Class I wastewater treatment plant that has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2 and who possesses a valid, unexpired provisional operator certificate.

"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training while operating a wastewater treatment plant as defined in this section. "Qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. The term may include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.

"Qualifying experience credit" means credit awarded in lieu of qualifying experience pursuant to section 3684. Qualifying experience credit is equivalent to qualifying experience and may be used to meet the experience requirements for operator certification pursuant to section 3687.

"Regional Water Board" means a California Regional Water Quality Control Board.

"Requestor" means a person who requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter.

"Satellite plant" means a wastewater treatment plant that is physically separated from the main wastewater treatment plant, but that has the potential to affect the operation of, or effluent quality from, the main wastewater treatment plant. To qualify as a satellite plant, both the main wastewater treatment plant and the satellite plant shall be owned by the same person and shall be classified as one wastewater treatment plant. The owner's employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel shall include a chief plant operator who is responsible for the overall operation of both the main wastewater treatment plant and the satellite plant.

"Science course" means a course in mathematics, physics, engineering, chemistry, or biology. Operators may earn educational points for completion of science courses pursuant to section 3685(a).

"Secondary treatment" means a wastewater treatment process that goes beyond primary treatment to remove colloidal and dissolved organic matter and further remove suspended matter, usually by biological processes such as activated sludge and biological filtration treatment.

"Sequencing batch reactor" means a wastewater treatment system that uses a variation of the activated sludge process in which aeration and sedimentation or clarification occur in a single tank in sequential stages. A programmable logic controller is used to monitor the time associated with the process stages to achieve specific treatment objectives.

"Solids treatment" means a wastewater treatment process used to stabilize solids that have been removed from wastewater by using biological, chemical, or thermal treatment methods. "Solids treatment" includes using physical processes at a wastewater treatment plant to further reduce the volume of stabilized solids.

"State Water Board" means the State Water Resources Control Board.

"Tertiary treatment" means a wastewater treatment process that goes beyond secondary treatment, which may include ~~and includes~~ filtration, coagulation, and nutrient removal.

"Waste discharge requirements" means waste discharge requirements issued pursuant to article 4, chapter 4, division 7 of the Water Code or chapter 5.5 of division 7 of the Water Code.

"Water quality objectives" means the limits or levels of water quality constituents or characteristics established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

"Wastewater treatment course" means a course that teaches operators the skills to operate a wastewater treatment plant including water quality control, wastewater treatment, wastewater engineering, wastewater chemistry, and sanitation microbiology. Operators may earn educational points for completion of wastewater treatment courses pursuant to section 3685(a).

"Wastewater treatment plant" means any of the following:

(1) A facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage or industrial wastes;

(2) A privately owned facility used in the treatment or reclamation of sewage or industrial wastes, and regulated by the Public Utilities Commission pursuant to sections 216 and 230.6 of, and chapter 4 (commencing with section 701) of part 1 of division 1, of the Public Utilities Code; or

(3) A privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

"Wastewater treatment plant" includes water recycling treatment plants. The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290 of the Water Code.

"Wastewater treatment process" means a process that improves the quality of wastewater before it is discharged from a wastewater treatment plant, and includes the use of preliminary, primary, pond, secondary, or tertiary treatment for liquid-solids separation of wastewater; the use of disinfection to inactivate or destroy pathogens in wastewater; and the use of solids treatment for solids stabilization and volume reduction before removal from the wastewater treatment plant site.

"Water recycling treatment plant" (water reclamation plant) means a wastewater treatment plant that receives and further treats secondary and/or tertiary effluent from another wastewater treatment plant for the purpose of meeting the uniform statewide recycling criteria established pursuant to section 13521 of chapter 7 of division 7 of the Water Code for the use of recycled water.

"Water treatment plant" means a facility that uses sedimentation, coagulation, filtration, disinfection, conditioning, softening, fluoridation, removal of tastes and odors, corrosion control, algae control, and/or aeration to reduce or remove contaminants that are present in water for the purpose of making water suitable for drinking.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

Article 2. Classification of Wastewater Treatment Plants, Owner Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant

§ 3675. Classification of Wastewater Treatment Plants.

(a) Within 45 days of receiving the information required pursuant to section 3676(b) or (c), the Office of Operator Certification shall classify a wastewater treatment plant according to the following criteria:

WASTEWATER TREATMENT PLANT CLASSIFICATION TABLE

Class	Wastewater Treatment Process	**Design Flow** (in million gallons per day)
I	Primary	1.0 or less
	Conventional Treatment Pond	All
II	Primary	Greater than 1.0 through 5.0
	Biofiltration	1.0 or less
	Modified Treatment Pond	All
III	Primary	Greater than 5.0 through 20.0
	Biofiltration	Greater than 1.0 through 10.0
	Activated Sludge	5.0 or less
	Sequencing Batch Reactor	1.0 or less
	Tertiary	1.0 or less
IV	Primary	Greater than 20.0
	Biofiltration	Greater than 10.0 through 30.0
	Activated Sludge	Greater than 5.0 through 20.0
	Sequencing Batch Reactor	Greater than 1.0 through 10.0
	Tertiary	Greater than 1.0 through 10.0
V	Biofiltration	Greater than 30.0
	Activated Sludge	Greater than 20.0
	Sequencing Batch Reactor	Greater than 10.0
	Tertiary	Greater than 10.0

(b) A wastewater treatment plant may be classified other than as indicated in subdivision (a) if:

(1) the wastewater treatment plant uses unconventional or innovative approaches due to conditions of flow or unusual requirements for discharge to a receiving water;

(2) the conditions of flow or the use of the receiving waters require an unusually high degree of wastewater treatment plant operational control; or

(3) the wastewater treatment plant uses an approved method of wastewater treatment not included in subdivision (a).

(c) Satellite plants shall not be classified separately. A satellite plant and the main wastewater treatment plant shall be classified as a single wastewater treatment plant.

(d) Within 45 days of receiving written notice of any change in reportable items in section 3676(b) or (c), the Office of Operator Certification shall either reclassify the wastewater treatment plant or make a determination that the change does not result in a need for reclassification.

Authority: Sections 1058 and 13626, Water Code.
Reference: Section 13626, Water Code.

§ 3676. Reporting Requirements for Owners of Wastewater Treatment Plants.

(a) Except as provided in subdivision (c), within 60 days from the effective date of this section, an owner shall submit to the Office of Operator Certification a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b) Except as provided in subdivision (c), in addition to providing the written acknowledgement required by subdivision (a), within 60 days from the effective date of this section, the owner of a privately owned wastewater treatment plant for which the State Water Board or a Regional Water Board has issued waste discharge requirements or any other wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control shall submit to the Office of Operator Certification a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel.

(c) The owner of a wastewater treatment plant that will begin operating more than 60 days after the effective date of this section shall submit to the Office of Operator Certification at least 60 days before the wastewater treatment plant begins operating, a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel. The owner shall submit a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The owner shall notify the Office of Operator Certification in writing within 30 days of the closure of the wastewater treatment plant or any change in the reportable items in subdivisions (b) or (c), that may affect the classification of the wastewater treatment plant.

(e) If the person designated as the chief plant operator changes, the owner shall notify the Office of Operator Certification in writing within 30 days and shall provide a signed statement from the new chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(f) The owner shall notify the Office of Operator Certification in writing within 30 days of entering into or ending a contract with a contract operator.

(g) The owner shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action taken by the owner against an operator, provisional operator, operator-in-training, or contract operator. Disciplinary action includes reprimanding or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name of the operator, provisional operator, operator-in-training, or contract operator, the specific violations, and the disciplinary action taken. The notice also shall include the operator's certificate number or the contract operator's registration number.

(1) Except as provided in (2) below, a notice received from an owner regarding final disciplinary action shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability or takes disciplinary action pursuant to article 9 or article 12 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

Authority: Sections 1058 and 13626, Water Code.
Reference: Sections 13626, 13627, 13627.1, 13627.2, 13627.3, and 13627.4, Water Code.

§ 3677. Exemption for a Class I Wastewater Treatment Plant.

An owner of a Class I wastewater treatment plant may apply to the Office of Operator Certification for an exemption from the requirements of this chapter and Water Code, division 7, chapter 9, if the wastewater treatment plant could not, due to operator error, violate water quality objectives.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.1. Application for Exemption for a Class I Wastewater Treatment Plant.

(a) An application for exemption shall contain sufficient information to demonstrate that the wastewater treatment plant meets the criteria prescribed in section 3677, and shall include:

(1) the name, mailing and business addresses, and telephone number of the owner of the wastewater treatment plant;

(2) the name, business address, and telephone number of the wastewater treatment plant;

(3) an employee organization chart;

(4) the original signature of the owner of the wastewater treatment plant or the owner's authorized representative;

(5) the name of the Regional Water Board overseeing the wastewater treatment plant and a copy of the current waste discharge requirements issued by the State Water Board or Regional Water Board;

(6) a description and schematic of the wastewater treatment plant showing all wastewater treatment and solids handling processes including a flow diagram showing design flows and present flows for all wastewater treatment processes and a solids balance diagram for the solids handling processes;

(7) an evaluation of the operations of the wastewater treatment plant signed and stamped by a California registered professional chemical, civil, or mechanical engineer. The engineer shall identify potential operator errors, evaluate the potential effects of the identified operator errors on the operation of the wastewater treatment plant, and determine whether the operator errors could cause the wastewater treatment plant to violate water quality objectives; and

(8) additional information, evidence, statements, or documents to support the application for exemption as requested by the Office of Operator Certification.

(b) A non-refundable application fee of $800 shall accompany each application for exemption.

(c) The applicant for exemption shall provide a copy of the application for exemption to the appropriate Regional Water Board.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.2. Issuance of a Notice of Exemption for a Class I Wastewater Treatment Plant.

(a) Within 60 days of receipt of a completed application for exemption, the Office of Operator Certification shall issue a notice of exemption or inform the applicant of the reason the notice of exemption shall not be issued.

(b) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying a request for exemption.

(c) A wastewater treatment plant shall be granted an exemption only if the Office of Operator Certification determines that the wastewater treatment plant could not, due to operator error, violate water quality objectives.

(d) A notice of exemption shall include:

(1) the name of the wastewater treatment plant;

(2) the name and business address of the owner;

(3) the issue and expiration dates of the exemption;

(4) the exemption number assigned by the State Water Board;

(5) the State Water Board seal;

(6) the name "State Water Resources Control Board;" and

(7) the signature of a State Water Board member or designee.

(e) An exemption granted by the Office of Operator Certification shall be valid for four years.

(f) The Office of Operator Certification may revoke or place conditions on an exemption at any time.

(g) If an application for exemption is denied or the Office of Operator Certification revokes an exemption, the owner shall, within 365 days from the date of the denial or revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.3. Changes to the Operation of an Exempt Wastewater Treatment Plant.

(a) At least 60 days before implementing any changes to the operation of an exempt wastewater treatment plant, the owner shall notify the Office of Operator Certification in writing of the proposed changes.

(b) Within 30 days of receiving notice of proposed changes to the operation of an exempt wastewater treatment plant, the Office of Operator Certification shall provide written notification of whether the wastewater treatment plant will remain exempt if the proposed changes are implemented.

(c) The owner shall notify the Office of Operator Certification in writing if the owner decides to implement proposed changes that the Office of Operator Certification determined will result in revocation of the exempt status of the wastewater treatment plant.

(d) The Office of Operator Certification shall revoke the wastewater treatment plant's exemption if the owner implements changes that result in the wastewater treatment plant no longer meeting the criteria for exemption in section 3677.2(c).

(e) If a wastewater treatment plant's exemption is revoked pursuant to this section, the owner shall, within 365 days from the date of the revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.4. Notice of Expiration of an Exemption for a Class I Wastewater Treatment Plant.

At least 60 days before the expiration of an exemption, the Office of Operator Certification shall send a written notice of the expiration date to the owner. Failure to receive a notice of

exemption expiration does not relieve the owner of the responsibility for renewing an exemption on or before the expiration date.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.5. Application for Exemption Renewal for a Class I Wastewater Treatment Plant.

(a) An application for exemption renewal shall include all of the information required for an application for exemption in section 3677.1(a) and a $300 application for exemption renewal fee.

(b) (1) The application for exemption renewal shall be received by the Office of Operator Certification no later than 30 days before the expiration of the exemption.

(2) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the exemption, the owner of the wastewater treatment plant shall pay a late fee of $100 in addition to the renewal fee.

(c) The applicant for exemption renewal shall provide a copy of the application for exemption renewal to the appropriate Regional Water Board.

(d) Within 30 days of the receipt of a complete application for exemption renewal, the Office of Operator Certification shall renew the exemption for four years in accordance with section 3677.2 or shall inform the applicant of the reason the exemption shall not be renewed.

(e) If an application for exemption renewal is denied, the owner shall, within 365 days from the date of the denial, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.6. Posting Notices of Exemption for a Class I Wastewater Treatment Plant.

An exempt wastewater treatment plant shall display its notice of exemption in an area accessible to the public at the wastewater treatment plant. If no area is accessible to the public, the notice shall be posted at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13525.1, Water Code.
Reference: Section 13625.1, Water Code.

Article 3. Grade Levels of Operator Certification

§ 3680. Grade Levels of Operator Certification.

Except as provided in section 3680.1, this section applies to operators.

(a) Except as provided in section 3680.2, each chief plant operator and designated operator-in-charge shall possess a valid operator certificate at a grade level at least equivalent to the following:

Wastewater Treatment Plant Classification	Minimum Grade Level of Chief Plant Operator	Minimum Grade Level of Designated Operator-in-Charge
I	I	I
II	II	I
III	III	II
IV	IV	III
V	V	III

(b) Except as provided in section 3680.2, a chief plant operator shall appoint a certified operator to be the designated operator-in-charge for any period of time during which the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(c) All operators shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate. At Class IV and V wastewater treatment plants, at least 50 percent of the operators shall possess valid operator or operator-in-training certificates at the Grade II level or higher.

(d) Notwithstanding subdivisions (a) through (c), if an owner of a wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control submits the reportable items in section 3676(b) and the Office of Operator Certification gives the wastewater treatment plant a higher classification than the wastewater treatment plant's prior classification, the owner shall, within 365 days from the date that the Office of Operator Certification classifies the wastewater treatment plant, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.1. Grade Levels of Operators at Privately Owned Wastewater Treatment Plants.

This section applies only to privately owned wastewater treatment plants for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

(a) No later than two years from the effective date of this section, all persons at a privately owned wastewater treatment plant performing duties that are comparable to the duties of an operator at a wastewater treatment plant shall possess at least a valid Grade I certificate, a

valid provisional operator certificate, or a valid operator-in-training certificate and meet the requirements for operators set forth in sections 3680 and 3680.2.

(b) No later than two years from the effective date of this section, the owner of a privately owned wastewater treatment plant shall staff the wastewater treatment plant with operators of appropriate grade levels as prescribed in section 3680 or use a provisional operator in accordance with section 3680.2.

(c) Notwithstanding the provisions in this section, a certified operator, certified provisional operator, or certified operator-in-training working at a privately owned wastewater treatment plant shall comply with the requirements of this chapter.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.2 Provisional Operator

(a) An owner of a Class I wastewater treatment plant must receive written approval from the Office of Operator Certification before using a provisional operator. The owner shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator to operate the wastewater treatment plant. The owner shall submit a written request for approval to use a provisional operator, a $1,000 request to use a provisional operator fee, a copy of the wastewater treatment plant's waste discharge requirements and standard operating procedures, and a written plan that includes:

(1) a description of the duties that the provisional operator will be performing at the wastewater treatment plant, the provisional operator's work schedule, and a requirement that the provisional operator submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification;

(2) a description of the training that the provisional operator will receive on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) the procedures for testing the provisional operator's proficiency performing proper sampling procedures and understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will communicate with, and provide assistance to, the provisional operator when the provisional operator needs direction and the procedure that the provisional operator will use to request this assistance; and

(5) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will assist the provisional operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671 and the procedure that the provisional operator will use to request this assistance.

(b) The owner shall provide to the appropriate Regional Water Board, a copy of the request for approval to use a provisional operator and the written plan prepared pursuant to subdivision (a).

(c) Except as provided in subdivision (d), the Office of Operator Certification shall approve the request to use a provisional operator if the owner submits a complete request to use a provisional operator and the written plan prepared pursuant to subdivision (a) provides that the provisional operator:

(1) will submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification and will not supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge;

(2) will receive training acceptable to the Office of Operator Certification on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) will demonstrate proficiency performing proper sampling procedures and an understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) has the ability to communicate at all times with a certified operator; and

(5) has the ability to request assistance from a certified operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying the request to use a provisional operator. The Office of Operator Certification may refuse to approve the request to use a provisional operator if the owner fails to demonstrate that the owner exercised due diligence, has had difficulty hiring a certified operator to operate the wastewater treatment plant, or if the written plan does not ensure the protection of human health, safety, and the environment.

(e) An approval to use a provisional operator granted by the Office of Operator Certification shall be valid for five years.

(f) The following process shall govern any changes to the written plan approved pursuant to subdivision (c):

(1) At least 30 days before implementing any changes to the written plan, the owner shall notify the Office of Operator Certification and the appropriate Regional Water Board in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (c) or notify the owner that the proposed amended plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(3) The owner shall not amend the written plan as proposed if the Office of Operator Certification notifies the owner that the proposed plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(g) The Office of Operator Certification may revoke its written approval of request to use a provisional operator if it determines that the written plan on which approval was based has been violated.

(h) A provisional operator shall be solely responsible for the operation of a Class I wastewater treatment plant. In no event shall a provisional operator supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3681. Lone Operator.

(a) A chief plant operator of a wastewater treatment plant must receive written approval from the Office of Operator Certification before assigning an operator as a lone operator. The chief plant operator shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operate the wastewater treatment plant. The chief plant operator shall request approval and shall submit a written plan that includes:

(1) the name(s) and grade level(s) of the lone operator(s) and the proposed duties of the lone operator(s);

(2) a work schedule showing when the lone operator(s) will be working alone; and

(3) the procedure the lone operator(s) will use to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge when the lone operator(s) needs direction.

(b) Except as provided in subdivision (c), ~~Written approval shall be given by~~ the Office of Operator Certification shall approve the request to use a lone operator if the written plan prepared pursuant to subdivision (a) provides that the lone operator(s):

(1) will perform only basic duties that require minimal judgment; and

(2) has the ability to communicate at all times with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge.

(c) The Office of Operator Certification may refuse to approve the request to use a lone operator if the chief plant operator fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator of the appropriate grade to operate the wastewater treatment plant.

(d) An approval to use a lone operator granted by the Office of Operator Certification shall be valid for 180 days.

~~(c)~~ (e) The following process shall govern any changes to the written plan approved pursuant to subdivision (b):

(1) At least 30 days before implementing any changes to the written plan, the chief plant operator shall notify the Office of Operator Certification in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (b) or notify the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(3) The chief plant operator shall not amend the written plan as proposed if the Office of Operator Certification notifies the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

~~(d)~~ (f) The Office of Operator Certification may revoke its written approval if it determines that the plan has been violated.

~~(e)~~ (g) In no event shall an operator-in-training be assigned as a lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 4. Operators-in-Training

§ 3682. Employment or Training of an Operator-in-Training.

An owner may employ or train an operator-in-training at any grade level, provided the operator-in-training is under the direct supervision of an operator at the same or higher grade level as the operator-in-training and is performing the duties at the grade level for which the certificate was issued. Operators-in-training may not supervise operators or other operators-in-training, and may not act in the capacity of a chief plant operator, designated operator-in-charge, or lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.1. Application for Operator-in-Training Certification.

(a) An application for an operator-in-training certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) the certification fee prescribed in article 10; and 3) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the applicant will be in training.

(b) An applicant for an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which an operator-in-training certification is requested.

(c) Except as provided in section 3682.5(b), an applicant for a Grade I operator-in-training certificate may, but is not required to, pass the Grade I examination before being issued the certificate.

(d) A person may apply for operator-in-training certification at the Grade II through Grade V levels if the applicant has passed an examination at that grade level or higher and the applicant's examination results have not expired.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.2. Issuance of an Operator-in-Training Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator-in-training certificate or inform the applicant of the reason the certificate will not be issued. The operator-in-training certificate shall be issued in the name of the applicant and mailed to the chief plant operator at the mailing address of the wastewater treatment plant where the applicant will be in training.

(b) An operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue an operator-in-training certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Except as provided in subdivision (e), operator-in-training certificates shall be valid for two years.

(e) The expiration date of Grade II through Grade V operator-in-training certificates shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.3. Renewal of an Operator-in-Training Certificate.

(a) An applicant for renewal of an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which a renewed operator-in-training certification is requested.

(b) Except as provided in section 3682.4(d), a valid, unexpired Grade I operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at the Grade I level or higher before the expiration of the initial certificate and the operator-in-training's examination results have not expired.

(c) A valid, unexpired Grade II through Grade V operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(d) Following an initial renewal pursuant to subdivisions (a) or (b), and except as provided in section 3682.4(d), a valid, unexpired Grade I though Grade V operator-in-training certificate may be renewed repeatedly for additional two-year periods if the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired, and the chief plant operator submits a plan for the operator-in-training to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687. The plan shall include:

(1) the chief plant operator's original signature verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(2) information regarding qualifying experience the applicant may have acquired at another wastewater treatment plant;

(3) the applicant's original signature;

(4) the average number of hours per week the applicant will be training at the wastewater treatment plant to acquire qualifying experience;

(5) an estimate of the amount of time required for the applicant to acquire the qualifying

experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687; and

(6) additional information, evidence, statements, or documents to support the application for renewal as requested by the Office of Operator Certification.

(e) At least 60 days before the expiration of an operator-in-training certificate, the Office of Operator Certification shall send a written notice of the expiration date to the chief plant operator at the wastewater treatment plant where the operator-in-training is training and to the operator-in-training. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(f) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, and classification or title;

(2) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the operator-in-training is in training;

(3) the renewal fee prescribed in article 10; and

(4) if the operator-in-training is applying for a renewal certificate pursuant to subdivision (c), a plan containing the information required by subdivision (c) submitted by the chief plant operator at the wastewater treatment plant where the operator-in-training is training.

(g) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the renewal application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3682.4. Issuance of a Renewed Operator-in-Training Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewed operator-in-training certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew an operator-in-training certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator-in-training certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewed operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed operator-in-training certificate shall not exceed the expiration date of the operator-in-training's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.5. Invalidation and Issuance of a New Operator-in-Training Certificate.

(a) Operator-in-training certificates are valid only while the operator-in-training is in training at the wastewater treatment plant for which the certificate was issued. When the training ceases, the chief plant operator shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the operator-in-training acquired before training ceased.

(b) Except as provided in subdivision (c), if a Grade I operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade I operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training:

(1) has passed an examination at the Grade I level or higher and the operator-in-training's examination results have not expired; or

(2) held all previous Grade I operator-in-training certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

(c) A Grade I operator-in-training certificate issued pursuant to subdivision (b)(2), shall be valid for a maximum of 24 months, including the time the applicant held all previous Grade I operator-in-training certificates.

(d) If a Grade II through Grade V operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade II through Grade V operator-in-training certificate is not renewed for any reason, the operator-in-

training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(e) Time and experience acquired under a previous operator-in-training certificate shall be credited to a new certificate issued pursuant to this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.6. Reporting Requirements for Operators-in-Training.

An operator-in-training shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator-in-training; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 5. Provisional Operators

§ 3683. Employment of a Provisional Operator.

An owner of a Class I wastewater treatment plant may employ a provisional operator to be solely responsible for the operation of the wastewater treatment plant, provided the owner has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2. Provisional operators may not supervise operators, other provisional operators, or operators-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.1. Application for Provisional Operator Certification.

(a) An application for a provisional operator certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) provisional operator certification fee prescribed in article 10; and 3) the name, contact information, and signature of the owner of the wastewater treatment plant where the applicant will be employed.

(b) An applicant for a provisional operator certificate must have completed the minimum amount of education prescribed in section 3687 for certification as a Grade I operator.

(c) A person may apply for a provisional operator certificate if the applicant has passed an examination at the Grade I level or higher and the applicant's examination results have not expired.

(d) The owner of the wastewater treatment plant where the applicant will be employed must have received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.2. Issuance of a Provisional Operator Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue a provisional operator certificate or inform the applicant of the reason the certificate will not be issued. The provisional operator certificate shall be issued in the name of the applicant and mailed to the owner at the mailing address of the wastewater treatment plant where the applicant will be employed.

(b) A provisional operator certificate shall include:

(1) the name of the provisional operator;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the provisional operator will be employed;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue a provisional operator certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) A provisional operator certificate shall be valid for a maximum of 24 months, including the time the applicant held all previous provisional operator certificates. A provisional operator certificate shall not be renewed.

(e) The expiration date of a provisional operator certificate shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.3. Invalidation and Issuance of a New Provisional Operator Certificate.

(a) Provisional operator certificates are valid only while the provisional operator is employed at the wastewater treatment plant for which the certificate was issued. When the employment ceases, the owner shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the provisional operator acquired before employment ceased.

(b) If a provisional operator certificate is returned to the Office of Operator Certification because the provisional operator is no longer employed at the wastewater treatment plant for which the certificate was issued, the provisional operator may apply for a new certificate at any time in accordance with this article, provided the provisional operator held all previous provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.4. Reporting Requirements for Provisional Operators.

A provisional operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the provisional operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

§ 3684. Qualifying Experience Credit.

(a) An applicant for operator certification who has acquired at least one year of full-time qualifying experience at a wastewater treatment plant may receive qualifying experience credits as follows:

(1) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant:

(A) has acquired 3,600 or more hours of experience in the operation of a water treatment plant regulated by the California Department of Public Health, another state, a territory, or an Indian tribe;

(B) possessed a valid water treatment plant operator certificate at the time the experience was acquired; and

(C) has acquired 3,600 or more hours of experience using two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, and disinfection.

(2) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:

(A) developing wastewater treatment plant operations and maintenance, safety, or laboratory procedural manuals;

(B) conducting training in wastewater treatment plant operations, safety, or laboratory procedures;

(C) developing, testing, and evaluating process control strategies to optimize wastewater treatment plant performance; or

(D) performing physical, chemical, and biological processes that are comparable to the duties of an operator at a wastewater treatment plant.

(3) When an applicant submits an application for certification to the Office of Operator Certification, the applicant may make an irrevocable election to substitute 16 educational points for one year of full-time qualifying experience credit. Educational points substituted for qualifying experience credit may not be used to satisfy education requirements in the Operator Certification Requirements Table in section 3687 for certification or qualifying for an examination.

(b) The Office of Operator Certification shall give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and provided that during the time of employment, the applicant held a valid, unexpired certification of the appropriate grade level issued by a certifying body and the certification requirements are comparable to the requirements of this chapter.

(1) Evaluation of the experience shall be based on the actual work performed by the applicant without respect to job title.

(2) The Office of Operator Certification may refuse to give qualifying experience credit under this subdivision if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) Upon passing a written examination, each person applying for a certificate in accordance with section 3680.1 who is employed at a privately owned wastewater treatment plant before the effective date of section 3680.1, shall be credited with a minimum of one year of full-time qualifying experience.

(1) An applicant may receive more than one year of full-time qualifying experience credit if the applicant provides documentation of more than one year of experience acquired while employed at a privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and the owner verifies the experience.

(2) An applicant also may receive qualifying experience credit in accordance with subdivisions (a) and (b).

Authority: Sections 1058, 13627, and 13627.5, Water Code.
Reference: Sections 13627 and 13627.5, Water Code.

§ 3685. Educational Points.

(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Operators may receive educational points for completing wastewater treatment courses or science courses as follows:

(1) One three-unit semester course completed as part of the curriculum of an accredited college or university is equal to eight educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) One Continuing Education Unit awarded by a professional association or other nonprofit private or public agency is equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, ten classroom hours are equal to one educational point.

(b) At Grades III, IV, and V, operators may earn up to sixteen educational points for completing management courses. An operator may not earn more than four educational points in each type of management course. Educational points for a management course may be earned as follows:

(1) One completed three-unit semester course that is part of the curriculum of an accredited college or university is equal to four educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) Two Continuing Education Units awarded by a professional association or other nonprofit private or public agency are equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, twenty classroom hours are equal to one educational point.

(c) Applicants may not substitute experience for educational points.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13629, Water Code.

§ 3686. High School Equivalence.

Passing an approved General Educational Development Test, or obtaining a Certificate of Proficiency issued by the Board of Education in accordance with section 48412 of the Education Code, are equivalent to obtaining a high school diploma.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3687. Education and Experience Requirements.

(a) The education and experience requirements in this section apply to applicants for a new operator, provisional operator, or operator-in-training certificate, a renewed operator-in-training certificate, or an examination. An operator holding a valid, unexpired certificate issued before the effective date of this section does not need to meet these requirements in order to renew a certificate. Additionally, an operator holding an expired certificate issued before the effective date of this section does not need to meet these requirements in order to reinstate a certificate in accordance with section 3702.4.

(b) The Office of Operator Certification shall issue a certificate if the applicant:

(1) has completed one of the education and experience paths prescribed in this section; and

(2) has passed an examination at the appropriate grade level or higher and the applicant's examination results have not expired, or has obtained an examination waiver in accordance with section 3689.

(c) Eligibility for certification shall be based on the education and experience requirements for each wastewater treatment plant operator grade level in the following table:

OPERATOR CERTIFICATION REQUIREMENTS TABLE

PATH	EDUCATION		QUALIFYING EXPERIENCE
GRADE I			
1	High school diploma or equivalent and 6 educational points	and	1 year of full-time qualifying experience

GRADE II			
1	High school diploma or equivalent and 9 educational points	and	18 months of full-time qualifying experience as a Grade I operator
2	High school diploma or equivalent and 12 educational points	and	2 years of full-time qualifying experience
3	Associate's degree, a higher degree, or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	1 year of full-time qualifying experience
GRADE III			
1	High school diploma or equivalent and 12 educational points	and	3 years of full-time qualifying experience as a Grade II operator
2	High school diploma or equivalent and 18 educational points	and	4 years of full-time qualifying experience
3	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	2 years of full-time qualifying experience
4	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	1 year of full-time qualifying experience
GRADE IV			
1	High school diploma or equivalent and 32 educational points	and	6 years of full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	4 years of full-time qualifying experience

3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	3 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, territory, or Indian tribe	and	2 years of full-time qualifying experience

GRADE V			
1	High school diploma or equivalent and 48 educational points	and	10 years full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	6 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	5 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, a territory, or an Indian tribe	and	4 years of full-time qualifying experience

(d)(1) The Office of Operator Certification may award educational points to an operator for completing wastewater treatment, science, or management courses in accordance with section 3685.

(2) The Office of Operator Certification may accept comparable education obtained outside of the United States to satisfy the educational requirements listed below.

(3) Full-time qualifying experience shall be earned at a wastewater treatment plant in accordance with the definitions of "full time" and "qualifying experience" in section 3671. An operator shall acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of qualifying

experience. In addition, the Office of Operator Certification may award an operator qualifying experience credit in accordance with section 3684.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 7. Examination for Wastewater Treatment Plant Operators

§ 3689. Examination Waiver.

(a) The Office of Operator Certification shall waive the examination requirement and the examination fee if the applicant holds a valid, unexpired certificate issued by a certifying body for a position comparable to that of an operator at a wastewater treatment plant, provided:
(1) the experience, education, and examination requirements of the certifying body are comparable to the Office of Operator Certification's requirements as prescribed in article 6;

(2) the applicant meets the minimum education and qualifying experience requirements for the applicable grade level as prescribed in article 6;

(3) the applicant has passed a written examination, administered by the certifying body, that is comparable to the examination given by the Office of Operator Certification for the applicable grade of operator certification; and

(4) the applicant completes an application for operator certification and pays the certification and examination waiver fees prescribed in article 10.

(b) The Office of Operator Certification may refuse to waive the examination requirement if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) An applicant for certification who has been issued an examination waiver shall receive qualifying experience credit in accordance with section 3684(b).

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3700. Application for Examination.

(a) A person may apply to take an examination at any grade level if the applicant has completed the education required in section 3687 for that grade level before the final filing date for the examination. An application for an examination shall include:

(1) the applicant's full name, mailing address, and telephone number;

(2) the applicant's original signature;

(3) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(4) additional information, evidence, statements, or documents to support the application for examination as requested by the Office of Operator Certification; and

(5) the application fee for an examination and the examination fee as prescribed in article 10.

(b) Applications for examination shall be received by the Office of Operator Certification by the final filing date as prescribed in section 3701(a). Complete applications received after the final filing date shall not be processed for the current examination, but shall be held over and processed for the next scheduled examination.

(c)(1) The Office of Operator Certification shall notify applicants in writing within 30 days of receipt of an application whether it is complete or deficient and shall identify any deficiency.

(2) If the deficiency is not corrected before the final filing date for the examination, the application shall not be approved. The applicant shall be required to complete a new application to take a subsequent examination and pay the application fee for an examination. If the applicant has paid the examination fee, it will be applied to a future examination.

(d) An applicant who is scheduled to take an examination and wants to request a change of testing location or have the application held until the next examination date must make the request at least 30 days before the scheduled examination. If the applicant fails to attend the next examination, the applicant may apply to take a subsequent examination by submitting a new examination application and the application fee for examination.

(e) An applicant who has paid the examination fee, but does not take an examination, may request a refund of the examination fee from the Office of Operator Certification.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701. Examinations.

(a) A minimum of two examinations shall be given each year. The final filing date will be 60 days before the scheduled examination.

(b) Written examinations for each wastewater treatment plant operator grade level shall test an applicant's knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation shall be included. The examination for each

progressively higher grade level shall require more detailed knowledge of the subject matter.

(c) The content of the examination for each grade level shall be as follows:

(1) Grade I examinations shall test the applicant's knowledge of: basic safety practices and hazards related to wastewater treatment plant operation; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding wastewater treatment plant classification, waste discharge requirements, and operator certification.

(2) Grade II examinations shall test the applicant's knowledge of: the components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling, and digestion; routine sampling and analysis procedures for evaluation of process and overall wastewater treatment plant performance; and basic supervision responsibilities.

(3) Grade III examinations shall test the applicant's knowledge of: the components of the Grade II examination as prescribed in (2) above; limitations, controls, and performance calculations for primary and secondary treatment and sludge-handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.

(4) Grade IV examinations shall test the applicant's knowledge of: the components of the Grade III examination as prescribed in (3) above; limitations, controls, and performance calculations for tertiary treatment processes; requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, operator training, and budget development and control.

(5) Grade V examinations shall test the applicant's knowledge of the components of the Grade IV examination as prescribed in (4) above as applied in more difficult and complex situations.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701.1. Examination Security.

(a) An applicant shall be required to present photographic identification issued by a state or federal governmental entity to gain admission to the examination.

(b) The examination materials of an applicant who engages in dishonest conduct during an examination shall be confiscated and the applicant shall not have the examination graded, shall be denied the opportunity to take the next scheduled examination, and shall be subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710. The examination fee paid by the applicant shall not be refunded.

(c) Examination questions are confidential. Any person who copies questions or removes any examination material from the examination room or who conveys or reveals all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of section 3710. The applicant also is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710.

Authority: Sections 1058 and 13627.1, Water Code.
Reference: Section 13627.1, Water Code.

§ 3701.2. Examination Results.

(a) Within 90 days after an examination, the Office of Operator Certification shall send a notice of the examination results in writing to the applicant.

(b) An applicant who fails an examination may be eligible to take a subsequent examination upon submitting the examination application and examination fee as prescribed in article 10. Requests for reexamination shall be received by the final filing date set forth in section 3701(a).

(c) Passing examination results are valid for four years from the date on the notice of the examination results.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 8. Certification of Wastewater Treatment Plant Operators

§ 3702. Application for Certification.

(a) An application for certification shall include the applicant's full name, mailing address, work and home telephone numbers, social security number, date of birth, the grade level of certification that is being requested; if currently certified, the operator's current grade level and certificate number, and all of the following information unless previously provided to the Office of Operator Certification:

(1) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued to the applicant by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(2) the business address and telephone number of each wastewater treatment plant at which the applicant has acquired qualifying experience, including current employment, and the amount of qualifying experience acquired at each wastewater treatment plant;

(A) An applicant who is currently employed as an operator shall submit an original signed statement by the chief plant operator verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant;

and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(B) An applicant who is not currently employed as an operator, but who meets all certifications requirements is not required to submit an original signature from a chief plant operator.

(C) An applicant who is a chief plant operator shall submit an original signed statement by the owner verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(3) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant;

(4) information regarding any experience for which the applicant is requesting qualifying experience credit pursuant to section 3684;

(5) the applicant's original signature;

(6) additional information, evidence, statements, or documents to support the application as requested by the Office of Operator Certification; and

(7) the certification fee prescribed in article 10.

(b) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notification, the application shall be denied.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.1. Issuance of Certificates.

(a) An operator certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue and expiration dates of the certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(b) Upon successful completion of the application and examination process and within 30 days of payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator certificate. If an operator is employed at more than one wastewater treatment plant, the Office of Operator Certification shall issue duplicate operator certificates to the operator for posting at each wastewater treatment plant.

(c) The Office of Operator Certification may refuse to issue a certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Operator certificates shall be valid for two years from the date of issue.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.2. Application for Certificate Renewal.

(a) An operator certificate may be renewed repeatedly for two-year periods.

(b) At least 60 days before the expiration of an operator certificate, the Office of Operator Certification shall send a written notice of the expiration date to the operator. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(c) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, certificate number, and classification or title;

(2) if employed as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed, and the name of the chief plant operator; and

(3) the renewal fee prescribed in article 10.

(d) Within 30 days of receipt of a renewal application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application.

(e) If there is a deficiency, and the deficiency is not corrected before expiration of the certificate, the Office of Operator Certification shall not issue a renewal certificate. After the applicant pays the reinstatement fee prescribed in section 3717, the Office of Operator Certification shall issue a new certificate if the requirements of section 3702.4 are met.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.3. Issuance of Renewal Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.
(b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewal certificate shall include:

(1) the operator's name and ~~address~~ grade level;

(2) the certificate number ~~and operator grade level~~;

(3) the issue date of the initial certificate and the expiration date of the renewal certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed certificate shall be two years from the expiration date of the certificate being renewed.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following expiration if the applicant applies for reinstatement as prescribed in this section.

(b) Experience acquired under the expired certificate shall be credited to the reinstated certificate.

(c) An application for reinstatement shall include:

(1) all the information prescribed in section 3702.2;

(2) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(3) the renewal and reinstatement fees prescribed in article 10.

(d) The Office of Operator Certification may refuse to reinstate a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(e) The expiration date of a reinstated certificate shall be two years from the date of reinstatement of the certificate.

(f) A certificate that has been expired for more than one year shall not be reinstated. Upon passing another examination at the appropriate grade level, an applicant whose certificate has been expired for more than one year may apply for a new certificate in accordance with section 3702.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.5. Reporting Requirements for Operators.

An operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3702.6. Replacement.

A lost, stolen, damaged, or destroyed certificate may be replaced by the Office of Operator Certification if the operator, provisional operator, or operator-in-training signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction and submits the replacement fee prescribed in article 10.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code.

§ 3702.7 Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, reinstate, or replace a certificate if the operator, provisional operator, or operator-in-training has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3703. Posting Certificates.

Operators, provisional operators, and operators-in-training shall display their valid certificates in an area accessible to the public at each wastewater treatment plant where employed. If no area is accessible to the public, the certificates shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article 9. Administrative Civil Liability, Disciplinary Action, Appeal, and Petition Process

§ 3709. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivisions (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $100 for each day of violation upon:

(1) any person who operates a wastewater treatment plant without holding a valid, unexpired certificate at the appropriate grade level as required by this chapter; or

(2) any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as an operator who does not hold a valid, unexpired certificate of the appropriate grade level as required by this chapter.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) employing fraud or deception in the course of operating a wastewater treatment plant;

(2) failing to use reasonable care or judgment in the operation of a wastewater treatment plant;

(3) willfully or negligently violating, or causing, or allowing the violation of waste discharge requirements;

(4) submitting false or misleading information to the State Water Board on an application for a certificate; or

(5) engaging in dishonest conduct during an examination.

Authority: Sections 13627.1, 13627.2, and 13627.4, Water Code.
Reference: Sections 13323, 13627.1, 13627.2, and 13627.4, Water Code.

§ 3710. Grounds for Disciplinary Action.

(a) The State Water Board may refuse to grant, suspend, or revoke an operator, provisional operator, or operator-in-training certificate or may reprimand or place on probation an operator, provisional operator, or operator-in-training upon any reasonable ground, including performing, or allowing or causing another to perform, any of the following acts:

(1) willfully or negligently violating, causing, or allowing a violation of this chapter;

(2) without regard to intent or negligence, operating or allowing the operation of a wastewater treatment plant by a person who is not certified at a grade level necessary for the position or whose operator, provisional operator, or operator-in-training certificate has expired;

(3) submitting false or misleading information on any document provided to State Water Board staff including applications for examination, certification, renewal, or reinstatement, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(4) engaging in dishonest conduct during an examination or violating confidentiality of examination questions;

(5) using fraud or deception in the course of employment as an operator, provisional operator, or operator-in-training;

(6) failing to use reasonable care or good judgment in the course of employment as an operator, provisional operator, or operator-in-training or failing to apply knowledge or ability in the performance of duties;

(7) willfully or negligently violating, causing, or allowing the violation of waste discharge requirements;

(8) failing to notify, as required by section 3682.6, 3683.4, or 3702.5, the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act

associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(9) without regard to intent or negligence, operating a wastewater treatment plant without posting a valid operator, provisional operator, or operator-in-training certificate as required by section 3703; or

(10) committing any act that is a reasonable ground for disciplinary action pursuant to this chapter if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be a reasonable ground for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

(b) A chief plant operator may be subject to the disciplinary actions specified in subdivision (a) for willfully or negligently failing to ensure that an operator-in-training is supervised directly as required by section 3682.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 185, 13260, and 13627, Water Code; and Title IV, 33 USC, Section 1342 (Clean Water Act).

§ 3711. Appeals of Discretionary Decisions Made by the Office of Operator Certification.

(a) The following discretionary decisions made by the Office of Operator Certification are final and conclusive unless the applicant requests the Deputy Director of the Division to review the discretionary decision made by the Office of Operator Certification: 1) denial of an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination.

(b) Appeals shall be in writing and shall be received by the Deputy Director of the Division within 45 days of the date of the decision being appealed.

(c) An appeal shall contain:

(1) the name, address, telephone number, and email address (if available) of the appellant;

(2) a copy of the decision that the appellant is appealing;

(3) a full and complete statement of the reasons why the decision being appealed is erroneous, inappropriate, or improper; and

(4) the specific action that the appellant seeks from the Deputy Director of the Division.

(d) The appeal shall be sent to the Deputy Director of the Division, with a copy sent to the Office of Operator Certification.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3711.1. Action by the Deputy Director of the Division.

(a) The Office of Operator Certification may file a recommendation regarding an appeal with the Deputy Director of the Division within 30 days of receiving a copy of the appeal. The Deputy Director may allow additional time for the Office of Operator Certification to file a recommendation. The Office of Operator Certification shall provide a copy of its recommendation to the appellant.

(b) The Deputy Director of the Division shall review the evidence and any recommendation filed by the Office of Operator Certification and shall make a Final Division Decision within 90 days of receipt of the appeal. The Final Division Decision shall inform the appellant that the decision is final and conclusive unless the appellant petitions the State Water Board for review in accordance with the provisions of section 3711.2.

(c) The Deputy Director of the Division may at any time, on the Deputy Director's own motion, issue a Final Division Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3711.2. Petition for Review of a Final Division Decision by the State Water Board.

(a) An applicant may petition the State Water Board for review of a Final Division Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Division Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;

(2) a copy of the Final Division Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement by the petitioner of the reasons why the Final Division Decision is erroneous, inappropriate, or improper; and

(4) the specific action that the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Deputy Director of the Division.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Deputy Director of the Division, the request must include a statement that additional evidence is available that was not presented to the Deputy Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Division Decision, except that if the 30th day following the date of the Final Division Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§3712. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) A proposed disciplinary action letter is final and conclusive unless the applicant, operator, provisional operator, or operator-in-training being disciplined requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be in writing and shall be received by the Director of the Office of Enforcement within 45 days of the date of the proposed disciplinary action letter.

(c) A request for reconsideration shall contain:

(1) the name, address, telephone number, and email address (if available) of the requestor;

(2) a copy of the proposed disciplinary action letter;

(3) a full and complete statement of the reasons why the proposed disciplinary action letter is erroneous, inappropriate, or improper; and

(4) the specific action that the requestor seeks from the Director of the Office of Enforcement.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.1. Action by the Director of the Office of Enforcement.

(a) The Director of the Office of Enforcement shall review the evidence and make a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration. The Final Office of Enforcement Decision shall inform the requestor that the decision is final and conclusive unless the requestor petitions the State Water Board for review in accordance with the provisions of section 3712.2.

(b) The Director of the Office of Enforcement may at any time, on the Director's own motion, issue a Final Office of Enforcement Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.2. Petition for Review of a Final Office of Enforcement Decision by the State Water Board.

(a) The applicant, operator, provisional operator, or operator-in-training being disciplined may petition the State Water Board for a review of the Final Office of Enforcement Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Office of Enforcement Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;

(2) a copy of the Final Office of Enforcement Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement of the reasons why the Final Office of Enforcement Decision is erroneous, inappropriate, or improper; and

(4) the specific action the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Director of the Office of Enforcement.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Director of the Office of Enforcement, the request must include a statement that additional evidence is available that was not presented to the Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted

previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Office of Enforcement Decision, except that if the 30th day following the date of the Final Office of Enforcement Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3713. Defective Petitions.

(a) Upon receipt of a petition that does not comply with section 3711.2 or 3712.2 of this chapter, the State Water Board shall notify the petitioner of the manner in which the petition is defective and the time within which an amended petition may be filed.

(b) If a properly amended petition is not received by the State Water Board within the time allowed, the petition shall be dismissed unless good cause is shown for an extension of time.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3714. Action by the State Water Board on a Petition.

(a) The State Water Board may:

(1) at any time, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review;

(2) deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper;

(3) set aside or modify the Final Division Decision or Final Office of Enforcement Decision; or

(4) take any other action the State Water Board deems appropriate.

(b) The Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper.

(c) Except where an evidentiary hearing is required by law, the State Water Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both before taking final action on the petition.

(d) If a hearing is held, it shall be conducted in accordance with California Code of Regulations, title 23, chapter 1.5, article 2.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3715. Workshop Meeting.

The State Water Board may discuss a proposed order in response to a petition for review of a Final Division Decision or Final Office of Enforcement Decision in a public workshop meeting prior to formal action at a board meeting. Comments may be submitted in writing before the workshop meeting. At the workshop meeting, the State Water Board may invite comments on the proposed order from interested persons. All comments shall be based solely upon evidence contained in the record or upon legal argument.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3716. Formal Disposition.

(a)(1) Except as provided in subdivision (b), unless denied by the Executive Director pursuant to section 3714(b), formal disposition by the State Water Board of any pending petition will be taken at a regularly or specially scheduled State Water Board meeting. At the meeting the State Water Board may invite comments on the matter from interested persons. These comments shall be based solely upon evidence contained in the record or legal argument.

(2) No new evidence shall be submitted at the State Water Board meeting. Written arguments submitted after the workshop meeting shall be limited to revisions to the proposed order that was considered by the State Water Board at the workshop meeting. Such written arguments shall be filed at least two working days prior to the State Water Board meeting, unless otherwise specified by the State Water Board.

(b) This section does not limit the authority of the Executive Director to issue an order by settlement to resolve a petition on behalf of the State Water Board.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article 10. Fees

§ 3717. Operator, Provisional Operator, and Operator-In-Training Fees.

(a) Except for examination fees that are refundable pursuant to section 3700(e), all fees are nonrefundable.

(b) Application fees for an examination are:

Grade I:	$70
Grade II:	$90
Grade III:	$130
Grade IV:	$140
Grade V:	$140

(c) Examination fees are:

Grade I:	$70
Grade II:	$90
Grade III:	$220
Grade IV:	$300
Grade V:	$300

(d) The provisional operator certification fee is $170. Operator and operator-in-training certification fees are:

Grade I:	$170
Grade II:	$230
Grade III:	$300
Grade IV:	$340
Grade V:	$340

(e) Operator and operator-in-training certification renewal fees are:

Grade I:	$170
Grade II:	$230
Grade III:	$300
Grade IV:	$340
Grade V:	$340

(f) The reinstatement fee for all grade levels is $100.

(g) The fee for replacing a lost, stolen, damaged, or destroyed certificate is $50.

(h) Applicants for an examination waiver shall pay an examination waiver fee of $100 in addition to the certification fee.

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 11. Advisory Committee

§ 3718. Advisory Committee Membership and Responsibilities.

(a) The State Water Board shall appoint an advisory committee of nine members to assist it in carrying out its responsibilities under this chapter. The committee shall consist of:

(1) two operators who are employed at a wastewater treatment plant and who are members of a statewide organization representing operators;

(2) two individuals from statewide organizations representing municipalities, including counties or private utility wastewater treatment plants;

(3) two individuals from statewide organizations representing local sanitation agencies, other than agencies specified in (2) above;

(4) one professional engineer specializing in sanitary engineering;

(5) one individual from a university or a state university school or division of engineering; and

(6) one member of an organized labor union that represents operators.

(b) Members of the advisory committee shall serve for four years at which time they shall be eligible for reappointment.

(c) The committee shall meet when necessary to review and make recommendations to the State Water Board regarding all proposed regulations and to assist the State Water Board in carrying out its responsibilities under this chapter.

Authority: Sections 1058 and 13631, Water Code.
Reference: Sections 13631, 13632, and 13633, Water Code.

Article 12. Wastewater Treatment Plant Contract Operators

§ 3719. Contract Operator Registration Requirement.

Within 30 days after entering into a contract to operate a wastewater treatment plant, a contract operator must submit an application for contract operator registration to the Office of Operator Certification. The contract operator must obtain a contract operator credential for each wastewater treatment plant under contract. All operators employed by the contract operator shall be certified according to the provisions of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.1. Term of Contract Operator Registration.

A contract operator registration shall be valid for one year from the issue date.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.2. Application for Contract Operator Registration.

(a) An application for a contract operator registration shall include:

(1) the applicant's name, mailing and business addresses, and telephone number;

(2) the name, address, and telephone number of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant to be operated, the name, business address, and telephone number of the wastewater treatment plant; the name of the chief plant operator(s); the name of the Regional Water Board overseeing the wastewater treatment plant; and the duration of each contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to sign the contract(s);

(6) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(7) the registration fee as prescribed in section 3719.16.

(b) Within 30 days of receipt of the application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.3. Issuance of Contract Operator Registration and Contract Operator Credential.

(a) The contract operator registration issued by the Office of Operator Certification shall include:

(1) the applicant's name, business address, and registration number;

(2) the issue and expiration dates of the registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board," and

(5) the signature of a State Water Board member or designee.

(b) Except as provided in subdivision (c), within 30 days of receipt of a complete application for registration, the Office of Operator Certification shall issue a contract operator registration to the contract operator or inform the applicant of the reason the registration will not be issued. The Office of Operator Certification also shall issue one contract operator credential to the contract operator for each wastewater treatment plant operated. The contract operator credential shall include the name of the wastewater treatment plant to be operated in addition to the information required in subdivision (a). Contract operator registrations and contract operator credentials are nontransferable.

(c) The Office of Operator Certification may refuse to issue a contract operator registration if it determines that the applicant has committed any act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§3719.4. Renewal of Contract Operator Registration.

(a) At least 60 days before the expiration of a contract operator registration, the Office of Operator Certification shall send a written notification of the expiration date to the contract operator. Failure to receive a notice of the expiration date does not relieve the contract operator from the responsibility of renewing a registration on or before the expiration date.

(b) An application for renewal of a contract operator registration shall include:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, and telephone number of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant operated, the name, business address, and telephone number of the wastewater treatment plant, the name of the chief plant operator, the name of the Regional Water Board overseeing the wastewater treatment plant, and the duration of each contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to sign the contract(s); and

(6) the renewal fee as prescribed in section 3719.16.

(c) A contract operator who wishes to renew a contract operator registration shall submit to the Office of Operator Certification a completed application as specified in subdivision (b). The application for renewal shall be received no later than 30 days before the expiration of the registration. If the application for renewal is received less than 30 days before the expiration date, the contract operator shall pay a late fee as prescribed in section 3719.16.

(d) Within 30 days of receipt of the application for renewal, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the contract operator in writing of the specific requirements necessary to complete the application for renewal. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.5. Issuance of Renewed Contract Operator Registration and Contract Operator Credential.

(a) A renewed contract operator registration shall include:

(1) the contract operator's name, business address, and registration number;

(2) the issue date of the initial registration and expiration date of the renewal registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board;" and

(5) the signature of a State Water Board member or designee.

(b) Except as provided in subdivision (c), within 30 days of the receipt of a complete application for renewal, the Office of Operator Certification shall issue a renewed contract operator registration or inform the applicant of the reason the registration will not be issued. The Office of Operator Certification shall issue one contract operator credential to the contract operator for each wastewater treatment plant operated. The credential shall include the name of the wastewater treatment plant operated in addition to the requirements in subdivision (a) for a renewed contract operator registration. Contract operator registrations and contract operator credentials are nontransferable.

(c) The Office of Operator Certification may refuse to renew a contract operator registration if it determines that the applicant has operated a wastewater treatment plant with an expired contract operator registration or has committed any other act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.6. Application for Additional Contract Operator Credential.

(a) Within 30 days after entering into a contract to operate a wastewater treatment plant not included in the original application, a contract operator shall submit an application to the Office of Operator Certification requesting an additional contract operator credential. The application shall include the following:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, telephone number, and registration number of the owner of the wastewater treatment plant;

(3) the name, address, telephone number, and chief plant operator of the wastewater treatment plant, the Regional Water Board overseeing the wastewater treatment plant, and the duration of the contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant;

(5) the original signature of the person authorized by the contract operator to enter the contract; and

(6) the fee for issuing a new contract operator credential as prescribed in section 3719.16.

(b) Within 30 days of receipt of an application for an additional contract operator credential, the Office of Operator Certification shall issue a contract operator credential in accordance with section 3719.3.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.7. Replacement of Contract Operator Registration or Contract Operator Credential.

A lost, stolen, damaged, or destroyed contract operator registration or contract operator credential may be replaced by the Office of Operator Certification if the registration or credential holder signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction of the registration or credential and submits the replacement fee prescribed in section 3719.16.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.8. Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, or replace a contract operator registration or contract operator credential if the contract operator has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.9. Posting Contract Operator Credentials.

A valid, unexpired contract operator credential shall be displayed in an area accessible to the public at each wastewater treatment plant where the contract operator has a contract to provide services. If no area is accessible to the public, the contract operator credential shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.10. Reporting Requirements for Contract Operators.

(a) A contract operator shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action by the contract operator against an operator, provisional operator, or operator-in-training. Disciplinary action includes reprimanding or placing on probation an operator, provisional operator, or operator-in-training, or suspending, demoting, or discharging an operator, provisional operator, or operator-in-training for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name and certificate number of the operator, provisional operator, or operator-in-training, the specific violations, and the disciplinary action taken by the contract operator.

    (1) Except as provided in (2) below, a notice regarding final disciplinary action received from a contract operator shall be retained in State Water Board files for three years.

    (2) If the State Water Board imposes administrative civil liability as set forth in section 3709 or takes disciplinary action pursuant to section 3710 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

(b) A contract operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the contract operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code

§ 3719.11. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivision (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) failing to use reasonable care in the management or operation of the wastewater treatment plant;

(2) willfully or negligently causing or allowing a violation of waste discharge requirements; or

(3) submitting false or misleading information to the State Water Board on an application for a registration.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $1,000 for each day of the violation upon any person for failure to comply with section 3719.

Authority: Section 13627.3, Water Code
Reference: Sections 13323, 13627.3, and 13627.4, Water Code

§ 3719.12. Grounds for Disciplinary Action.

The State Water Board may refuse to grant, or may suspend or revoke, a registration for good cause, including any of the following reasons:

(a) willfully or negligently violating, causing, or allowing a violation of this chapter;

(b) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who is not certified at a grade level necessary for the position or whose certificate has expired;

(c) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired registration;

(1) It has been no more than 30 days after the contract operator entered a contract to operate a wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration to the Office of Operator Certification within 30 days of entering into a contract to operate a wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(d) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired contract operator credential;

(1) It has been no more than 30 days after the contract operator entered a contract to operate the wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration or an application for an additional contract operator credential to the Office of Operator Certification within 30 days of entering into a contract to operate the wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(e) submitting false or misleading information on any document provided to State Water Board staff including applications for registration or registration renewal, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(f) using fraud or deception in the course of contracting to operate a wastewater treatment plant, including submitting false or misleading documents to the owner of any wastewater treatment plant under contract;

(g) failing to use reasonable care or good judgment while operating a wastewater treatment plant;

(h) willfully or negligently causing or allowing a violation of waste discharge requirements;

(i) failing to notify, as required by section 3719.10(b), the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(j) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who has not posted an operator or operator-in-training certificate as required by section 3703 or failing to post the contract operator credential as required by section 3719.9; or

(k) committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be good cause for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.13. Appeals of Discretionary Decisions made by the Office of Operator Certification.

(a) An applicant or contract operator may appeal discretionary decisions made by the Office of Operator Certification regarding denial of an application for registration or registration renewal.

(b) Appeals shall be processed in accordance with the provisions of sections 3711 and 3711.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.14. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) An applicant or contract operator may request that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be processed in accordance with the provisions of sections 3712 and 3712.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.15. Petitions.

(a) An applicant or contract operator may petition the State Water Board for review of a Final Division Decision or a Final Office of Enforcement Decision.

(b) Petitions shall be processed in accordance with the provisions of sections 3711.2, 3712.2, and 3713 through 3716 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.16. Wastewater Treatment Plant Contract Operator Registration Fees.

(a) The initial contract operator registration fee is $350. For each operator employed in California by the contract operator, the contract operator shall pay a fee of $75 up to a maximum of $1,500 in combined contract operator registration fees and employee registration fees.

(b) The annual renewal fee is $350 plus $75 for each operator employed in California by the contract operator up to a maximum of $1,500 in combined contract operator registration renewal fees and employee registration fees.

(c) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the contract operator registration, the contract operator shall pay a late fee of $100 in addition to the renewal fee.

(d) The fee for replacing a lost, stolen, damaged, or destroyed contract operator registration or contract operator credential or for issuing an additional contract operator credential pursuant to section 3719.6 is $50.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

RECEIVED
10-2-12
SWRCB Clerk

Good Morning,
I do not agree with the proposed changes. A Water Treatment certificate is not the same as a Wastewater Treatment Certificate. There is no experience gained through water treatment for Primary, Digestion, Activated Sludge, Solids Handling or any other aspect of Wastewater. Holding one type of certificate does not equate to knowledge or experience gained by preforming the activities of the other as described in the proposal. I also find these proposals discriminatory in that the Wastewater Plant Operator Certificate would not allow the Operation of a Water Treatment Facility.

David Taylor
Wastewater Grade 5
310-648-5949

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS
CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Article 1. General Provisions

§ 3670. Purpose.

The primary purpose of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program is to protect public health and the environment by providing for the effective operation of wastewater treatment plants, including water recycling treatment plants, through the certification of wastewater treatment plant operators and the registration of contract operators.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

§ 3670.1. Certification Requirements for Operating Wastewater Treatment Plants.

(a) Except as provided in subdivision (b), no person shall operate a wastewater treatment plant without a valid, unexpired, State Water Board-issued operator, provisional operator, or operator-in-training certificate at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680, 3680.1, and 3680.2.

(b) A person certified by the California Department of Public Health as a water treatment plant operator may operate a water recycling treatment plant at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680 and 3680.1.

(1) For the purpose of this subdivision, a water treatment plant operator certificate is equivalent to a wastewater treatment plant operator certificate as follows:

Certificate Requirements for Water Recycling Treatment Plants

Wastewater Treatment Plant Classification	Water Treatment Plant Operator Certificate	Wastewater Treatment Plant Operator Certificate
I	T1	Grade I
II	T2	Grade II
III	T3	Grade III
IV	T4	Grade IV
V	T5	Grade V

(2) The State Water Board may prohibit the use of a certificate issued by the California Department of Public Health if the water treatment plant operator has committed or commits any act in violation of this chapter.

(c) Any person who operates a wastewater treatment plant without a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to sections 3710 and 3719.12.

(d) Any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person performing the duties of an operator who does not hold a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709(b)(2) and disciplinary action pursuant to sections 3710 and 3719.12.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13625, 13627, 13627.1, and 13627.3, Water Code.

§ 3671. Definitions.

The following definitions shall apply to this chapter:

"Activated sludge treatment" means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by a suspended mass of living aerobic organisms called "activated sludge." The suspended mass is subsequently separated from the treated wastewater by sedimentation either for further use in the process or for disposal.

"Appellant" means a person who appeals a discretionary decision made by the Office of Operator Certification regarding: 1) denial of an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination.

"Applicant" means: 1) a person who files an application for an examination; 2) a person who files an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 3) a person who files an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; or 4) an owner who files an application for an exemption or the renewal of an exemption for a Class I wastewater treatment plant; 5) a chief plant operator who requests approval to use a lone operator; or 6) an owner who requests approval to use a provisional operator.

"Associate's degree" means a degree issued by a college or university accredited to award associate's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education, for the completion of a program of study equivalent to the first two years of a baccalaureate degree.

"Bachelor's degree" means a baccalaureate degree issued by a college or university accredited to award bachelor's degrees by the Western Association of Schools and Colleges or another

accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education.

"Biological filtration treatment" (biofiltration) means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by masses of living aerobic organisms attached to stationary support media as the wastewater trickles over the media. Settleable material that may have sloughed from the media surfaces is subsequently separated from the treated wastewater by a sedimentation process for disposal.

"Certifying body" means a state other than California, a territory, or an Indian tribe or unit thereof, that certifies or registers any person performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant. "Certifying body" includes entities designated by an Indian tribe to administer the tribe's certification and/or contract registration program.

"Chief plant operator" means any of the following:

(1) the operator responsible for the overall operation of a wastewater treatment plant including compliance with effluent limitations established in the wastewater treatment plant's waste discharge requirements and ensuring that operators-in-training are supervised directly as required by section 3682; or

(2) the provisional operator who is solely responsible for the operation of a Class I wastewater treatment plant whose owner has received approval to use a provisional operator in accordance with section 3680.2.

"Contract operator" means a person who enters into a contract with an owner to operate one or more wastewater treatment plants.

"Conventional treatment pond" means a pond in which biological oxidation of organic matter occurs through the natural transfer of oxygen in the wastewater. A pond that uses surface aerators solely to control odors shall be considered a conventional treatment pond unless the effluent receives disinfection before it is discharged.

"Design flow" means that amount of flow for which the wastewater treatment plant was designed.

"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall report to the chief plant operator.

"Direct supervision" means the supervising operator shall oversee and inspect the work performed by an operator-in-training and provide training to ensure the safe and proper execution of the operator-in-training's duties. Direct supervision shall be carried out by an operator at the same or higher grade level as the operator-in-training. The supervising operator shall be present at the wastewater treatment plant or otherwise available to consult with, and provide assistance to, the operator-in-training in order to ensure the safe and proper execution of the operator-in-training's duties.

"Disinfection" means a wastewater or water treatment process that uses physical or chemical processes to treat the effluent to inactivate or destroy pathogens remaining in wastewater after primary, secondary, or tertiary treatment. "Disinfection" includes the removal of chlorine if it is required by the wastewater treatment plant's waste discharge requirements.

"Division" means the unit of the State Water Board in which the Office of Operator Certification is located.

"Extended aeration treatment" means a modification of the activated sludge treatment process which utilizes long aeration periods to promote aerobic digestion of the biomass.

"Full time" for purposes of qualifying experience means any of the following:

(1) an average of 40 hours worked per week by an operator or operator-in-training at a wastewater treatment plant while performing job duties that meet the definition of qualifying experience. Any used paid vacation or sick leave earned as a result of hours spent performing job duties that meet the definition of qualifying experience may be counted toward full-time employment. In no case, however, may an operator or operator-in-training be considered to be working full time if he or she spends less than 1,800 hours per year performing duties defined as qualifying experience;

(2) less than an average of 40 hours worked per week by an operator or provisional operator at a wastewater treatment plant if the operator or provisional operator is solely responsible for the operation of a wastewater treatment plant; or

(3) less than an average of 40 hours worked per week by an operator-in-training at a wastewater treatment plant if the operator-in-training works as the only operator-in-training under the direct supervision of an operator who is solely responsible for the operation of the wastewater treatment plant and who is working less than an average of 40 hours per week.

"Indian tribe" means an Indian entity recognized by, and eligible to receive services from, the United States, and included in the list of the entities periodically published by the Bureau of Indian Affairs in the Federal Register.

"Lone operator" means an operator, at a grade level lower than the designated-operator-in-charge, approved by the Office of Operator Certification pursuant to section 3681 to work alone at a wastewater treatment plant. An operator-in-training shall not be a "lone operator."

"Management course" means a course that teaches supervision and management skills including oral communication, technical writing, public administration, business management, and finance. Operators may earn educational points for completion of management courses pursuant to section 3685(b).

"Modified treatment pond" means a pond in which either the biological oxidation of organic matter is enhanced by the addition of aeration or the effluent receives disinfection before discharge.

"Office of Enforcement" means the unit of the State Water Board responsible for enforcement of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program pursuant to article 9 and article 12.

"Office of Operator Certification" means the unit of the State Water Board that administers the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program.

"Operates" means actions or decisions to control the performance or outcome of one or more wastewater treatment processes. The term also includes the supervision of other operators acting or making decisions to control the performance or outcome of one or more wastewater treatment processes.

"Operator" means a person who operates a wastewater treatment plant and who possesses a valid, unexpired operator certificate. The term "operator" includes a person who possesses a valid, unexpired operator certificate, but who is not currently employed in a position for which an operator certificate is required.

"Operator-in-training" means a person who has been issued an operator-in-training certificate by the State Water Board and who is acquiring qualifying experience at a wastewater treatment plant under the direct supervision of an operator at the same or a higher grade level as the operator-in-training.

"Owner" means a person who owns a wastewater treatment plant.

"Person" means an individual, entity, firm, association, organization, partnership, business trust, corporation, limited liability company, company, city, county, district, the state, and the United States, to the extent authorized by federal law.

"Petitioner" means a person who petitions the State Water Board seeking review of a Final Division Decision issued by the Deputy Director of the Division or a Final Office of Enforcement Decision issued by the Director of the Office of Enforcement.

"Preliminary treatment" means a wastewater treatment process to remove or reduce the size of solids that could damage equipment or reduce the effectiveness of other treatment processes.

"Primary treatment" means a wastewater treatment process that allows substances in wastewater that readily settle or float to be separated from the water being treated.

"Provisional operator" means a person who is solely responsible for the operation of a Class I wastewater treatment plant that has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2 and who possesses a valid, unexpired provisional operator certificate.

"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training while operating a wastewater treatment plant as defined in this section. "Qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. The term may include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.

"Qualifying experience credit" means credit awarded in lieu of qualifying experience pursuant to section 3684. Qualifying experience credit is equivalent to qualifying experience and may be used to meet the experience requirements for operator certification pursuant to section 3687.

"Regional Water Board" means a California Regional Water Quality Control Board.

"Requestor" means a person who requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter.

"Satellite plant" means a wastewater treatment plant that is physically separated from the main wastewater treatment plant, but that has the potential to affect the operation of, or effluent quality from, the main wastewater treatment plant. To qualify as a satellite plant, both the main wastewater treatment plant and the satellite plant shall be owned by the same person and shall be classified as one wastewater treatment plant. The owner's employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel shall include a chief plant operator who is responsible for the overall operation of both the main wastewater treatment plant and the satellite plant.

"Science course" means a course in mathematics, physics, engineering, chemistry, or biology. Operators may earn educational points for completion of science courses pursuant to section 3685(a).

"Secondary treatment" means a wastewater treatment process that goes beyond primary treatment to remove colloidal and dissolved organic matter and further remove suspended matter, usually by biological processes such as activated sludge and biological filtration treatment.

"Sequencing batch reactor" means a wastewater treatment system that uses a variation of the activated sludge process in which aeration and sedimentation or clarification occur in a single tank in sequential stages. A programmable logic controller is used to monitor the time associated with the process stages to achieve specific treatment objectives.

"Solids treatment" means a wastewater treatment process used to stabilize solids that have been removed from wastewater by using biological, chemical, or thermal treatment methods. "Solids treatment" includes using physical processes at a wastewater treatment plant to further reduce the volume of stabilized solids.

"State Water Board" means the State Water Resources Control Board.

"Tertiary treatment" means a wastewater treatment process that goes beyond secondary treatment, which may include ~~and includes~~ filtration, coagulation, and nutrient removal.

"Waste discharge requirements" means waste discharge requirements issued pursuant to article 4, chapter 4, division 7 of the Water Code or chapter 5.5 of division 7 of the Water Code.

"Water quality objectives" means the limits or levels of water quality constituents or characteristics established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

"Wastewater treatment course" means a course that teaches operators the skills to operate a wastewater treatment plant including water quality control, wastewater treatment, wastewater engineering, wastewater chemistry, and sanitation microbiology. Operators may earn educational points for completion of wastewater treatment courses pursuant to section 3685(a).

"Wastewater treatment plant" means any of the following:

(1) A facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage or industrial wastes;

(2) A privately owned facility used in the treatment or reclamation of sewage or industrial wastes, and regulated by the Public Utilities Commission pursuant to sections 216 and 230.6 of, and chapter 4 (commencing with section 701) of part 1 of division 1, of the Public Utilities Code; or

(3) A privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

"Wastewater treatment plant" includes water recycling treatment plants. The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290 of the Water Code.

"Wastewater treatment process" means a process that improves the quality of wastewater before it is discharged from a wastewater treatment plant, and includes the use of preliminary, primary, pond, secondary, or tertiary treatment for liquid-solids separation of wastewater; the use of disinfection to inactivate or destroy pathogens in wastewater; and the use of solids treatment for solids stabilization and volume reduction before removal from the wastewater treatment plant site.

"Water recycling treatment plant" (water reclamation plant) means a wastewater treatment plant that receives and further treats secondary and/or tertiary effluent from another wastewater treatment plant for the purpose of meeting the uniform statewide recycling criteria established pursuant to section 13521 of chapter 7 of division 7 of the Water Code for the use of recycled water.

"Water treatment plant" means a facility that uses sedimentation, coagulation, filtration, disinfection, conditioning, softening, fluoridation, removal of tastes and odors, corrosion control, algae control, and/or aeration to reduce or remove contaminants that are present in water for the purpose of making water suitable for drinking.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

Article 2. Classification of Wastewater Treatment Plants, Owner Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant

§ 3675. Classification of Wastewater Treatment Plants.

(a) Within 45 days of receiving the information required pursuant to section 3676(b) or (c), the Office of Operator Certification shall classify a wastewater treatment plant-according to the following criteria:

WASTEWATER TREATMENT PLANT CLASSIFICATION TABLE

Class	Wastewater Treatment Process	**Design Flow** (in million gallons per day)
I	Primary	1.0 or less
	Conventional Treatment Pond	All
II	Primary	Greater than 1.0 through 5.0
	Biofiltration	1.0 or less
	Modified Treatment Pond	All
III	Primary	Greater than 5.0 through 20.0
	Biofiltration	Greater than 1.0 through 10.0
	Activated Sludge	5.0 or less
	Sequencing Batch Reactor	1.0 or less
	Tertiary	1.0 or less
IV	Primary	Greater than 20.0
	Biofiltration	Greater than 10.0 through 30.0
	Activated Sludge	Greater than 5.0 through 20.0
	Sequencing Batch Reactor	Greater than 1.0 through 10.0
	Tertiary	Greater than 1.0 through 10.0
V	Biofiltration	Greater than 30.0
	Activated Sludge	Greater than 20.0
	Sequencing Batch Reactor	Greater than 10.0
	Tertiary	Greater than 10.0

(b) A wastewater treatment plant may be classified other than as indicated in subdivision (a) if:

(1) the wastewater treatment plant uses unconventional or innovative approaches due to conditions of flow or unusual requirements for discharge to a receiving water;

(2) the conditions of flow or the use of the receiving waters require an unusually high degree of wastewater treatment plant operational control; or

(3) the wastewater treatment plant uses an approved method of wastewater treatment not included in subdivision (a).

(c) Satellite plants shall not be classified separately. A satellite plant and the main wastewater treatment plant shall be classified as a single wastewater treatment plant.

(d) Within 45 days of receiving written notice of any change in reportable items in section 3676(b) or (c), the Office of Operator Certification shall either reclassify the wastewater treatment plant or make a determination that the change does not result in a need for reclassification.

Authority: Sections 1058 and 13626, Water Code.
Reference: Section 13626, Water Code.

§ 3676. Reporting Requirements for Owners of Wastewater Treatment Plants.

(a) Except as provided in subdivision (c), within 60 days from the effective date of this section, an owner shall submit to the Office of Operator Certification a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b) Except as provided in subdivision (c), in addition to providing the written acknowledgement required by subdivision (a), within 60 days from the effective date of this section, the owner of a privately owned wastewater treatment plant for which the State Water Board or a Regional Water Board has issued waste discharge requirements or any other wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control shall submit to the Office of Operator Certification a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel.

(c) The owner of a wastewater treatment plant that will begin operating more than 60 days after the effective date of this section shall submit to the Office of Operator Certification at least 60 days before the wastewater treatment plant begins operating, a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel. The owner shall submit a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The owner shall notify the Office of Operator Certification in writing within 30 days of the closure of the wastewater treatment plant or any change in the reportable items in subdivisions (b) or (c), that may affect the classification of the wastewater treatment plant.

(e) If the person designated as the chief plant operator changes, the owner shall notify the Office of Operator Certification in writing within 30 days and shall provide a signed statement from the new chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(f) The owner shall notify the Office of Operator Certification in writing within 30 days of entering into or ending a contract with a contract operator.

(g) The owner shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action taken by the owner against an operator, provisional operator, operator-in-training, or contract operator. Disciplinary action includes reprimanding or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name of the operator, provisional operator, operator-in-training, or contract operator, the specific violations, and the disciplinary action taken. The notice also shall include the operator's certificate number or the contract operator's registration number.

(1) Except as provided in (2) below, a notice received from an owner regarding final disciplinary action shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability or takes disciplinary action pursuant to article 9 or article 12 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

Authority: Sections 1058 and 13626, Water Code.
Reference: Sections 13626, 13627, 13627.1, 13627.2, 13627.3, and 13627.4, Water Code.

§ 3677. Exemption for a Class I Wastewater Treatment Plant.

An owner of a Class I wastewater treatment plant may apply to the Office of Operator Certification for an exemption from the requirements of this chapter and Water Code, division 7, chapter 9, if the wastewater treatment plant could not, due to operator error, violate water quality objectives.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.1. Application for Exemption for a Class I Wastewater Treatment Plant.

(a) An application for exemption shall contain sufficient information to demonstrate that the wastewater treatment plant meets the criteria prescribed in section 3677, and shall include:

(1) the name, mailing and business addresses, and telephone number of the owner of the wastewater treatment plant;

(2) the name, business address, and telephone number of the wastewater treatment plant;

(3) an employee organization chart;

(4) the original signature of the owner of the wastewater treatment plant or the owner's authorized representative;

(5) the name of the Regional Water Board overseeing the wastewater treatment plant and a copy of the current waste discharge requirements issued by the State Water Board or Regional Water Board;

(6) a description and schematic of the wastewater treatment plant showing all wastewater treatment and solids handling processes including a flow diagram showing design flows and present flows for all wastewater treatment processes and a solids balance diagram for the solids handling processes;

(7) an evaluation of the operations of the wastewater treatment plant signed and stamped by a California registered professional chemical, civil, or mechanical engineer. The engineer shall identify potential operator errors, evaluate the potential effects of the identified operator errors on the operation of the wastewater treatment plant, and determine whether the operator errors could cause the wastewater treatment plant to violate water quality objectives; and

(8) additional information, evidence, statements, or documents to support the application for exemption as requested by the Office of Operator Certification.

(b) A non-refundable application fee of $800 shall accompany each application for exemption.

(c) The applicant for exemption shall provide a copy of the application for exemption to the appropriate Regional Water Board.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.2. Issuance of a Notice of Exemption for a Class I Wastewater Treatment Plant.

(a) Within 60 days of receipt of a completed application for exemption, the Office of Operator Certification shall issue a notice of exemption or inform the applicant of the reason the notice of exemption shall not be issued.

(b) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying a request for exemption.

(c) A wastewater treatment plant shall be granted an exemption only if the Office of Operator Certification determines that the wastewater treatment plant could not, due to operator error, violate water quality objectives.

(d) A notice of exemption shall include:

(1) the name of the wastewater treatment plant;

(2) the name and business address of the owner;

(3) the issue and expiration dates of the exemption;

(4) the exemption number assigned by the State Water Board;

(5) the State Water Board seal;

(6) the name "State Water Resources Control Board;" and

(7) the signature of a State Water Board member or designee.

(e) An exemption granted by the Office of Operator Certification shall be valid for four years.

(f) The Office of Operator Certification may revoke or place conditions on an exemption at any time.

(g) If an application for exemption is denied or the Office of Operator Certification revokes an exemption, the owner shall, within 365 days from the date of the denial or revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.3. Changes to the Operation of an Exempt Wastewater Treatment Plant.

(a) At least 60 days before implementing any changes to the operation of an exempt wastewater treatment plant, the owner shall notify the Office of Operator Certification in writing of the proposed changes.

(b) Within 30 days of receiving notice of proposed changes to the operation of an exempt wastewater treatment plant, the Office of Operator Certification shall provide written notification of whether the wastewater treatment plant will remain exempt if the proposed changes are implemented.

(c) The owner shall notify the Office of Operator Certification in writing if the owner decides to implement proposed changes that the Office of Operator Certification determined will result in revocation of the exempt status of the wastewater treatment plant.

(d) The Office of Operator Certification shall revoke the wastewater treatment plant's exemption if the owner implements changes that result in the wastewater treatment plant no longer meeting the criteria for exemption in section 3677.2(c).

(e) If a wastewater treatment plant's exemption is revoked pursuant to this section, the owner shall, within 365 days from the date of the revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.4. Notice of Expiration of an Exemption for a Class I Wastewater Treatment Plant.

At least 60 days before the expiration of an exemption, the Office of Operator Certification shall send a written notice of the expiration date to the owner. Failure to receive a notice of

exemption expiration does not relieve the owner of the responsibility for renewing an exemption on or before the expiration date.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.5. Application for Exemption Renewal for a Class I Wastewater Treatment Plant.

(a) An application for exemption renewal shall include all of the information required for an application for exemption in section 3677.1(a) and a $300 application for exemption renewal fee.

(b) (1) The application for exemption renewal shall be received by the Office of Operator Certification no later than 30 days before the expiration of the exemption.

(2) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the exemption, the owner of the wastewater treatment plant shall pay a late fee of $100 in addition to the renewal fee.

(c) The applicant for exemption renewal shall provide a copy of the application for exemption renewal to the appropriate Regional Water Board.

(d) Within 30 days of the receipt of a complete application for exemption renewal, the Office of Operator Certification shall renew the exemption for four years in accordance with section 3677.2 or shall inform the applicant of the reason the exemption shall not be renewed.

(e) If an application for exemption renewal is denied, the owner shall, within 365 days from the date of the denial, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.6. Posting Notices of Exemption for a Class I Wastewater Treatment Plant.

An exempt wastewater treatment plant shall display its notice of exemption in an area accessible to the public at the wastewater treatment plant. If no area is accessible to the public, the notice shall be posted at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13525.1, Water Code.
Reference: Section 13625.1, Water Code.

Article 3. Grade Levels of Operator Certification

§ 3680. Grade Levels of Operator Certification.

Except as provided in section 3680.1, this section applies to operators.

(a) Except as provided in section 3680.2, each chief plant operator and designated operator-in-charge shall possess a valid operator certificate at a grade level at least equivalent to the following:

Wastewater Treatment Plant Classification	Minimum Grade Level of Chief Plant Operator	Minimum Grade Level of Designated Operator-in-Charge
I	I	I
II	II	I
III	III	II
IV	IV	III
V	V	III

(b) Except as provided in section 3680.2, a chief plant operator shall appoint a certified operator to be the designated operator-in-charge for any period of time during which the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(c) All operators shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate. At Class IV and V wastewater treatment plants, at least 50 percent of the operators shall possess valid operator or operator-in-training certificates at the Grade II level or higher.

(d) Notwithstanding subdivisions (a) through (c), if an owner of a wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control submits the reportable items in section 3676(b) and the Office of Operator Certification gives the wastewater treatment plant a higher classification than the wastewater treatment plant's prior classification, the owner shall, within 365 days from the date that the Office of Operator Certification classifies the wastewater treatment plant, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.1. Grade Levels of Operators at Privately Owned Wastewater Treatment Plants.

This section applies only to privately owned wastewater treatment plants for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

(a) No later than two years from the effective date of this section, all persons at a privately owned wastewater treatment plant performing duties that are comparable to the duties of an operator at a wastewater treatment plant shall possess at least a valid Grade I certificate, a

valid provisional operator certificate, or a valid operator-in-training certificate and meet the requirements for operators set forth in sections 3680 and 3680.2.

(b) No later than two years from the effective date of this section, the owner of a privately owned wastewater treatment plant shall staff the wastewater treatment plant with operators of appropriate grade levels as prescribed in section 3680 or use a provisional operator in accordance with section 3680.2.

(c) Notwithstanding the provisions in this section, a certified operator, certified provisional operator, or certified operator-in-training working at a privately owned wastewater treatment plant shall comply with the requirements of this chapter.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.2 Provisional Operator

(a) An owner of a Class I wastewater treatment plant must receive written approval from the Office of Operator Certification before using a provisional operator. The owner shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator to operate the wastewater treatment plant. The owner shall submit a written request for approval to use a provisional operator, a $1,000 request to use a provisional operator fee, a copy of the wastewater treatment plant's waste discharge requirements and standard operating procedures, and a written plan that includes:

(1) a description of the duties that the provisional operator will be performing at the wastewater treatment plant, the provisional operator's work schedule, and a requirement that the provisional operator submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification;

(2) a description of the training that the provisional operator will receive on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) the procedures for testing the provisional operator's proficiency performing proper sampling procedures and understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will communicate with, and provide assistance to, the provisional operator when the provisional operator needs direction and the procedure that the provisional operator will use to request this assistance; and

(5) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will assist the provisional operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671 and the procedure that the provisional operator will use to request this assistance.

(b) The owner shall provide to the appropriate Regional Water Board, a copy of the request for approval to use a provisional operator and the written plan prepared pursuant to subdivision (a).

(c) Except as provided in subdivision (d), the Office of Operator Certification shall approve the request to use a provisional operator if the owner submits a complete request to use a provisional operator and the written plan prepared pursuant to subdivision (a) provides that the provisional operator:

(1) will submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification and will not supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge;

(2) will receive training acceptable to the Office of Operator Certification on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) will demonstrate proficiency performing proper sampling procedures and an understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) has the ability to communicate at all times with a certified operator; and

(5) has the ability to request assistance from a certified operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying the request to use a provisional operator. The Office of Operator Certification may refuse to approve the request to use a provisional operator if the owner fails to demonstrate that the owner exercised due diligence, has had difficulty hiring a certified operator to operate the wastewater treatment plant, or if the written plan does not ensure the protection of human health, safety, and the environment.

(e) An approval to use a provisional operator granted by the Office of Operator Certification shall be valid for five years.

(f) The following process shall govern any changes to the written plan approved pursuant to subdivision (c):

(1) At least 30 days before implementing any changes to the written plan, the owner shall notify the Office of Operator Certification and the appropriate Regional Water Board in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (c) or notify the owner that the proposed amended plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(3) The owner shall not amend the written plan as proposed if the Office of Operator Certification notifies the owner that the proposed plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(g) The Office of Operator Certification may revoke its written approval of request to use a provisional operator if it determines that the written plan on which approval was based has been violated.

(h) A provisional operator shall be solely responsible for the operation of a Class I wastewater treatment plant. In no event shall a provisional operator supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3681. Lone Operator.

(a) A chief plant operator of a wastewater treatment plant must receive written approval from the Office of Operator Certification before assigning an operator as a lone operator. The chief plant operator shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operate the wastewater treatment plant. The chief plant operator shall request approval and shall submit a written plan that includes:

(1) the name(s) and grade level(s) of the lone operator(s) and the proposed duties of the lone operator(s);

(2) a work schedule showing when the lone operator(s) will be working alone; and

(3) the procedure the lone operator(s) will use to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge when the lone operator(s) needs direction.

(b) Except as provided in subdivision (c), ~~Written approval shall be given by~~ the Office of Operator Certification shall approve the request to use a lone operator if the written plan prepared pursuant to subdivision (a) provides that the lone operator(s):

(1) will perform only basic duties that require minimal judgment; and

(2) has the ability to communicate at all times with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge.

(c) The Office of Operator Certification may refuse to approve the request to use a lone operator if the chief plant operator fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator of the appropriate grade to operate the wastewater treatment plant.

(d) An approval to use a lone operator granted by the Office of Operator Certification shall be valid for 180 days.

~~(c)~~ (e) The following process shall govern any changes to the written plan approved pursuant to subdivision (b):

(1) At least 30 days before implementing any changes to the written plan, the chief plant operator shall notify the Office of Operator Certification in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (b) or notify the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(3) The chief plant operator shall not amend the written plan as proposed if the Office of Operator Certification notifies the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

~~(d)~~ (f) The Office of Operator Certification may revoke its written approval if it determines that the plan has been violated.

~~(e)~~ (g) In no event shall an operator-in-training be assigned as a lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 4. Operators-in-Training

§ 3682. Employment or Training of an Operator-in-Training.

An owner may employ or train an operator-in-training at any grade level, provided the operator-in-training is under the direct supervision of an operator at the same or higher grade level as the operator-in-training and is performing the duties at the grade level for which the certificate was issued. Operators-in-training may not supervise operators or other operators-in-training, and may not act in the capacity of a chief plant operator, designated operator-in-charge, or lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.1. Application for Operator-in-Training Certification.

(a) An application for an operator-in-training certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) the certification fee prescribed in article 10; and 3) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the applicant will be in training.

(b) An applicant for an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which an operator-in-training certification is requested.

(c) Except as provided in section 3682.5(b), an applicant for a Grade I operator-in-training certificate may, but is not required to, pass the Grade I examination before being issued the certificate.

(d) A person may apply for operator-in-training certification at the Grade II through Grade V levels if the applicant has passed an examination at that grade level or higher and the applicant's examination results have not expired.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.2. Issuance of an Operator-in-Training Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator-in-training certificate or inform the applicant of the reason the certificate will not be issued. The operator-in-training certificate shall be issued in the name of the applicant and mailed to the chief plant operator at the mailing address of the wastewater treatment plant where the applicant will be in training.

(b) An operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue an operator-in-training certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Except as provided in subdivision (e), operator-in-training certificates shall be valid for two years.

(e) The expiration date of Grade II through Grade V operator-in-training certificates shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.3. Renewal of an Operator-in-Training Certificate.

(a) An applicant for renewal of an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which a renewed operator-in-training certification is requested.

(b) Except as provided in section 3682.4(d), a valid, unexpired Grade I operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at the Grade I level or higher before the expiration of the initial certificate and the operator-in-training's examination results have not expired.

(c) A valid, unexpired Grade II through Grade V operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(d) Following an initial renewal pursuant to subdivisions (a) or (b), and except as provided in section 3682.4(d), a valid, unexpired Grade I though Grade V operator-in-training certificate may be renewed repeatedly for additional two-year periods if the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired, and the chief plant operator submits a plan for the operator-in-training to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687. The plan shall include:

(1) the chief plant operator's original signature verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(2) information regarding qualifying experience the applicant may have acquired at another wastewater treatment plant;

(3) the applicant's original signature;

(4) the average number of hours per week the applicant will be training at the wastewater treatment plant to acquire qualifying experience;

(5) an estimate of the amount of time required for the applicant to acquire the qualifying

experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687; and

(6) additional information, evidence, statements, or documents to support the application for renewal as requested by the Office of Operator Certification.

(e) At least 60 days before the expiration of an operator-in-training certificate, the Office of Operator Certification shall send a written notice of the expiration date to the chief plant operator at the wastewater treatment plant where the operator-in-training is training and to the operator-in-training. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(f) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, and classification or title;

(2) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the operator-in-training is in training;

(3) the renewal fee prescribed in article 10; and

(4) if the operator-in-training is applying for a renewal certificate pursuant to subdivision (c), a plan containing the information required by subdivision (c) submitted by the chief plant operator at the wastewater treatment plant where the operator-in-training is training.

(g) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the renewal application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3682.4. Issuance of a Renewed Operator-in-Training Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewed operator-in-training certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew an operator-in-training certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator-in-training certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewed operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed operator-in-training certificate shall not exceed the expiration date of the operator-in-training's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.5. Invalidation and Issuance of a New Operator-in-Training Certificate.

(a) Operator-in-training certificates are valid only while the operator-in-training is in training at the wastewater treatment plant for which the certificate was issued. When the training ceases, the chief plant operator shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the operator-in-training acquired before training ceased.

(b) Except as provided in subdivision (c), if a Grade I operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade I operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training:

(1) has passed an examination at the Grade I level or higher and the operator-in-training's examination results have not expired; or

(2) held all previous Grade I operator-in-training certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

(c) A Grade I operator-in-training certificate issued pursuant to subdivision (b)(2), shall be valid for a maximum of 24 months, including the time the applicant held all previous Grade I operator-in-training certificates.

(d) If a Grade II through Grade V operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade II through Grade V operator-in-training certificate is not renewed for any reason, the operator-in-

training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(e) Time and experience acquired under a previous operator-in-training certificate shall be credited to a new certificate issued pursuant to this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.6. Reporting Requirements for Operators-in-Training.

An operator-in-training shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator-in-training; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 5. Provisional Operators

§ 3683. Employment of a Provisional Operator.

An owner of a Class I wastewater treatment plant may employ a provisional operator to be solely responsible for the operation of the wastewater treatment plant, provided the owner has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2. Provisional operators may not supervise operators, other provisional operators, or operators-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.1. Application for Provisional Operator Certification.

(a) An application for a provisional operator certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) provisional operator certification fee prescribed in article 10; and 3) the name, contact information, and signature of the owner of the wastewater treatment plant where the applicant will be employed.

(b) An applicant for a provisional operator certificate must have completed the minimum amount of education prescribed in section 3687 for certification as a Grade I operator.

(c) A person may apply for a provisional operator certificate if the applicant has passed an examination at the Grade I level or higher and the applicant's examination results have not expired.

(d) The owner of the wastewater treatment plant where the applicant will be employed must have received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.2. Issuance of a Provisional Operator Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue a provisional operator certificate or inform the applicant of the reason the certificate will not be issued. The provisional operator certificate shall be issued in the name of the applicant and mailed to the owner at the mailing address of the wastewater treatment plant where the applicant will be employed.

(b) A provisional operator certificate shall include:

(1) the name of the provisional operator;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the provisional operator will be employed;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue a provisional operator certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) A provisional operator certificate shall be valid for a maximum of 24 months, including the time the applicant held all previous provisional operator certificates. A provisional operator certificate shall not be renewed.

(e) The expiration date of a provisional operator certificate shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.3. Invalidation and Issuance of a New Provisional Operator Certificate.

(a) Provisional operator certificates are valid only while the provisional operator is employed at the wastewater treatment plant for which the certificate was issued. When the employment ceases, the owner shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the provisional operator acquired before employment ceased.

(b) If a provisional operator certificate is returned to the Office of Operator Certification because the provisional operator is no longer employed at the wastewater treatment plant for which the certificate was issued, the provisional operator may apply for a new certificate at any time in accordance with this article, provided the provisional operator held all previous provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.4. Reporting Requirements for Provisional Operators.

A provisional operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the provisional operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

§ 3684. Qualifying Experience Credit.

(a) An applicant for operator certification who has acquired at least one year of full-time qualifying experience at a wastewater treatment plant may receive qualifying experience credits as follows:

(1) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant:

(A) has acquired 3,600 or more hours of experience in the operation of a water treatment plant regulated by the California Department of Public Health, another state, a territory, or an Indian tribe;

(B) possessed a valid water treatment plant operator certificate at the time the experience was acquired; and

(C) has acquired 3,600 or more hours of experience using two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, and disinfection.

(2) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:

(A) developing wastewater treatment plant operations and maintenance, safety, or laboratory procedural manuals;

(B) conducting training in wastewater treatment plant operations, safety, or laboratory procedures;

(C) developing, testing, and evaluating process control strategies to optimize wastewater treatment plant performance; or

(D) performing physical, chemical, and biological processes that are comparable to the duties of an operator at a wastewater treatment plant.

(3) When an applicant submits an application for certification to the Office of Operator Certification, the applicant may make an irrevocable election to substitute 16 educational points for one year of full-time qualifying experience credit. Educational points substituted for qualifying experience credit may not be used to satisfy education requirements in the Operator Certification Requirements Table in section 3687 for certification or qualifying for an examination.

(b) The Office of Operator Certification shall give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and provided that during the time of employment, the applicant held a valid, unexpired certification of the appropriate grade level issued by a certifying body and the certification requirements are comparable to the requirements of this chapter.

(1) Evaluation of the experience shall be based on the actual work performed by the applicant without respect to job title.

(2) The Office of Operator Certification may refuse to give qualifying experience credit under this subdivision if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) Upon passing a written examination, each person applying for a certificate in accordance with section 3680.1 who is employed at a privately owned wastewater treatment plant before the effective date of section 3680.1, shall be credited with a minimum of one year of full-time qualifying experience.

(1) An applicant may receive more than one year of full-time qualifying experience credit if the applicant provides documentation of more than one year of experience acquired while employed at a privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and the owner verifies the experience.

(2) An applicant also may receive qualifying experience credit in accordance with subdivisions (a) and (b).

Authority: Sections 1058, 13627, and 13627.5, Water Code.
Reference: Sections 13627 and 13627.5, Water Code.

§ 3685. Educational Points.

(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Operators may receive educational points for completing wastewater treatment courses or science courses as follows:

(1) One three-unit semester course completed as part of the curriculum of an accredited college or university is equal to eight educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) One Continuing Education Unit awarded by a professional association or other nonprofit private or public agency is equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, ten classroom hours are equal to one educational point.

(b) At Grades III, IV, and V, operators may earn up to sixteen educational points for completing management courses. An operator may not earn more than four educational points in each type of management course. Educational points for a management course may be earned as follows:

(1) One completed three-unit semester course that is part of the curriculum of an accredited college or university is equal to four educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) Two Continuing Education Units awarded by a professional association or other nonprofit private or public agency are equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, twenty classroom hours are equal to one educational point.

(c) Applicants may not substitute experience for educational points.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13629, Water Code.

§ 3686. High School Equivalence.

Passing an approved General Educational Development Test, or obtaining a Certificate of Proficiency issued by the Board of Education in accordance with section 48412 of the Education Code, are equivalent to obtaining a high school diploma.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3687. Education and Experience Requirements.

(a) The education and experience requirements in this section apply to applicants for a new operator, provisional operator, or operator-in-training certificate, a renewed operator-in-training certificate, or an examination. An operator holding a valid, unexpired certificate issued before the effective date of this section does not need to meet these requirements in order to renew a certificate. Additionally, an operator holding an expired certificate issued before the effective date of this section does not need to meet these requirements in order to reinstate a certificate in accordance with section 3702.4.

(b) The Office of Operator Certification shall issue a certificate if the applicant:

(1) has completed one of the education and experience paths prescribed in this section; and

(2) has passed an examination at the appropriate grade level or higher and the applicant's examination results have not expired, or has obtained an examination waiver in accordance with section 3689.

(c) Eligibility for certification shall be based on the education and experience requirements for each wastewater treatment plant operator grade level in the following table:

OPERATOR CERTIFICATION REQUIREMENTS TABLE

PATH	EDUCATION		QUALIFYING EXPERIENCE
GRADE I			
1	High school diploma or equivalent and 6 educational points	and	1 year of full-time qualifying experience

GRADE II			
1	High school diploma or equivalent and 9 educational points	and	18 months of full-time qualifying experience as a Grade I operator
2	High school diploma or equivalent and 12 educational points	and	2 years of full-time qualifying experience
3	Associate's degree, a higher degree, or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	1 year of full-time qualifying experience
GRADE III			
1	High school diploma or equivalent and 12 educational points	and	3 years of full-time qualifying experience as a Grade II operator
2	High school diploma or equivalent and 18 educational points	and	4 years of full-time qualifying experience
3	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	2 years of full-time qualifying experience
4	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	1 year of full-time qualifying experience
GRADE IV			
1	High school diploma or equivalent and 32 educational points	and	6 years of full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	4 years of full-time qualifying experience

3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	3 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, territory, or Indian tribe	and	2 years of full-time qualifying experience

GRADE V			
1	High school diploma or equivalent and 48 educational points	and	10 years full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	6 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	5 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, a territory, or an Indian tribe	and	4 years of full-time qualifying experience

(d)(1) The Office of Operator Certification may award educational points to an operator for completing wastewater treatment, science, or management courses in accordance with section 3685.

(2) The Office of Operator Certification may accept comparable education obtained outside of the United States to satisfy the educational requirements listed below.

(3) Full-time qualifying experience shall be earned at a wastewater treatment plant in accordance with the definitions of "full time" and "qualifying experience" in section 3671. An operator shall acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of qualifying

experience. In addition, the Office of Operator Certification may award an operator qualifying experience credit in accordance with section 3684.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 7. Examination for Wastewater Treatment Plant Operators

§ 3689. Examination Waiver.

(a) The Office of Operator Certification shall waive the examination requirement and the examination fee if the applicant holds a valid, unexpired certificate issued by a certifying body for a position comparable to that of an operator at a wastewater treatment plant, provided:
(1) the experience, education, and examination requirements of the certifying body are comparable to the Office of Operator Certification's requirements as prescribed in article 6;

(2) the applicant meets the minimum education and qualifying experience requirements for the applicable grade level as prescribed in article 6;

(3) the applicant has passed a written examination, administered by the certifying body, that is comparable to the examination given by the Office of Operator Certification for the applicable grade of operator certification; and

(4) the applicant completes an application for operator certification and pays the certification and examination waiver fees prescribed in article 10.

(b) The Office of Operator Certification may refuse to waive the examination requirement if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) An applicant for certification who has been issued an examination waiver shall receive qualifying experience credit in accordance with section 3684(b).

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3700. Application for Examination.

(a) A person may apply to take an examination at any grade level if the applicant has completed the education required in section 3687 for that grade level before the final filing date for the examination. An application for an examination shall include:

(1) the applicant's full name, mailing address, and telephone number;

(2) the applicant's original signature;

(3) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(4) additional information, evidence, statements, or documents to support the application for examination as requested by the Office of Operator Certification; and

(5) the application fee for an examination and the examination fee as prescribed in article 10.

(b) Applications for examination shall be received by the Office of Operator Certification by the final filing date as prescribed in section 3701(a). Complete applications received after the final filing date shall not be processed for the current examination, but shall be held over and processed for the next scheduled examination.

(c)(1) The Office of Operator Certification shall notify applicants in writing within 30 days of receipt of an application whether it is complete or deficient and shall identify any deficiency.

(2) If the deficiency is not corrected before the final filing date for the examination, the application shall not be approved. The applicant shall be required to complete a new application to take a subsequent examination and pay the application fee for an examination. If the applicant has paid the examination fee, it will be applied to a future examination.

(d) An applicant who is scheduled to take an examination and wants to request a change of testing location or have the application held until the next examination date must make the request at least 30 days before the scheduled examination. If the applicant fails to attend the next examination, the applicant may apply to take a subsequent examination by submitting a new examination application and the application fee for examination.

(e) An applicant who has paid the examination fee, but does not take an examination, may request a refund of the examination fee from the Office of Operator Certification.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701. Examinations.

(a) A minimum of two examinations shall be given each year. The final filing date will be 60 days before the scheduled examination.

(b) Written examinations for each wastewater treatment plant operator grade level shall test an applicant's knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation shall be included. The examination for each

progressively higher grade level shall require more detailed knowledge of the subject matter.

(c) The content of the examination for each grade level shall be as follows:

(1) Grade I examinations shall test the applicant's knowledge of: basic safety practices and hazards related to wastewater treatment plant operation; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding wastewater treatment plant classification, waste discharge requirements, and operator certification.

(2) Grade II examinations shall test the applicant's knowledge of: the components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling, and digestion; routine sampling and analysis procedures for evaluation of process and overall wastewater treatment plant performance; and basic supervision responsibilities.

(3) Grade III examinations shall test the applicant's knowledge of: the components of the Grade II examination as prescribed in (2) above; limitations, controls, and performance calculations for primary and secondary treatment and sludge-handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.

(4) Grade IV examinations shall test the applicant's knowledge of: the components of the Grade III examination as prescribed in (3) above; limitations, controls, and performance calculations for tertiary treatment processes; requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, operator training, and budget development and control.

(5) Grade V examinations shall test the applicant's knowledge of the components of the Grade IV examination as prescribed in (4) above as applied in more difficult and complex situations.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701.1. Examination Security.

(a) An applicant shall be required to present photographic identification issued by a state or federal governmental entity to gain admission to the examination.

(b) The examination materials of an applicant who engages in dishonest conduct during an examination shall be confiscated and the applicant shall not have the examination graded, shall be denied the opportunity to take the next scheduled examination, and shall be subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710. The examination fee paid by the applicant shall not be refunded.

(c) Examination questions are confidential. Any person who copies questions or removes any examination material from the examination room or who conveys or reveals all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of section 3710. The applicant also is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710.

Authority: Sections 1058 and 13627.1, Water Code.
Reference: Section 13627.1, Water Code.

§ 3701.2. Examination Results.

(a) Within 90 days after an examination, the Office of Operator Certification shall send a notice of the examination results in writing to the applicant.

(b) An applicant who fails an examination may be eligible to take a subsequent examination upon submitting the examination application and examination fee as prescribed in article 10. Requests for reexamination shall be received by the final filing date set forth in section 3701(a).

(c) Passing examination results are valid for four years from the date on the notice of the examination results.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 8. Certification of Wastewater Treatment Plant Operators

§ 3702. Application for Certification.

(a) An application for certification shall include the applicant's full name, mailing address, work and home telephone numbers, social security number, date of birth, the grade level of certification that is being requested; if currently certified, the operator's current grade level and certificate number, and all of the following information unless previously provided to the Office of Operator Certification:

(1) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued to the applicant by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(2) the business address and telephone number of each wastewater treatment plant at which the applicant has acquired qualifying experience, including current employment, and the amount of qualifying experience acquired at each wastewater treatment plant;

(A) An applicant who is currently employed as an operator shall submit an original signed statement by the chief plant operator verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant;

and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(B) An applicant who is not currently employed as an operator, but who meets all certifications requirements is not required to submit an original signature from a chief plant operator.

(C) An applicant who is a chief plant operator shall submit an original signed statement by the owner verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(3) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant;

(4) information regarding any experience for which the applicant is requesting qualifying experience credit pursuant to section 3684;

(5) the applicant's original signature;

(6) additional information, evidence, statements, or documents to support the application as requested by the Office of Operator Certification; and

(7) the certification fee prescribed in article 10.

(b) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notification, the application shall be denied.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.1. Issuance of Certificates.

(a) An operator certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue and expiration dates of the certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(b) Upon successful completion of the application and examination process and within 30 days of payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator certificate. If an operator is employed at more than one wastewater treatment plant, the Office of Operator Certification shall issue duplicate operator certificates to the operator for posting at each wastewater treatment plant.

(c) The Office of Operator Certification may refuse to issue a certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Operator certificates shall be valid for two years from the date of issue.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.2. Application for Certificate Renewal.

(a) An operator certificate may be renewed repeatedly for two-year periods.

(b) At least 60 days before the expiration of an operator certificate, the Office of Operator Certification shall send a written notice of the expiration date to the operator. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(c) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, certificate number, and classification or title;

(2) if employed as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed, and the name of the chief plant operator; and

(3) the renewal fee prescribed in article 10.

(d) Within 30 days of receipt of a renewal application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application.

(e) If there is a deficiency, and the deficiency is not corrected before expiration of the certificate, the Office of Operator Certification shall not issue a renewal certificate. After the applicant pays the reinstatement fee prescribed in section 3717, the Office of Operator Certification shall issue a new certificate if the requirements of section 3702.4 are met.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.3. Issuance of Renewal Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.
(b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewal certificate shall include:

(1) the operator's name and ~~address~~ grade level;

(2) the certificate number ~~and operator grade level~~;

(3) the issue date of the initial certificate and the expiration date of the renewal certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed certificate shall be two years from the expiration date of the certificate being renewed.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following expiration if the applicant applies for reinstatement as prescribed in this section.

(b) Experience acquired under the expired certificate shall be credited to the reinstated certificate.

(c) An application for reinstatement shall include:

(1) all the information prescribed in section 3702.2;

(2) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(3) the renewal and reinstatement fees prescribed in article 10.

(d) The Office of Operator Certification may refuse to reinstate a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(e) The expiration date of a reinstated certificate shall be two years from the date of reinstatement of the certificate.

(f) A certificate that has been expired for more than one year shall not be reinstated. Upon passing another examination at the appropriate grade level, an applicant whose certificate has been expired for more than one year may apply for a new certificate in accordance with section 3702.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.5. Reporting Requirements for Operators.

An operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3702.6. Replacement.

A lost, stolen, damaged, or destroyed certificate may be replaced by the Office of Operator Certification if the operator, provisional operator, or operator-in-training signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction and submits the replacement fee prescribed in article 10.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code.

§ 3702.7 Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, reinstate, or replace a certificate if the operator, provisional operator, or operator-in-training has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3703. Posting Certificates.

Operators, provisional operators, and operators-in-training shall display their valid certificates in an area accessible to the public at each wastewater treatment plant where employed. If no area is accessible to the public, the certificates shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article 9. Administrative Civil Liability, Disciplinary Action, Appeal, and Petition Process

§ 3709. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivisions (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $100 for each day of violation upon:

(1) any person who operates a wastewater treatment plant without holding a valid, unexpired certificate at the appropriate grade level as required by this chapter; or

(2) any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as an operator who does not hold a valid, unexpired certificate of the appropriate grade level as required by this chapter.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) employing fraud or deception in the course of operating a wastewater treatment plant;

(2) failing to use reasonable care or judgment in the operation of a wastewater treatment plant;

(3) willfully or negligently violating, or causing, or allowing the violation of waste discharge requirements;

(4) submitting false or misleading information to the State Water Board on an application for a certificate; or

(5) engaging in dishonest conduct during an examination.

Authority: Sections 13627.1, 13627.2, and 13627.4, Water Code.
Reference: Sections 13323, 13627.1, 13627.2, and 13627.4, Water Code.

§ 3710. Grounds for Disciplinary Action.

(a) The State Water Board may refuse to grant, suspend, or revoke an operator, provisional operator, or operator-in-training certificate or may reprimand or place on probation an operator, provisional operator, or operator-in-training upon any reasonable ground, including performing, or allowing or causing another to perform, any of the following acts:

(1) willfully or negligently violating, causing, or allowing a violation of this chapter;

(2) without regard to intent or negligence, operating or allowing the operation of a wastewater treatment plant by a person who is not certified at a grade level necessary for the position or whose operator, provisional operator, or operator-in-training certificate has expired;

(3) submitting false or misleading information on any document provided to State Water Board staff including applications for examination, certification, renewal, or reinstatement, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(4) engaging in dishonest conduct during an examination or violating confidentiality of examination questions;

(5) using fraud or deception in the course of employment as an operator, provisional operator, or operator-in-training;

(6) failing to use reasonable care or good judgment in the course of employment as an operator, provisional operator, or operator-in-training or failing to apply knowledge or ability in the performance of duties;

(7) willfully or negligently violating, causing, or allowing the violation of waste discharge requirements;

(8) failing to notify, as required by section 3682.6, 3683.4, or 3702.5, the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act

associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(9) without regard to intent or negligence, operating a wastewater treatment plant without posting a valid operator, provisional operator, or operator-in-training certificate as required by section 3703; or

(10) committing any act that is a reasonable ground for disciplinary action pursuant to this chapter if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be a reasonable ground for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

(b) A chief plant operator may be subject to the disciplinary actions specified in subdivision (a) for willfully or negligently failing to ensure that an operator-in-training is supervised directly as required by section 3682.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 185, 13260, and 13627, Water Code; and Title IV, 33 USC, Section 1342 (Clean Water Act).

§ 3711. Appeals of Discretionary Decisions Made by the Office of Operator Certification.

(a) The following discretionary decisions made by the Office of Operator Certification are final and conclusive unless the applicant requests the Deputy Director of the Division to review the discretionary decision made by the Office of Operator Certification: 1) denial of an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination.

(b) Appeals shall be in writing and shall be received by the Deputy Director of the Division within 45 days of the date of the decision being appealed.

(c) An appeal shall contain:

(1) the name, address, telephone number, and email address (if available) of the appellant;

(2) a copy of the decision that the appellant is appealing;

(3) a full and complete statement of the reasons why the decision being appealed is erroneous, inappropriate, or improper; and

(4) the specific action that the appellant seeks from the Deputy Director of the Division.

(d) The appeal shall be sent to the Deputy Director of the Division, with a copy sent to the Office of Operator Certification.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3711.1. Action by the Deputy Director of the Division.

(a) The Office of Operator Certification may file a recommendation regarding an appeal with the Deputy Director of the Division within 30 days of receiving a copy of the appeal. The Deputy Director may allow additional time for the Office of Operator Certification to file a recommendation. The Office of Operator Certification shall provide a copy of its recommendation to the appellant.

(b) The Deputy Director of the Division shall review the evidence and any recommendation filed by the Office of Operator Certification and shall make a Final Division Decision within 90 days of receipt of the appeal. The Final Division Decision shall inform the appellant that the decision is final and conclusive unless the appellant petitions the State Water Board for review in accordance with the provisions of section 3711.2.

(c) The Deputy Director of the Division may at any time, on the Deputy Director's own motion, issue a Final Division Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3711.2. Petition for Review of a Final Division Decision by the State Water Board.

(a) An applicant may petition the State Water Board for review of a Final Division Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Division Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;

(2) a copy of the Final Division Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement by the petitioner of the reasons why the Final Division Decision is erroneous, inappropriate, or improper; and

(4) the specific action that the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Deputy Director of the Division.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Deputy Director of the Division, the request must include a statement that additional evidence is available that was not presented to the Deputy Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Division Decision, except that if the 30th day following the date of the Final Division Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§3712. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) A proposed disciplinary action letter is final and conclusive unless the applicant, operator, provisional operator, or operator-in-training being disciplined requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be in writing and shall be received by the Director of the Office of Enforcement within 45 days of the date of the proposed disciplinary action letter.

(c) A request for reconsideration shall contain:

(1) the name, address, telephone number, and email address (if available) of the requestor;

(2) a copy of the proposed disciplinary action letter;

(3) a full and complete statement of the reasons why the proposed disciplinary action letter is erroneous, inappropriate, or improper; and

(4) the specific action that the requestor seeks from the Director of the Office of Enforcement.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.1. Action by the Director of the Office of Enforcement.

(a) The Director of the Office of Enforcement shall review the evidence and make a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration. The Final Office of Enforcement Decision shall inform the requestor that the decision is final and conclusive unless the requestor petitions the State Water Board for review in accordance with the provisions of section 3712.2.

(b) The Director of the Office of Enforcement may at any time, on the Director's own motion, issue a Final Office of Enforcement Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.2. Petition for Review of a Final Office of Enforcement Decision by the State Water Board.

(a) The applicant, operator, provisional operator, or operator-in-training being disciplined may petition the State Water Board for a review of the Final Office of Enforcement Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Office of Enforcement Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;

(2) a copy of the Final Office of Enforcement Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement of the reasons why the Final Office of Enforcement Decision is erroneous, inappropriate, or improper; and

(4) the specific action the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Director of the Office of Enforcement.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Director of the Office of Enforcement, the request must include a statement that additional evidence is available that was not presented to the Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted

previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Office of Enforcement Decision, except that if the 30th day following the date of the Final Office of Enforcement Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3713. Defective Petitions.

(a) Upon receipt of a petition that does not comply with section 3711.2 or 3712.2 of this chapter, the State Water Board shall notify the petitioner of the manner in which the petition is defective and the time within which an amended petition may be filed.

(b) If a properly amended petition is not received by the State Water Board within the time allowed, the petition shall be dismissed unless good cause is shown for an extension of time.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3714. Action by the State Water Board on a Petition.

(a) The State Water Board may:

(1) at any time, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review;

(2) deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper;

(3) set aside or modify the Final Division Decision or Final Office of Enforcement Decision; or

(4) take any other action the State Water Board deems appropriate.

(b) The Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper.

(c) Except where an evidentiary hearing is required by law, the State Water Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both before taking final action on the petition.

(d) If a hearing is held, it shall be conducted in accordance with California Code of Regulations, title 23, chapter 1.5, article 2.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3715. Workshop Meeting.

The State Water Board may discuss a proposed order in response to a petition for review of a Final Division Decision or Final Office of Enforcement Decision in a public workshop meeting prior to formal action at a board meeting. Comments may be submitted in writing before the workshop meeting. At the workshop meeting, the State Water Board may invite comments on the proposed order from interested persons. All comments shall be based solely upon evidence contained in the record or upon legal argument.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3716. Formal Disposition.

(a)(1) Except as provided in subdivision (b), unless denied by the Executive Director pursuant to section 3714(b), formal disposition by the State Water Board of any pending petition will be taken at a regularly or specially scheduled State Water Board meeting. At the meeting the State Water Board may invite comments on the matter from interested persons. These comments shall be based solely upon evidence contained in the record or legal argument.

(2) No new evidence shall be submitted at the State Water Board meeting. Written arguments submitted after the workshop meeting shall be limited to revisions to the proposed order that was considered by the State Water Board at the workshop meeting. Such written arguments shall be filed at least two working days prior to the State Water Board meeting, unless otherwise specified by the State Water Board.

(b) This section does not limit the authority of the Executive Director to issue an order by settlement to resolve a petition on behalf of the State Water Board.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article 10. Fees

§ 3717. Operator, Provisional Operator, and Operator-In-Training Fees.

(a) Except for examination fees that are refundable pursuant to section 3700(e), all fees are nonrefundable.

(b) Application fees for an examination are:

Grade I:	$70
Grade II:	$90
Grade III:	$130
Grade IV:	$140
Grade V:	$140

(c) Examination fees are:

Grade I:	$70
Grade II:	$90
Grade III:	$220
Grade IV:	$300
Grade V:	$300

(d) The provisional operator certification fee is $170. Operator and operator-in-training certification fees are:

Grade I:	$170
Grade II:	$230
Grade III:	$300
Grade IV:	$340
Grade V:	$340

(e) Operator and operator-in-training certification renewal fees are:

Grade I:	$170
Grade II:	$230
Grade III:	$300
Grade IV:	$340
Grade V:	$340

(f) The reinstatement fee for all grade levels is $100.

(g) The fee for replacing a lost, stolen, damaged, or destroyed certificate is $50.

(h) Applicants for an examination waiver shall pay an examination waiver fee of $100 in addition to the certification fee.

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 11. Advisory Committee

§ 3718. Advisory Committee Membership and Responsibilities.

(a) The State Water Board shall appoint an advisory committee of nine members to assist it in carrying out its responsibilities under this chapter. The committee shall consist of:

(1) two operators who are employed at a wastewater treatment plant and who are members of a statewide organization representing operators;

(2) two individuals from statewide organizations representing municipalities, including counties or private utility wastewater treatment plants;

(3) two individuals from statewide organizations representing local sanitation agencies, other than agencies specified in (2) above;

(4) one professional engineer specializing in sanitary engineering;

(5) one individual from a university or a state university school or division of engineering; and

(6) one member of an organized labor union that represents operators.

(b) Members of the advisory committee shall serve for four years at which time they shall be eligible for reappointment.

(c) The committee shall meet when necessary to review and make recommendations to the State Water Board regarding all proposed regulations and to assist the State Water Board in carrying out its responsibilities under this chapter.

Authority: Sections 1058 and 13631, Water Code.
Reference: Sections 13631, 13632, and 13633, Water Code.

Article 12. Wastewater Treatment Plant Contract Operators

§ 3719. Contract Operator Registration Requirement.

Within 30 days after entering into a contract to operate a wastewater treatment plant, a contract operator must submit an application for contract operator registration to the Office of Operator Certification. The contract operator must obtain a contract operator credential for each wastewater treatment plant under contract. All operators employed by the contract operator shall be certified according to the provisions of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.1. Term of Contract Operator Registration.

A contract operator registration shall be valid for one year from the issue date.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.2. Application for Contract Operator Registration.

(a) An application for a contract operator registration shall include:

(1) the applicant's name, mailing and business addresses, and telephone number;

(2) the name, address, and telephone number of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant to be operated, the name, business address, and telephone number of the wastewater treatment plant; the name of the chief plant operator(s); the name of the Regional Water Board overseeing the wastewater treatment plant; and the duration of each contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to sign the contract(s);

(6) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(7) the registration fee as prescribed in section 3719.16.

(b) Within 30 days of receipt of the application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.3. Issuance of Contract Operator Registration and Contract Operator Credential.

(a) The contract operator registration issued by the Office of Operator Certification shall include:

(1) the applicant's name, business address, and registration number;

(2) the issue and expiration dates of the registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board," and

(5) the signature of a State Water Board member or designee.

(b) Except as provided in subdivision (c), within 30 days of receipt of a complete application for registration, the Office of Operator Certification shall issue a contract operator registration to the contract operator or inform the applicant of the reason the registration will not be issued. The Office of Operator Certification also shall issue one contract operator credential to the contract operator for each wastewater treatment plant operated. The contract operator credential shall include the name of the wastewater treatment plant to be operated in addition to the information required in subdivision (a). Contract operator registrations and contract operator credentials are nontransferable.

(c) The Office of Operator Certification may refuse to issue a contract operator registration if it determines that the applicant has committed any act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§3719.4. Renewal of Contract Operator Registration.

(a) At least 60 days before the expiration of a contract operator registration, the Office of Operator Certification shall send a written notification of the expiration date to the contract operator. Failure to receive a notice of the expiration date does not relieve the contract operator from the responsibility of renewing a registration on or before the expiration date.

(b) An application for renewal of a contract operator registration shall include:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, and telephone number of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant operated, the name, business address, and telephone number of the wastewater treatment plant, the name of the chief plant operator, the name of the Regional Water Board overseeing the wastewater treatment plant, and the duration of each contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to sign the contract(s); and

(6) the renewal fee as prescribed in section 3719.16.

(c) A contract operator who wishes to renew a contract operator registration shall submit to the Office of Operator Certification a completed application as specified in subdivision (b). The application for renewal shall be received no later than 30 days before the expiration of the registration. If the application for renewal is received less than 30 days before the expiration date, the contract operator shall pay a late fee as prescribed in section 3719.16.

(d) Within 30 days of receipt of the application for renewal, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the contract operator in writing of the specific requirements necessary to complete the application for renewal. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.5. Issuance of Renewed Contract Operator Registration and Contract Operator Credential.

(a) A renewed contract operator registration shall include:

(1) the contract operator's name, business address, and registration number;

(2) the issue date of the initial registration and expiration date of the renewal registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board;" and

(5) the signature of a State Water Board member or designee.

(b) Except as provided in subdivision (c), within 30 days of the receipt of a complete application for renewal, the Office of Operator Certification shall issue a renewed contract operator registration or inform the applicant of the reason the registration will not be issued. The Office of Operator Certification shall issue one contract operator credential to the contract operator for each wastewater treatment plant operated. The credential shall include the name of the wastewater treatment plant operated in addition to the requirements in subdivision (a) for a renewed contract operator registration. Contract operator registrations and contract operator credentials are nontransferable.

(c) The Office of Operator Certification may refuse to renew a contract operator registration if it determines that the applicant has operated a wastewater treatment plant with an expired contract operator registration or has committed any other act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.6. Application for Additional Contract Operator Credential.

(a) Within 30 days after entering into a contract to operate a wastewater treatment plant not included in the original application, a contract operator shall submit an application to the Office of Operator Certification requesting an additional contract operator credential. The application shall include the following:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, telephone number, and registration number of the owner of the wastewater treatment plant;

(3) the name, address, telephone number, and chief plant operator of the wastewater treatment plant, the Regional Water Board overseeing the wastewater treatment plant, and the duration of the contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant;

(5) the original signature of the person authorized by the contract operator to enter the contract; and

(6) the fee for issuing a new contract operator credential as prescribed in section 3719.16.

(b) Within 30 days of receipt of an application for an additional contract operator credential, the Office of Operator Certification shall issue a contract operator credential in accordance with section 3719.3.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.7. Replacement of Contract Operator Registration or Contract Operator Credential.

A lost, stolen, damaged, or destroyed contract operator registration or contract operator credential may be replaced by the Office of Operator Certification if the registration or credential holder signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction of the registration or credential and submits the replacement fee prescribed in section 3719.16.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.8. Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, or replace a contract operator registration or contract operator credential if the contract operator has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.9. Posting Contract Operator Credentials.

A valid, unexpired contract operator credential shall be displayed in an area accessible to the public at each wastewater treatment plant where the contract operator has a contract to provide services. If no area is accessible to the public, the contract operator credential shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.10. Reporting Requirements for Contract Operators.

(a) A contract operator shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action by the contract operator against an operator, provisional operator, or operator-in-training. Disciplinary action includes reprimanding or placing on probation an operator, provisional operator, or operator-in-training, or suspending, demoting, or discharging an operator, provisional operator, or operator-in-training for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name and certificate number of the operator, provisional operator, or operator-in-training, the specific violations, and the disciplinary action taken by the contract operator.

    (1) Except as provided in (2) below, a notice regarding final disciplinary action received from a contract operator shall be retained in State Water Board files for three years.

    (2) If the State Water Board imposes administrative civil liability as set forth in section 3709 or takes disciplinary action pursuant to section 3710 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

(b) A contract operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the contract operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code

§ 3719.11. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivision (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) failing to use reasonable care in the management or operation of the wastewater treatment plant;

(2) willfully or negligently causing or allowing a violation of waste discharge requirements; or

(3) submitting false or misleading information to the State Water Board on an application for a registration.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $1,000 for each day of the violation upon any person for failure to comply with section 3719.

Authority: Section 13627.3, Water Code
Reference: Sections 13323, 13627.3, and 13627.4, Water Code

§ 3719.12. Grounds for Disciplinary Action.

The State Water Board may refuse to grant, or may suspend or revoke, a registration for good cause, including any of the following reasons:

(a) willfully or negligently violating, causing, or allowing a violation of this chapter;

(b) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who is not certified at a grade level necessary for the position or whose certificate has expired;

(c) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired registration;

(1) It has been no more than 30 days after the contract operator entered a contract to operate a wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration to the Office of Operator Certification within 30 days of entering into a contract to operate a wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(d) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired contract operator credential;

(1) It has been no more than 30 days after the contract operator entered a contract to operate the wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration or an application for an additional contract operator credential to the Office of Operator Certification within 30 days of entering into a contract to operate the wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(e) submitting false or misleading information on any document provided to State Water Board staff including applications for registration or registration renewal, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(f) using fraud or deception in the course of contracting to operate a wastewater treatment plant, including submitting false or misleading documents to the owner of any wastewater treatment plant under contract;

(g) failing to use reasonable care or good judgment while operating a wastewater treatment plant;

(h) willfully or negligently causing or allowing a violation of waste discharge requirements;

(i) failing to notify, as required by section 3719.10(b), the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(j) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who has not posted an operator or operator-in-training certificate as required by section 3703 or failing to post the contract operator credential as required by section 3719.9; or

(k) committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be good cause for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.13. Appeals of Discretionary Decisions made by the Office of Operator Certification.

(a) An applicant or contract operator may appeal discretionary decisions made by the Office of Operator Certification regarding denial of an application for registration or registration renewal.

(b) Appeals shall be processed in accordance with the provisions of sections 3711 and 3711.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.14. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) An applicant or contract operator may request that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be processed in accordance with the provisions of sections 3712 and 3712.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.15. Petitions.

(a) An applicant or contract operator may petition the State Water Board for review of a Final Division Decision or a Final Office of Enforcement Decision.

(b) Petitions shall be processed in accordance with the provisions of sections 3711.2, 3712.2, and 3713 through 3716 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.16. Wastewater Treatment Plant Contract Operator Registration Fees.

(a) The initial contract operator registration fee is $350. For each operator employed in California by the contract operator, the contract operator shall pay a fee of $75 up to a maximum of $1,500 in combined contract operator registration fees and employee registration fees.

(b) The annual renewal fee is $350 plus $75 for each operator employed in California by the contract operator up to a maximum of $1,500 in combined contract operator registration renewal fees and employee registration fees.

(c) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the contract operator registration, the contract operator shall pay a late fee of $100 in addition to the renewal fee.

(d) The fee for replacing a lost, stolen, damaged, or destroyed contract operator registration or contract operator credential or for issuing an additional contract operator credential pursuant to section 3719.6 is $50.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

RECEIVED
10-4-12
SWRCB Clerk

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

How nice of you to afford Drinking Water Operators (DWO) the ability to become wastewater operators without testing. I'm sure you will correct the proposed changes to, likewise, allow WasteWater Operators the same choice without further testing, or wouldn't DHS acquiesce to that request.

Wastewater Operators have been taught/trained in much more than just dosing wastewater with inorganic chemicals and then settling or filtering it. Perhaps you, or your children, have never swam in receiving water and don't care whether DWOs know how to keep it clean -- since they are not tested in the CWA (But you could try it outside of our borders or remember the state of Waters of the United States before the law). You also do not seem to care whether the food, or fodder that has been grown on class 'A' biosolids meet class 'A' EPA permit levels. Crossover DWOs, who don't have to test in wastewater don't know how to operate anerobic bioreactors to the Class 'A' level and in fact are unaware of the CFR involved.

Perhaps the lack of knowledge of heavy metals leaching from biosolid or cysts, and enteric organisms in activated sludges are also of no concern to you after they leave the plant of a former DWO, now WWO.

Or is it that DWOs don't have to report an upset for 45 days after contaminating a drinking water line that makes your job easier: although that luxury doesn't exist for wastewater operators who must report any incident over a NPDES limit immediately.

Drinking Water Operators are not Wastewater Operators any more than Chinese is Japanese, or as your office tried to create in the early 1990s, engineers into Wastewater Operators. Water may be water to you, (and if so care to drink my effluent?) but treated wastewater is not treated drinking water, and MCRT in the reactor/clarifiers is not surface overflow rate from a settling tank. Nor is final effluent the product of microfiltration. Drinking Water operators have a lot to learn: Modified Ludzack-Ettinger comes to mind, but not if I were a DWO turned WWO

Will you next allow a general practitioning doctor to operate as a surgeon, on you, without at least taking a board exam; your line of thinking makes that a given. We all know the effect that lack of training has. The environment is already severely degraded (if you haven't noticed compare pictures of our national parks with the view from your window). Why would you want to subject the environment, OUR CALIFORNIA environment, to unqualified, untrained environmental protectors? DWOs don't protect the

environment they settle and poison (chlorinate) water. WWOs remove contaminants and remove the poison chlorine: we don't leave residuals. Drinking water laws and the CWA are in contradiction; the untrained fall back on what they know from early adulthood (What do you remember best? Duh, teen to 25, the rest is a blur.)

So how much did some contractor pay you to change the law? Must be less than the cost to retrain their DWOs as WWO.

One last time: operating a chemical metering pump for potable water (eg.: a water softener or chlorinator) is not the same as maintaining a mass balance in activated sludge, keeping a digester from turning sour, nor is it like running centrifuges, or releasing final effluent to receiving waters.

THIS RULE CHANGE WILL ENDANGER THE WATERS OF THE UNITED STATES which we are trained, tested and experienced and licensed to protect IMMEDIATELY. DWOs, licenced under the DHS, have 45 days to notify after haphazard drinking water treatment. Where would a WWTP be 45 days after a primary ferric, or polymer pump problem. Bubble-Up like you never tasted.

This rule will probably be found in violation of the CWA.

Orazio Belsito, Grade V, #7700
23315 Susana Ave.
Torrance, CA 90505
at Hyperion Treatment Plant, not some tiny package drinking water plant.

Cockrell, Debra@Waterboards

Subject: FW: "Comment Letter – Proposed Operator Certification Regulations."

From: Randy Martindale [mailto:randym@foresthome.org]
Sent: Friday, October 05, 2012 10:41 AM
To: commentletters
Subject: "Comment Letter – Proposed Operator Certification Regulations."

What is the effective date on the changes to the operator certification regulations.

Randy Martindale
Water Systems Coordinator

Forest Home Mill Creek Canyon
40,000 Valley of the Falls Dr.
Forest Falls, CA 92339
www.foresthome.org

DIRECT (909) 389-2244

RECEIVED
10-11-12
SWRCB Clerk

Subject: Comments on Proposed Operator Certification Regulations

We have reviewed the copy of the changes sent out about October 1, 2012. We would like to include these comments for consideration:

Section 3681 Lone Operator. This section seem unworkable for small wastewater treatment plants (wwtp). Our company is a Contract Operator and has several small plants spread out over a half dozen counties in Northern California. With new requirements that private wwtp will fall under operator certification rules in the next couple of years, the number of small plants covered will increase.

Our small plants are typically from 10,000 gpd to maybe 250,000 gpd. Most are ponds or extended air treatment plants with either subterranean or surface spray irrigation. None are large enough to have mulitple operators. In fact, our business model is to hire circuit operators who handle several treatment plants on a daily basis. All operators are in contact with the Chief Plant Operator via telephone, text messaging or email. Many facilities also have SCADA systems to monitor the wwtp continuously.

In almost every plant, every day, the operator is on-site alone.

This section needs to be reworked to accommodate this reality. Operators work alone in many cases, especially in small wwtps.

Also the provisions for OIT need attention in this same scenerio. As the regulations are currently written we would never be able to hire an OIT. That doesn't seem reasonable that the only entry path to become a certified operator is via a large wwtp. Our company provides good training and plenty of oversight. Its just not face to face, but rather by modern communications systems.

Thank you

Gary Phillips
Phillips & Associates
CO-0021

Public Comment
Proposed Operator Certification Regulations
Deadline: 10/15/12 by 12 noon

CITY OF LOS ANGELES
CALIFORNIA

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October 15, 2012

RECEIVED
10-15-12
SWRCB Clerk

ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Chairman Charles R. Hoppin and Members of the Board
State Water Resource Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Attention: Jeanine Townsend, Clerk to the Board

Dear Chairman Hoppin and Members of the Board,

COMMENT LETTER – PROPOSED OPERATOR CERTIFICATION REGULATIONS

The City of Los Angeles Bureau of Sanitation (Bureau) appreciates the opportunity to comment on the proposed revisions to the regulations governing Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration (WWTP Operator Regulations).

While the Bureau commends the State Water Resources Control Board staff for their attempt to clarify existing ambiguities, there are aspects of the proposed changes that require further clarification or modification. The Bureau hopes that these comments will result in a more effective operator certification program with resulting improvements to public health and the environment.

Please consider the following comments discussed below:

1. Section 3671: Definitions

Full Time
The Bureau requests the following changes to the definition of "Full Time"

2. *less than an average of 40 hours worked per week by ~~an operator or~~ provisional operator at a wastewater treatment plant if the ~~operator or~~ provisional operator is solely responsible for the operation of a wastewater treatment plant; or*
3. *~~less than an average of 40 hours worked per week by an operator-in-training at a wastewater treatment plant if the operator-in-training works as the only operator-in-training under the~~*

~~*direct supervision of an operator who is solely responsible for the operation of the wastewater treatment plant and who is working less than an average of 40 hours per week."*~~

The definition of "Full Time" under number (2) needs revision. Delete "Operator", but keep "Provisional Operator" in the language.

The proposed definition, "Less than an average of 40 hours per week" could result in less than adequately trained staff attaining higher grade operator certification levels without the desired amount of hands-on experience in a very short time frame.

The Bureau would also like the definition under (3) to be deleted completely.

Designated operator-in-charge
The Bureau requests the deletion of the definition of "Designated operator-in-charge"

~~*"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall report to the chief plant operator."*~~

All Chief Plant Operators (CPOs) at the Bureau must designate a "designated operator in charge" as part of normal operation procedures when the CPO is unavailable. The Bureau believes that this definition is not needed.

Lone Operator
The Bureau requests that this definition be clarified to include how many grade levels lower are permissible.

Shift Supervisor
A definition of "Shift Supervisor" was removed from the proposed regulations. The "Shift Superintendent" on duty is the shift supervisor at Hyperion Treatment Plant; thus, the Bureau requests that this definition be retained.

Satellite Plant
Per the new definition of "Satellite Plant", the Bureau's Donald C. Tillman Water Reclamation Plant (DCTWRP) and Los Angeles Glendale Water Reclamation Plant (LAGWRP) are satellite plants to Hyperion Treatment Plant (HTP). However, HTP, DCTWRP and LAGWRP have never been considered and classified as "one" wastewater treatment plant, and each plant has its own "Chief Plant Operator." The HTP Chief Plant Operator is not responsible for the overall operation of the satellite and main treatment plants. The Bureau requests that this definition be removed or modified to incorporate situations with multiple satellite plants with independent Chief Plant Operators.

Wastewater Treatment Plant
The Bureau requests the following changes to the definition of "Wastewater Treatment Plant"

(3) A privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

"Wastewater treatment plant" includes water recycling treatment plants. ~~The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290 of the Water Code.~~"

The Bureau requests that the whole sentence "the term 'wastewater treatment plant' does not include onsite sewage treatment systems as defined in section 13290 of the Water Code" be removed in its entirety. The reason for the request is that a localized treatment system may not be considered a Wastewater Treatment Plant, then the operator working on the site cannot receive experience credits toward WWT Operator certification. This would be an issue if the Bureau operates the system and staff has to be assigned or included as part of their rotation.

2. Section 3675: Classification of Wastewater Treatment Plants,

The Bureau has four large treatment plants: Hyperion Treatment Plant (HTP), Donald C Tillman Water Reclamation Plant (DCTWRP), Los Angeles Glendale Water Reclamation Plant (LAGWRP), and Terminal Island Water Reclamation Plant (TIWRP). According to the definition, DCTWRP and LAGWRP are the satellite plants to HTP. However, the processes, operational requirement, personnel, effluent limitations, responsibilities, end-uses, and other permitting requirements are different and unique for each plant. The Bureau believes these differences make each plant unique; thus, the Bureau requests that this language be removed completely.

3. Section 3681: Lone Operator

The entire 2681 Section was added to the proposed regulations and requires approval of a written plan before assigning an operator as a lone operator. This creates an unnecessary burden. The owner and operator of the treatment plant bears responsibility for violations of permit requirements caused by human operator error. Avoidance of these effluent liabilities and associated liabilities is enough incentive to ensure that "lone operators" receive the necessary knowledge and experience prior to being assigned the task of performing basic duties and minimal tasks with competency.

The Bureau requests that all the requirements in this section be removed except Section (e) which prohibits an operator-in-training being assigned as a "lone operator."

4. Section 3709: Administrative Civil Liability, Disciplinary Action, Appeal, and Petition Process

The new language was added to Section 3709 pertaining to imposition of administrative liabilities is unnecessary, duplicative, and has the potential to become inconsistent with changes to existing California Water Code law. The Bureau requests that this language be taken out in its entirety.

The Bureau is looking forward to working with State Water Resource Control Board staff to ensure compliance with all operator certification requirements. If you need additional information or have any questions, please call Mr. Steven Fan, Hyperion Treatment Plant Manager, at 310-648-5168.

Sincerely,

ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

MB/EZ:pc

c: Don Tsai, California Regional Water Quality Control Board, Los Angeles Region
Traci Minamide, Bureau of Sanitation/EXEC
Varouj Abkian, Bureau of Sanitation/EXEC
Steve Fan, Bureau of Sanitation/HTP
Hiddo Netto, Bureau of Sanitation/DCTWRP-LAGWRP
Roshan Aflaki, Bureau of Sanitation/TIWRP
Mas Dojiri, Bureau of Sanitation/EMD
Timeyan Dafeta, Bureau of Sanitation/IWMD
Shahram Kharaghani, Bureau of Sanitation/WPD
Ali Poosti, Bureau of Sanitation/WESD
Omar Moghaddam, Bureau of Sanitation/RAD

Public Comment
Proposed Operator Certification Regulations
Deadline: 10/15/12 by 12 noon

ORO LOMA SANITARY DISTRICT

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LATE COMMENT

October 15, 2012

RECEIVED
10-15-12
2:38pm
SWRCB Clerk

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

SUBJECT: PROPOSED MODIFICATION TO CHAPTER 26 OF DIVISION 3 OF THE CALIFORNIA CODE OF REGULATIONS

Dear Ms. Townsend:

I am writing this letter to express the Oro Loma Sanitary District's concern with the proposed changes to Title 23 Waters Division 3: State Water Resources Control Board and Regional Water Quality Control Boards Chapter 26. Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration, Revisions. Specifically § 3681, Lone Operator Requirements.

Reading the provision as it is written 3681(a) "...The Chief Plant Operator shall demonstrate that the owner has had difficulty, despite due diligence, hiring a Certified Operator of the appropriate grade to operate the wastewater treatment plant. The Chief Plant Operator shall request approval and submit a written plan..." the District has the following comments and concerns: According to this statement the office of Operator Certification is conflicted with the role of the Lone Operator verses the facilities right to staff the plant at levels that are appropriate. There are clear provisions in the regulation (section § 3680 (a)) that identify the grade level of operator certification necessary to assume charge of a facility. The Lone Operator is a staffing issue not a certification issues. For example, if a facility chooses to have a single operator onsite and the facility has the operational controls (i.e. SCADA Systems) to fully and accurately monitor the process, the number of staff members should not be a concern of the Office of Operator Certification. In comparison, there are no provisions in the title for a facility that is not staffed during a 24-hour period. It would appear counter intuitive that the Office of Operator Certification would hold the staffed facility to a higher standard than a facility that is without staffing during any period of operation.

2655 Grant Avenue ▪ San Lorenzo, California 94580-1838 ▪ (510) 276-4700 ▪ Fax (510) 276-1528 ▪ Email: info@oroloma.org
www.oroloma.org

Additionally, as the title clearly defines the role of the Chief Plant Operator, designated operator in-charge and all other operator classifications and plant process classifications, a provision requiring approval from the office for a staffing decision is redundant. Furthermore, holding the Lone Operator to "perform only basic duties that require minimal judgment" regardless of the level of certification, limits the productivity of highly trained and certified employees and an agency's authority to appropriately staff and operate the wastewater treatment facility.

Based on these concerns, Oro Loma Sanitary District is proposing that the section on the Lone Operator be removed from Title 23, or at a minimum, section § 3681 be rewritten with a focus on the agency ***advising*** the Office of Operator Certification, if a Lone Operator is utilized in the agency staffing plan, and verifying that the Lone Operator meets the certification requirements.

If you have any questions, please contact me at 510.276.4700.

Sincerely,

Paul Zolfarelli
Director of Water Quality Services

Public Comment
Proposed Operator Certification Regulations
Deadline: 10/15/12 by 12 noon

THE CITY OF SAN DIEGO

October 15, 2012

LATE COMMENT

RECEIVED
10-15-12
4:00pm
SWRCB Clerk

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Email: commentletters@waterboards.ca.gov

SUBJECT: Comment Letter – Proposed Operator Certification Regulations

Thank you for the opportunity to submit comments regarding the State Water Resources Control Board's proposed changes to Title 23 Regulations for Operator Certification. The City of San Diego's Public Utilities Department's Wastewater Branch supports the continuation of improving water quality and supports additional actions that are practical and cost-effective.

The Public Utilities Department (PUD) manages the San Diego sewerage system by providing an essential public service of conveyance, treatment, reclamation and disposal of wastewater for the City of San Diego and fifteen municipalities from a 450 square mile area.

The Treatment & Disposal Division operates and maintains the following classified facilities:

- Point Loma Wastewater Treatment Plant (PLWTP) – [Class IV]
- Metro Biosolids Center (MBC) – [Class V]
- North City Water Reclamation Plant (NCWRP) – [Class V]
- South Bay Water Reclamation Plant (SBWRP) – [Class V]
- Central Operations Management Center (COMC) - [Class V]

The City has concerns regarding new and modified definitions in Section 3671 for chief plant operator (CPO), designated operator-in-charge (DOIC), lone operator and satellite plant. While we inadvertently missed the initial deadline to address our concerns with the original proposed modifications, the addition of the new operator definitions and designation of satellite plants will have a profound and wide-spread effect on the structure of our organization and are interrelated to the new and modified definition of lone operator.

Please consider the following comments and questions:

1. **Section 3681 Lone Operator –**

   The lone operator and DOIC definitions make assumptions and dictate an organizational structure incompatible with the function and capability of our centralized operating facility called COMC.

   COMC is a centralized Class V facility, physically separated from the plants, that has the capability of operating the plants via a complex computerized control system. The proposed regulations will cause widespread changes and negative impacts of the City's highly efficient use of a single Grade III Wastewater Operations Supervisors (WWOS) (WWOS) operating multiple Class V facilities during weekends and evenings when some facilities are unmanned.

   Specifically, COMC certified Wastewater Operations Supervisors (WWOS) monitor and operate the NCWRP and the SBWRP Class V plants during nights and weekends, as directed by the NCWRP and SBWRP plant superintendent (CPO/Grade V).

   COMC Wastewater Operations Supervisors (WWOS) work under the direct supervision of a Senior Wastewater Plant Operations Supervisor (DOIC Grade V) and/or a COMC Superintendent (CPO/Grade V). The COMC Wastewater Operations Supervisors (WWOS), one per shift or lone operator, have a minimum Grade III.

   The lone operator definition and the table in 3680(a) are in conflict with each other and it impacts these COMC Grade III Wastewater Operations Supervisors (WWOS) simply because they have a lower grade level than the DOIC as the definition is ..."an operator, at a grade level lower than the Designated Operator-in-Charge....." and at the same time they can be considered a DOIC per section 3680(a).

   Would this case also be true of our Wastewater Operations Supervisors (WWOS) at NCWRP and SBWRP because they work alone on weekends, although they have direct communication with the Wastewater Operations Supervisors (WWOS) at COMC?

   So, assuming the definition of satellite plant remains, it appears the modification would require a new CPO managing the current four superintendents and five senior supervisors, all at the City required Grade V level, who would be DOICs, unless the Wastewater Operations Supervisors (WWOS) are considered DOIC's as well under section 3680.

2. Is it possible to have multiple DOICs at any given time? Multiple Wastewater Operations Supervisors (WWOS) are utilized in a 24 hour period at all the 24/7 facilities and for standby at the facilities that are unmanned at night but monitored by COMC Wastewater Operations Supervisors (WWOS). Can this designation change daily if necessary?

Thank you for your consideration of these comments and pending replies to questions. Please contact me at (858) 292-6490 or ageneroso@sandiego.gov if you need clarification regarding the content of this letter.

Sincerely,

Agnes Generoso
Interim Deputy Director, Treatment & Disposal Division

Cc: Barry Ayers
Ernesto Molas
Gerald Schreckengost
K.C. Shankles

CITY OF LOS ANGELES
CALIFORNIA

BOARD OF
PUBLIC WORKS

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1149 SOUTH BROADWAY, 9TH FLOOR
LOS ANGELES, CA 90015
TEL: (213) 485-2210
FAX: (213) 485-2979

LATE COMMENT

October 17, 2012

RECEIVED
10-18-12
SWRCB Clerk

ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Chairman Charles R. Hoppin and Members of the Board
State Water Resource Control Board
Attention: Jeanine Townsend
1001 I Street, 24th Floor
Sacramento, CA 95814

Attention: Jeanine Townsend, Clerk to the Board

Dear Chairman Hoppin and Members of the Board:

ADDITIONAL COMMENT – PROPOSED OPERATOR CERTIFICATION REGULATIONS

The City of Los Angeles Bureau of Sanitation (Bureau) sent a comment letter to the Board on October 15, 2012 for the proposed operator certification regulations, but an important comment was inadvertently omitted. Please include this comment in the regulatory change record.

1. **Section 3670.1: Certification Requirements for Operating Wastewater Treatment Plants**

The Bureau requests that Section 3670.1.(b) be revised as follows:

"A person certified by the California Department of Public Health as a water treatment plant operator shall **not** operate a water recycling treatment plant."

and the proposed Section 3670.1 (b) (1) and (2) be deleted.

The Bureau objects to allowing certified water operators to run water recycling plants as the knowledge, training, and experience are more commensurate with wastewater treatment operations. Water recycling is a part of wastewater treatment (or an extension of wastewater treatment). For this reason, only wastewater treatment operators should be certified to operate water recycling plants. Certified water operators are trained in potable water, not wastewater treatment.

Recyclable and made from recycled waste

The Bureau is looking forward to working with State Water Resource Control Board staff to ensure compliance with all operator certification requirements. If you need additional information or have any questions, please call Mr. Steven Fan, Hyperion Treatment Plant Manager, at 310-648-5168.

Sincerely,

ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

SC/EZ:sc

c. Don Tsai, California Regional Water Quality Control Board, Los Angeles Region
Traci Minamide, Bureau of Sanitation, EXEC
Varouj Abkian, Bureau of Sanitation, EXEC
Hiddo Netto, Bureau of Sanitation, DCTWRP/LAGWRP
Mas Dojiri, Bureau of Sanitation, EMD
Timeyan Dafeta, Bureau of Sanitation, IWMD
Steve Fan, Bureau of Sanitation, HTP
Roshan Aflaki, Bureau of Sanitation, TIWRP
Shahram Kharaghani, Bureau of Sanitation, WPD
Ali Poosti, Bureau of Sanitation, WESD
Omar Moghaddam, Bureau of Sanitation, RAD

WRITTEN COMMENTS SUBMITTED OUTSIDE OF THE PUBLIC COMMENT PERIODS



April 5, 2011

Ms. Debra Cockrell
Office of Operator Certification
Division of Financial Assistance
State Water Resources Control Board
Post Office Box 944212
Sacramento, California 94244-2120

RE: Draft Regulations Regarding Tribal Wastewater Operator Certification Criteria

Dear Ms. Cockrell:

I am the Tribal Co-Chair of the Region 9 Tribal Operations Committee (RTOC), a body of U.S. Environmental Protection Agency and Tribal representatives from California, Arizona and Nevada that works to address environmental protection issues of mutual concern.

As a preliminary matter, I'd like you to know that we really appreciate the willingness of various California Water Resources Control Board representatives to address our concerns regarding the State's wastewater operator certification procedures. Over the last several years, Board representatives worked diligently and cooperatively with members of our Drinking Water / Wastewater Sub-Committee and several attorneys representing Indian Tribes in the State of California, to develop a reasonable mechanism for certification for personnel that operate wastewater systems located on Tribal trust land. After many discussions regarding how to best address the concerns of both the Board and potentially affected Tribal governments, and the Sub-Committee's coordination and consultation with other

interested Tribal representatives through the RTOC, the team reached a consensus regarding the most appropriate approach. This mutually acceptable approach is reflected in the current version of the draft regulations. Among other things, the draft regulations contain the following definition: "Indian tribe" means an Indian entity recognized by, and eligible to receive services from, the United States, and included in the list of the entities periodically published by the Bureau of Indian Affairs in the Federal Register.

We understand that, after our Sub-Committee and Board representatives completed their work on the Tribal provisions in the draft regulations, Cal EPA issued a policy memorandum defining "California Indian Tribe" to mean the following: A federally-recognized California Indian Tribe (as listed on the Federal Register). With respect to cultural resources, a federally-recognized Indian Tribe and a non-federally recognized California Native American Tribe that is on the California Tribal Consultation List maintained by the Native American Heritage Commission (NAHC). We also understand that Cal EPA has requested the definition of "Indian Tribe" that our team developed for inclusion in the draft regulations be replaced with its definition of "California Indian Tribe."

We appreciate Cal EPA's efforts to ensure Tribal interests and concerns are addressed; however, we are concerned that the use of Cal EPA's definition is not well-tailored to the purposes our team sought to achieve, and that the definition currently in the draft regulations will better effectuate related Tribal provisions. In particular,

- The definition provided by our Sub-Committee members and Tribal attorneys was derived from the language used in the Federal Register, where the list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs" is periodically published. The word "entity," while not the most desirable reference to a Tribal government, is appropriate in this context not only to parallel the title of the list of federally-recognized Tribes, but also because it encompasses a broader range of organizational structures that a Tribe may choose to utilize to operate its utilities as well as any operator certification program.

- The focus on federally-recognized Tribes was not intended to exclude any Tribal communities, but recognizes that the challenges to Tribal operator certification under the existing regulations occur specifically with respect to systems on Tribal trust land that are not regulated by the State.

- Our team consciously chose to include in the definition and related Tribal provisions Tribes outside the State, including those Tribes whose lands span state borders as well as those outside the State that employ utility operators that may seek certification by the State of California.

For these reasons, I am writing on behalf of the RTOC Tribal Caucus to respectfully request that the regulations continue to include the definition of "Indian Tribe" provided by our Sub-Committee members and Tribal attorneys working with the Board and that, in this limited context, Cal EPA's standardized definition of "California Indian Tribe" not be used.

Thank you for your attention to our concerns. If you have any questions or require further information, please contact Sub-Committee Lead Tom Keegan, Dry Creek Rancheria, at (707) 857-1810 ext 117 or tomk@drycreekrancheria.com.

Sincerely,

Cornelius "Corn" Antone
Tribal Co-Chair

cc: Julie M. Osborn, Staff Council, State Water Resources Control Board
Linda Reeves, Drinking Water Division, U.S. EPA Region 9
Tom Keegan, Dry Creek Rancheria
Marta J. Burg, RTOC Policy Advisor

Cockrell, Debra@Waterboards

From: brad cass <brad.cass@tolowa.com>
Sent: Friday, August 03, 2012 9:03 AM
To: Cockrell, Debra@Waterboards
Cc: John Hamner (JHamner@rcac.org); Ronald Sundberg (RSundberg@rcac.org); don james
Subject: Changes to Regs

Dv-laa-ha~Debra,
This is exciting news for Tribal Wastewater Operators. Not allowing Tribal Wastewater Operators to gain certification has been a tremendous injustice to the Tribes in the State of California. I fully support these changes and look forward to their approval. I would like to be on a notification list to be able to keep current with these proposed changes. I do appreciate the work done by the State Water Resources Control Board to recognize Tribal Operators. Our main operator runs a 25,000 gpd Membrane BioReactor Plant (expandable to 50,000 gpd) and will reach Level III Tribal Wastewater Treatment and Collection Operator status through the Inter Tribal Council of Arizona later this year. ITCA utilizes the ABC testing recognized in many states other than California and I feel confident that he can pass the exams necessary for proper level of certification to run our wastewater system. I applaud the efforts of the State Water Resources Control Board and the many Tribal folks that worked so hard to help bring about these important changes to the Regulations.
Please keep me informed as to the status of these proposed changes.
[redacted]u' shaa nin-la (Thank you very much),

Brad Cass
Wastewater Treatment Plant Operator Grade II
Certificate Number II-28437

Natural Resources Director
Smith River Rancheria
140 Rowdy Creek Road
Smith River, CA 95567
Ph: (707) 487-9255
Fax: (707) 487-0930
Cell: (707) 218-7504
Email: bradcass@tolowa-nsn.gov

*****Smith River Rancheria Confidentiality Notice***** This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed.

UPDATED INFORMATIVE DIGEST

There have been no changes in the applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action and the Notice of Modification to Text of Proposed Regulation.

FINAL STATEMENT OF REASONS AND ADDENDUM TO FINAL STATEMENT OF REASONS

Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board and Regional Water Quality Control Boards
Chapter 26. Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration

FINAL
STATEMENT OF REASONS

November 2012
State of California
State Water Resources Control Board
Division of Financial Assistance

CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

UPDATE OF INITIAL STATEMENT OF REASONS[1]

The information contained herein is updated as follows.

The Notice of Proposed Rulemaking for these regulations was published in the California Notice Register on June 15, 2012. In response to comments received during the initial 45 day comment period of June 15 to July 30, 2012, the public hearing held on August 7, 2012, and the Operator Certification Advisory Committee (Advisory Committee) meeting on August 28, 2012, the State Water Resources Control Board (State Water Board) modified the proposed regulations:

The modified text was made available to comment during the 15-day comment period from October 1 to October 15, 2012.

SECTION 3671. DEFINITIONS.

"Operator"

"Operator" means a person who operates a wastewater treatment plant and who possesses a valid, unexpired operator certificate. The term "operator" includes a person who possesses a valid, unexpired operator certificate, but who is not currently employed in a position for which an operator certificate is required.

Specific Purpose and Necessity of the Proposed Action

A commenter raised a concern that the use of the term "operator" in proposed section 3702.2 regarding an application for renewal of an operator certificate prevented a person who is not currently employed as an operator from renewing his or her operator certificate. The State Water Board does not intend to limit operator certificate renewals to only those individuals who are currently employed as an operator. The State Water Board is amending the definition of the term "operator" to clarify that the definition of "operator" is not limited to a person who is currently employed as an operator at a wastewater treatment plant (WWTP). As amended, the term includes a person who has a valid, unexpired operator certificate, but is not currently employed in a position for which an operator certificate is required. Accordingly, an individual who is not currently employed as an operator can renew his or her certificate.

"Qualifying experience"

"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training while operating a wastewater treatment plant as defined in this section. "Qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. The term may include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.

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[1] This section explains the changes that have been made to the text of the regulations initially proposed (June 15, 2012 version). The changes that have been made are reflected in strikeout and underline format.

Specific Purpose and Necessity of the Proposed Action

Pursuant to proposed section 3670.1, a person holding a water treatment plant operator certificate may operate a water recycling treatment plant. A person who is operating a water recycling treatment plant should receive qualifying experience regardless of whether the person is operating the water recycling treatment plant using a water treatment plant operator certificate or a WWTP operator certificate. Therefore, the State Water Board is amending the proposed definition of "qualifying experience" to clarify that the term "qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1.

"Tertiary treatment"

"Tertiary treatment" means a wastewater treatment process that goes beyond secondary treatment, which may include ~~and includes~~ filtration, coagulation, and nutrient removal.

Specific Purpose and Necessity of the Proposed Action

The State Water Board is amending the definition of "tertiary treatment" to replace the phrase "and includes filtration, coagulation, and nutrient removal" with "which may include filtration, coagulation, and nutrient removal," because nutrient removal is not a required component of tertiary treatment.

SECTION 3681. LONE OPERATOR.

(a) A chief plant operator of a wastewater treatment plant must receive written approval from the Office of Operator Certification before assigning an operator as a lone operator. The chief plant operator shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operate the wastewater treatment plant. The chief plant operator shall request approval and shall submit a written plan that includes:

(1) the name(s) and grade level(s) of the lone operator(s) and the proposed duties of the lone operator(s);

(2) a work schedule showing when the lone operator(s) will be working alone; and

(3) the procedure the lone operator(s) will use to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge when the lone operator(s) needs direction.

(b) Except as provided in subdivision (c), ~~Written approval shall be given by~~ the Office of Operator Certification shall approve the request to use a lone operator if the written plan prepared pursuant to subdivision (a) provides that the lone operator(s):

(1) will perform only basic duties that require minimal judgment; and

(2) has the ability to communicate at all times with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge.

(c) The Office of Operator Certification may refuse to approve the request to use a lone operator if the chief plant operator fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator of the appropriate grade to operate the wastewater treatment plant.

(d) An approval to use a lone operator granted by the Office of Operator Certification shall be valid for 180 days.

~~(c)~~ (e) The following process shall govern any changes to the written plan approved pursuant to subdivision (b):

(1) At least 30 days before implementing any changes to the written plan, the chief plant operator shall notify the Office of Operator Certification in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (b) or notify the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(3) The chief plant operator shall not amend the written plan as proposed if the Office of Operator Certification notifies the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

~~(d)~~ (f) The Office of Operator Certification may revoke its written approval if it determines that the plan has been violated.

~~(e)~~ (g) In no event shall an operator-in-training be assigned as a lone operator.

Specific Purpose and Necessity of the Proposed Action

The regulation as initially proposed allowed WWTPs to have a lone operator on site to perform basic duties so long as the chief plant operator (CPO) submitted a written plan showing that the lone operator will be able to communicate with the CPO, the designated operator-in-charge (DOIC), or an operator at the same or higher grade as the DOIC at all times in case a problem arises. As initially proposed, approval to use a lone operator did not have to be renewed.

After reviewing comments for and against the provisions in proposed section 3681, as well as concerns expressed by the Advisory Committee, the State Water Board has determined that it is not appropriate to allow CPOs to establish permanent lone operator shifts. As amended, the CPO must demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operate the WWTP in order to obtain approval to use a lone operator. Additionally, approval to use a lone operator will be valid for only 180 days.

The State Water Board feels that the modified section 3681 provides CPOs with the needed flexibility to staff WWTPs during temporary staffing shortages while still ensuring that the owner must work diligently towards providing the full staffing necessary to operate the WWTPs with an operator of the appropriate grade level.

As modified, the CPO still must provide a written plan showing that the lone operator will be able to communicate with the CPO, the DOIC, or an operator at the same or higher grade as the DOIC at all times in case a problem arises. Further, the lone operator still must be certified at no more than one grade level lower than that required for a DOIC. An operator-in-training (OIT) may not be assigned as a lone operator.

SECTION 3702.3. ISSUANCE OF RENEWAL CERTIFICATE.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewal certificate shall include:

(1) the operator's name and ~~address~~ grade level;

(2) the certificate number ~~and operator grade level~~;

(3) the issue date of the initial certificate and the expiration date of the renewal certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed certificate shall be two years from the expiration date of the certificate being renewed.

Specific Purpose and Necessity of the Proposed Action

In response to privacy concerns that were raised during the public comment period, the State Water Board is deleting the requirement to have an operator's address on the renewal certificate. As amended, proposed section 3702.3(c) conforms to the requirements in proposed section 3702.1(a) for an initial operator certificate.

SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE INITIAL 45-DAY COMMENT PERIOD FROM JUNE 15 TO JULY 30, 2012

List of Comment Letters (Alphabetical Order) Public Comments regarding Operator Certification Regulations Comment Letters (#)	
Commenter(s)	**Submitted by:**
Aquality Water Management (#29)	Donald Brown
Bay Area Clean Water Agencies (#25)	James M. Kelly
California Water Environment Association (#17)	Carrie Mattingly
City of Santa Maria Utilities Department (#21)	Shannon Sweeney
Clean Water Summit Partners (#26) • Bay Area Clean Water Agencies • California Water Environment Association • California Association of Sanitation Agencies • Central Valley Clean Water Association • Southern California Alliance of POTWs	James Kelly Carrie Mattingly Roberta Larson Debbie Webster John Pastore
Concorde Battery Corporation (#6)	Steve Delmar
County Sanitation Districts of Los Angeles County (#23)	Victoria O. Conway
General Public (#1)	Manual Moya
General Public (#2)	Bobbie Martin
General Public (#3)	Bryan Davis (1)
General Public (#4)	James Johnson
General Public (#5)	Matthew Dabner
General Public (#7)	Henry Lopez
General Public (#8)	David Martin
General Public (#9)	David Michel
General Public (#10)	Stephanie Taber

List of Comment Letters (Alphabetical Order) Public Comments regarding Operator Certification Regulations Comment Letters (#)	
Commenter(s)	**Submitted by:**
General Public (#11)	Greg Cash – Central Valley Regional Water Quality Control Board
General Public (#15)	Lyndy Lewis
General Public (#16)	Andy Heckman
General Public (#14)	Kent Perkes (1)
General Public (#19)	Kent Perkes (2)
General Public (#20)	Hugh Logan – Operator Certification Advisory Committee Member
General Public (#28)	Jim Boyes
General Public (#30)	Joshua Brown
General Public (#31)	Juan C. Cardenas
General Public (#32)	Norman DeSilva
General Public (#33)	Cassandra Reidenbach
General Public (#34)	Andreas A. Christensen
General Public (#35)	Bryan J. Davis (2)
General Public (#36)	Ival Barton
General Public (#37)	Steve Gonzales
General Public (#38)	Dan Dunsford
Pacific Union College (#22)	Gayle Grove
Phillips & Associates (#12)	Gary Phillips
Sacramento Regional County Sanitation Dist. (#24)	Terrie Mitchell

List of Comment Letters (Alphabetical Order) Public Comments regarding Operator Certification Regulations Comment Letters (#)	
Commenter(s)	**Submitted by:**
Sonoma County Water Agency (#27)	Ron Tyler
Veolia Water North America (#13)	Scott Biocic
Veolia Water West Operating Services, Inc. (#18)	Sachin Chawla

Oral Testimony (Alphabetical Order) Public Comments regarding Operator Certification Regulations	
Commenter(s)	**Submitted by:**
California Water Environment Association	Christopher Dobson
Clean Water Summit Partners	Roberta Larson
General Public (#20)	Hugh Logan – Operator Certification Advisory Committee Member

List of Comment Letters (Numerical Order) Public Comments regarding Operator Certification Regulations Comment Letters (#)	
Commenter(s)	**Submitted by:**
General Public (#1)	Manual Moya
General Public (#2)	Bobbie Martin
General Public (#3)	Bryan Davis (1)
General Public (#4)	James Johnson
General Public (#5)	Matthew Dabner
Concorde Battery Corporation (#6)	Steve Delmar
General Public (#7)	Henry Lopez
General Public (#8)	David Martin

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General Public (#11)	Greg Cash – Central Valley Regional Water Quality Control Board
Phillips & Associates (#12)	Gary Phillips
Veolia Water North America (#13)	Scott Biocic
General Public (#14)	Kent Perkes (1)
General Public (#15)	Lyndy Lewis
General Public (#16)	Andy Heckman
California Water Environment Association (#17)	Carrie Mattingly
Veolia Water West Operating Services, Inc. (#18)	Sachin Chawla
General Public (#19)	Kent Perkes (2)
General Public (#20)	Hugh Logan – Operator Certification Advisory Committee Member
City of Santa Maria Utilities Department (#21)	Shannon Sweeney
Pacific Union College (#22)	Gayle Grove
Sacramento Regional County Sanitation Dist. (#24)	Terrie Mitchell
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General Public (#31)	Juan C. Cardenas
General Public (#32)	Norman DeSilva
General Public (#33)	Cassandra Reidenbach
General Public (#34)	Andreas A. Christensen
General Public (#35)	Bryan J. Davis (2)
General Public (#36)	Ival Barton
General Public (#37)	Steve Gonzales
General Public (#38)	Dan Dunsford

Oral Testimony (Numerical Order) Public Comments regarding Operator Certification Regulations	
Commenter(s)	**Submitted by:**
California Water Environment Association	Christopher Dobson
Clean Water Summit Partners	Roberta Larson
General Public (#20)	Hugh Logan – Operator Certification Advisory Committee Member

GENERAL COMMENTS

Comment Summary 1: Two requests for a copy of the draft proposed regulations. (1, 10)

Response: State Water Board staff responded by providing the link to the proposed regulations at http://www.waterboards.ca.gov/water_issues/programs/operator_certification/index.shtml#anncmnt.

Comment Summary 2: One question whether the public hearing was an informative public hearing only, or whether the State Water Board may take action on the proposed amendments. (15)

Response: State Water Board staff responded that no action would be taken on the proposed amendments at the public hearing. The hearing was solely for the purpose of receiving comments on the proposed regulations.

Comment Summary 3: Numerous comments supporting the Proposed Regulations. (17, 18, 20, 23, 24, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38)

Response: The State Water Board thanks you for your support.

Comment Summary 4: Comment expressing concerns regarding the potential for unintended consequences as a result of the proposed regulations and the need for additional clarification. (12, 20, 21, 24)

Response: State Water Board staff provided several opportunities for public comment throughout the regulation drafting process, which began in 2006. In addition, the Advisory Committee met on several occasions beginning in 2007 to review and make recommendations on the proposed regulatory action. Finally, the State Water Board has carefully reviewed each comment it has received on the proposed regulations to determine whether any changes are necessary in order to minimize unintended consequences.

Comment Summary 5: Some commenters requested the addition of a continuing education requirement in the future. Other commenters expressed concern over the cost of imposing a continuing education requirement. (17, 19, 20, 21, 26)

Response: Continuing education requirements are not included in the proposed regulations. The State Water Board will explore this option further after the proposed regulations are adopted.

Comment Summary 6: Comment expressing concerns about the amendments to the regulations so that timeliness of the applications is determined from the received date instead of the postmark date. (27)

Response: Existing regulations require certain documents to be sent to the State Water Board, the Division of Financial Assistance (Division), or the Division Deputy Director and postmarked by a certain date in order to be considered timely. As amended, the proposed regulations will specify a date by which a document must be received by the State Water Board, the Division Deputy Director, the Director of the Office of Enforcement (OE), or the Office of Operator Certification (OOC) to be considered timely. This change, which is consistent with the State Water Board's other programs, will make it easier for the State Water Board to determine whether the applicable deadline has been met. It is the applicant's responsibility to make sure that the application and other documents get to the State Water Board on time. The State Water Board will not make the requested change.

CERTIFICATION REQUIREMENTS FOR OPERATING WASTEWATER TREATMENT PLANTS (Section 3670.1)

Comment Summary 7: Question whether water recycling plant operators are eligible for certification as prescribed by the California Department of Public Health (CDPH) for water treatment plants. (8)

Response: There is no water recycling treatment plant operator certificate. Water recycling treatment plants are a type of WWTP. Operators at water recycling treatment plants must either have a WWTP operator certificate or a water treatment plant certificate. The State Water Board is not aware of any proposal by the CDPH to change its requirements for obtaining a WWTP operator certificate.

Comment Summary 8: Request for clarification of water treatment and water recycling treatment plant certification requirements. Another commenter asked if the proposed regulations allow for applicants holding a water treatment plant operator certificate to obtain a WWTP operator certificate sooner than obtaining qualifying experience at a WWTP. (5, 13)

Response: A person who holds a valid water treatment plant operator certificate of the appropriate grade may operate a water recycling treatment plant. This provision does not allow a person who holds a valid water treatment plant operator certificate to operate a WWTP that is not a water recycling treatment plant. Nor does this provision affect the requirements for obtaining a WWTP operator certificate.

After one year of experience is obtained operating a WWTP as an OIT, an applicant may be eligible to receive experience credit for one year experience if the applicant has two or more years qualifying water treatment experience pursuant to existing section 3684(a) or proposed section 3684(a)(1).

DEFINITIONS (Section 3671)

Designated operator-in-charge

Comment Summary 9: Comment that the phrase "unable to carry out responsibility" is unclear and is open to interpretation. Another commenter supports the change from the definition of "shift-supervisor" to "designated operator-in-charge" because it allows greater staffing flexibility. (18, 24)

Response: It is the responsibility of the CPO to determine when he or she is unable to carry out the responsibilities of the position of "chief plant operator." The State Water Board cannot prescribe the precise situations when a CPO must appoint a DOIC. The CPO must weigh several factors to determine whether it is necessary to appoint a DOIC. The commenter's proposed amendment to the definition for DOIC and addition of a definition for "unable/unavailable" does not clarify the issue of when the CPO must appoint a DOIC. The proposed definition allows the CPO the flexibility to determine when a DOIC is necessary during various work shifts or unavailable time periods. The State Water Board will not make any change to this definition.

Direct supervision

Comment Summary 10: Comment that the phrase "otherwise available to consult with" is too broad and could potentially allow unsupervised personnel to operate the WWTP. Another commenter asked how close the supervisor must be in order to directly supervise the OIT. (12, 27)

Response: Both the existing regulations and the proposed regulations require that OITs be under the direct supervision of an operator at the same or higher grade level as the OIT. The definition of a "direct supervision" is amended in the proposed regulations for clarification purposes and to state the specific intent of the State Water Board. As stated in the proposed definition of "direct supervision," the supervising operator is required to be present at the WWTP or otherwise available to consult with, and provide assistance to, the OIT in order to ensure the safe and proper execution of the OIT's duties.

It is the responsibility of the supervising operator and the CPO to train and supervise the OIT. The State Water Board cannot prescribe the precise amount of interaction necessary to "directly supervise" every OIT in every situation at every WWTP. The supervising operator and the CPO must weigh several factors to determine the necessary level of interaction to supervise an OIT performing an assigned task at a WWTP, including the difficulty of the task and the OIT's level of experience. The supervising operator and the CPO are responsible if they put an OIT into a circumstance where the OIT is unable to safely and properly execute the OIT's duties.

The proposed definition allows the flexibility of the supervisor to consult with an operator within reason to properly supervise at all times. The State Water Board will not make any change to this definition.

Full time

Comment Summary 11: Comment expressing concern that subdivisions (2) and (3) of the definition are too open-ended. Another commenter asked how does an OIT gain sufficient experience at a small WWTP if the OIT cannot work without direct supervision? (12, 26)

Response: Subdivisions (2) and (3) of the definition are specific and are not open-ended. These alternatives are intended for WWTPs that may be operated efficiently, safely, and without violating waste discharge requirements in less than 40 hours per week. These WWTPs are typically small, Class I WWTPs in rural communities where a single operator, with or without the assistance of an OIT, has a sole responsibility for the operation of the WWTP and where the operator is expected to be on call at all times. The proposed definition of "full time" ensures that OITs working at these WWTPs can earn sufficient qualifying experience to become certified operators, by providing that an OIT who works less than an average of 40 hours per week at a WWTP will earn full time qualifying experience if the OIT is the only OIT under the direct supervision of an operator who is solely responsible for the operation of the WWTP and who is working less than an average of 40 hours per week. The State Water Board will not make any change to this definition.

Comment Summary 12: Comment recommending that the term "qualifying time" replace the term "full-time experience." The commenter suggests that 1,800 hours be considered as a year of experience, without any allowance for paid vacation, sick leave, or other time off. (24)

Response: After factoring in the typical amount of paid vacation, sick leave, and holidays taken by a full time worker, an operator or OIT must spend a minimum of 1,800 hours per year performing duties to meet the definition of "qualifying " in order to obtain "full-time qualifying experience." The State Water Board will not make any change to this definition.

Comment Summary 13: Commenter stated that the increasing trend toward automation means that operators may only have to be at the WWTPs a few hours a week and asked how this trend fits into the proposed regulations and earned time. (12)

Response: Qualifying experience is acquired by operating a WWTP. As amended, the term "operates" means actions or decisions to control the performance or outcome of one or more wastewater treatment processes. The term also includes the supervision of other operators acting or making decisions to control the performance or outcome of one or more wastewater treatment processes. The definition of "operates" does not specify the means used to control the wastewater processes or the location of the operator when the operator is controlling the processes.

Some WWTPs can be operated properly in less than 40 hours per week. Pursuant to the proposed definition of "full time," an operator or provisional operator is considered to be working full time if the operator or provisional operator is solely responsible for the operation of a WWTP, even if the work is performed in less than an average of 40 hours per week.

Qualifying experience

Comment Summary 14: Comment requesting that an engineer who operates a WWTP be given "qualifying experience." (24)

Response: Qualifying experience only applies to experience gained by a person who is certified by the OOC to operate a WWTP. In order to gain qualifying experience, an engineer who is operating a WWTP must become certified. The State Water Board will not make any change to this definition.

Comment Summary 15: Question asking whether experience gained at a water recycling plant while holding a water treatment license counts toward water treatment certification, wastewater treatment certification, or both. (13)

Response: The State Water Board is amending the proposed definition of "qualifying experience" to clarify that the term "qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. It is up to CDPH to determine whether a water treatment plant operator operating a water recycling treatment plant would also acquire experience that would count towards water treatment certification.

Tertiary treatment

Comment Summary 16: Comment requesting amendments to the definition, including replacing the phrase "nutrient removal" with "sequencing batch reactor with filtration." (24)

Response: Sequencing batch reactor technology is a relatively new, advanced technology that uses microprocessor controllers to automatically sequence treatment stages to meet targeted waste discharge requirements. It is not a tertiary treatment process and should not be included in the definition of "tertiary treatment."

The State Water Board is amending the definition to replace the phrase "and includes filtration, coagulation, and nutrient removal" with "which may include filtration, coagulation, and nutrient removal," because nutrient removal is not a required component of tertiary treatment.

Wastewater treatment plant

Comment Summary 17: Comments expressing concern regarding the scope and effect of the exclusion of onsite sewage treatment systems (OWTS) from the definition. (4, 11)

Response: The proposed definition is consistent with the definition of a "wastewater treatment plant" in Water Code section 13625(b) and the definition of "onsite sewage treatment systems" in Water Code section 13290(b). This definition ensures that a wastewater treatment facility will meet either the definition of a "wastewater treatment plant" in the proposed regulations or the definition of "onsite sewage treatment systems" in Water Code section 13290(b), but not both. Only facilities that meet the definition of a "wastewater treatment plant" in the proposed regulations must have a certified operator. The State Water Board will not make any change to this definition.

Comment Summary 18: Question whether the proposed regulations apply to industrial facilities that treat wastewater and discharge to the local Publicly Owned Treatment Works (POTW). (6)

Response: The proposed regulations do not apply to industrial facilities that treat wastewater and discharge to the local POTW because these facilities are not WWTPs.

These facilities must comply with the POTW's Pretreatment Program for removing pollutants from industrial wastewater before they are discharged into the municipal sewer treatment system.

CLASSIFICATION OF WASTEWATER TREATMENT PLANTS (Section 3675)

Comment Summary 19: Comment recommending that the term "sequencing batch reactor" be deleted from the classification table consistent with comment summary 24, recommending amendments to the definition of "tertiary treatment." (24)

Response: The State Water Board is not making the recommended amendment to the definition of "tertiary treatment." The amendment to the definition that the State Water Board is adopting does not necessitate an amendment to the classification table.

Comment Summary 20: Comment that WWTPs should be classified by specific technologies used, rather than by function and design flow, similar to the classification of water treatment plants. Further comment that WWTP classification should be done by actual flow, not design flow. (21)

Response: The WWTP classification table is based on treatment processes and design flow in order to judge both the capability and complexity of the WWTP. The State Water Board feels that this classification system best determines the appropriate WWTP classification and the corresponding grade levels of operators qualifies to operate a WWTP. The State Water Board will not make the requested change.

REPORTING REQUIREMENTS FOR OWNERS OF WASTEWATER TREATMENT PLANTS (Section 3676)

Comment Summary 21: Comment recommending that the State Water Board amend section 3676(g) to clarify that owners only have to report reprimands to the OOC if the reprimand is formal and in writing. (24)

Response: The term "reprimanding" has a generally accepted meaning and is already clear within the context of the sentence, "Disciplinary action includes reprimanding or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter." The State Water Board will not make the requested change because the suggested clarification is unnecessary

GRADE LEVELS OF OPERATOR CERTIFICATION (Section 3680)

Comment Summary 22: Comment opposed to the amendments of this section. The commenter further stated that the minimum grade level of the DOIC at a Class V WWTP should be Grade IV, not Grade III. (25)

Response: This section was amended in response to numerous comments during the scoping process stating that WWTPs needed additional staffing flexibility. Commenters felt that the supervisor and shift supervisor requirements imposed a one size fits all approach that did not meet the needs of many WWTPs. The State Water Board feels that the chain of leadership under the current regulations needs to be strengthened. The State Water Board has determined that by replacing the supervisor and shift supervisor requirements with a

DOIC, CPOs have the flexibility they need to appropriately staff their WWTPs and there is a clear chain of leadership from the CPO to the DOIC. The grade level requirements for a DOIC are the same as the grade level requirements for a shift supervisor in the current regulations. As amended, section 3680 ensures that there is always an operator of an appropriate grade level in charge of the WWTP. The State Water Board will not make any changes to this section.

LONE OPERATOR (Section 3681)

Comment Summary 23: Comment expressing concern over the effect of the lone operator provision on the use of contract operator circuit staff at small WWTPs. Another commenter opposed the lone operator provision as unnecessary and burdensome. Commenter also expressed concern that minimum grade level for a lone operator is too low. The State Water Board also received a comment in favor of the lone operator provision because it allows greater staffing flexibility. (12, 18, 25)

Response: Only an operator who holds a valid, unexpired operator certificate can operate a WWTP. In no circumstances can a technician or other "circuit staff person" who is not an operator, operate a WWTP.

The State Water Board is amending proposed section 3681 in response to the comments as well as concerns expressed by the Advisory Committee. As amended, in order to receive approval to use a lone operator, the CPO must demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operator the WWTP. The lone operator provision will provide temporary relief in managing personnel and operating WWTPs. Approval to use a lone operator will be valid for only 180 days.

Please note that a lone operator may only perform basic duties that require minimal judgment. Additionally, a lone operator must have the ability to communicate at all times with the CPO, the DOIC, or an operator at the same or higher grade level as the DOIC.

APPLICATION FOR OPERATOR-IN-TRAINING CERTIFICATION (Section 3682.1)

Comment Summary 24: Commenter recommended exempting applicants for a Grade I OIT from meeting the educational requirements for a Grade I operator. The commenter feels that applicants should be able to complete their education requirements while earning the experience necessary to be certified as a Grade I operator. (24)

Response: During the scoping process, the State Water Board received numerous comments regarding the need to require all operators and OITs to meet certain minimum education requirements. The State Water Board has determined that it is not appropriate to exempt a Grade I OIT from the education requirements.

QUALIFYING EXPERIENCE CREDIT (Section 3684)

Comment Summary 25: The State Water Board received comments both for and against the provision in section 3684(b) awarding qualifying experience credit to operators at privately owned WWTPs after they pass an examination. One commenter asked why credit was not given to operators at privately-owned WWTPs after passage of Assembly Bill 2971. (7, 20, 24, 26)

Response: Pursuant to Water Code section 13627.5(a), the State Water Board is required to give any operator employed at a privately owned WWTP at least one year of qualifying experience credit upon passing an examination. The State Water Board has not yet given qualifying experience credit to these operators because the statutory amendment was not self-implementing. The proposed regulations will bring privately-owned WWTPs and their operators into the WWTP operator certificate program. (See proposed section 3680.1.)

Comment Summary 26: Numerous comments regarding the importance of the ability for operators at tribal wastewater treatment facilities to get qualifying experience credit and become certified operators. Some of these commenters stated that they had taken an examination because they believed that the regulations would change so that they could get credit for experience at facilities on tribal lands and now their examination results are expired. (29, 30, 31, 32, 33, 34, 35, 36, 37, 38)

Response: Some of the commenters took the examination before the proposed regulations went into effect and apparently without fully understanding the proposed regulations for qualifying experience and the examination waiver. People who took examinations over four years ago will need to either retake the examination or qualify for an examination waiver. For an explanation of the examination waiver process, please refer to the response for comment summary 37.

Pursuant to proposed section 3684(b), an applicant may receive qualifying experience credit for experience acquired at a facility that treats wastewater in a State other than California, in a territory, or on land within the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of a WWTP operator. In order to be given qualifying experience credit, the applicant must have held a valid, unexpired certification of the appropriate grade level issued by a certifying body to perform duties comparable to the duties of an operator at a WWTP. The certifying body's certification requirements also must be comparable to the State Water Board's requirements. This requirement ensures that the experience obtained at a facility that treats wastewater but that is not a WWTP is comparable to the experience acquired by operators at WWTPs.

Comment Summary 27: Comments that qualifying experience credit should not be awarded for developing safety or laboratory procedure manuals or conducting training in safety or laboratory procedures. (20, 24, 25, 26)

Response: Pursuant to section 3684(a)(2), an applicant who has already acquired at least one year experience may receive a one year of qualifying experience credit if the applicant has acquired 3,600 or more hours of experience in one or more specified categories, including developing safety or laboratory procedure manuals or conducting training in safety or laboratory procedures. The State Water Board feels that these skills are valuable and will help the operator to have a better understanding of WWTPs and wastewater processes. The State Water Board will not make the requested change.

Comment Summary 28: Comment asking that the OOC be generous in awarding qualifying experience credit to privately owned WWTP operators under section 3684(c). (22)

Response: The State Water Board appreciates your concern. The OOC will carefully review each application to determine the appropriate amount of qualifying experience credit to award in accordance with section 3684(c).

Comment Summary 29: Comment that the phrase "one-time credit" in sections 3684(a)(1) and (a)(2) is unclear and suggesting alternative language. (24)

Response: The commenter's suggested change to the language would alter the meaning of these two provisions and allow a person to receive multiple years of qualifying experience credit under these provisions. As written, proposed sections 3684(a)(1) and (a)(2) clearly provide that a person may receive only one year of qualifying experience credit under each of these provisions. The State Water Board will not make the requested change.

Comment Summary 30: Comment expressing concern regarding the amount of discretion the OOC has in awarding qualifying experience credit. (26)

Response: Section 3684 sets forth clear requirements for receiving qualifying experience credit. The OOC does not have and does not exercise discretion to stray from these requirements.

Comment Summary 31: Comment stating that section 3684(a)(3) and the Initial Statement of Reasons for this section is unclear. (21)

Response: The commenter does not provide an explanation as to what is unclear about section 3684(a)(3) or the Initial Statement of Reasons for this section. This section clearly states the requirements for substituting educational points for experience. The State Water Board will not make any change to this section.

Comment Summary 32: Commenter recommends that the State Water Board not eliminate the ability to substitute educational points for experience. (16)

Response: The provision in existing section 3685(b) against substituting experience for educational points is moved to proposed section 3685(c). Proposed section 3685(c) does not eliminate the ability to substitute educational points for experience. The provision that allows the substitution of educational points for experience is moved from existing section 3684(b) to proposed section 3684(a)(3).

EDUCATION AND EXPERIENCE REQUIREMENTS (Section 3687)

Comment Summary 33: Commenter recommended that each "path" in the Operator Certification Requirement Table include educational point requirements. The commenter further states that under the proposed regulations educational points only apply if the applicant only has a high school diploma. (16)

Response: Each grade level has one or more paths where the education requirement is a high school diploma or equivalent and a specific number of educational points. Paths where applicants are using an Associate's degree or a minimum of 60 colleges semester units or a Bachelor's degree or a higher degree list semester unit requirements for the degree to be used to meet the education requirement for that specific path. Educational points also may be used to substitute for experience in order to meet the experience requirement. The provision for using educational points to substitute for experience is available for all applicants unless they are using Path 1 for Grade II or Path 1 for Grade III, which are referred to as "time in grade" paths.

Comment Summary 34: Comment expressing the importance of hands-on training in becoming an effective operator. The commenter agrees with the State Water Board's decision to continue to require a minimum of one year of qualifying experience, regardless of education level, to become a certified operator. (20)

Response: The State Water Board thanks you for your support.

Comment Summary 35: Comments supporting the requirement that Grade I operators have a high school diploma or the equivalent. (17, 20, 26)

Response: The State Water Board thanks you for your support.

Comment Summary 36: Comment recommending adding a requirement in section 3687(c) that an OIT must take an examination within 18 months of receiving an OIT certificate. (25)

Response: The requirements for obtaining an OIT certificate are in proposed section 3682.1. In order to obtain an OIT certificate at Grades II through V, the applicant must have passed the examination. An applicant can obtain a Grade I OIT certificate without first passing the Grade I examination. An OIT certificate is valid for two years. In order to renew his or her certificate, a Grade I OIT must pass the examination. (See proposed section 3682.3(b).) The State Water Board will not make the requested change.

EXAMINATION WAIVER (Section 3689)

Comment Summary 37: Some commenters were opposed to the examination waiver and recommend that if an examination waiver is included in the regulations, examination waivers for Grade III, IV, and V be limited to applicants who have passed an examination given by another certifying body in the last four years. There was also one request that the regulations require the OOC to prepare a table of "Comparable Certifications" to make the examination waiver process more transparent.

Other commenters were in favor of the examination waiver provision and asked questions about the effect on their situations. In addition, one commenter was opposed to the requirement to have taken the examination in the last four years. (2, 3, 7, 18, 20, 25, 26, 28)

Response: The State Water Board worked closely with representatives from Indian tribes to address certification issues at tribal wastewater treatment facilities, while respecting tribal sovereign immunity. The State Water Board also received numerous comments during the scoping process from WWTPs, contract operators, and applicants from other states stating that the current reciprocity provision is unnecessarily restrictive. The proposed regulations replace the former reciprocity provision, with a broader examination waiver that removes unnecessary restrictions that have prevented some applicants from wastewater facilities in other states, territories, and tribal lands to become certified by the State Water Board.

The current reciprocity provision includes a requirement that the applicant have taken an examination within the last four years. The State Water Board received numerous comments opposed to this requirement during the scoping process. The State Water Board has determined that the requirement is unnecessarily restrictive and will not amend proposed section 3689 to make this a requirement for Grades III, IV, and V.

Pursuant to the proposed section 3689 and the definitions of "certifying body" and "Indian tribe," if a person is certified to perform duties comparable to a WWTP operator by a certifying body, which includes another state, a territory, an Indian tribe, or an entity designated by an Indian tribe, the person may apply for an examination waiver. In order for the applicant to qualify for an examination waiver, the certifying body's experience, education, and examination requirements must be comparable to the State Water Board's requirements. Additionally, the applicant must meet the State Water Board's minimum education and qualifying experience requirements for the applicable grade. Applicants receiving examination waivers will receive qualifying experience credit for their experience at tribal wastewater treatment facilities in accordance with proposed section 3684(b).

Pursuant to proposed section 3684(b), an applicant may receive qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land within the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of a WWTP operator. In order to be given qualifying experience credit, the applicant must have held a valid, unexpired certification of the appropriate grade level issued by a certifying body to perform duties comparable to the duties of an operator at a WWTP. The certifying body's certification requirements also must be comparable to the State Water Board's requirements. This requirement ensures that the experience obtained at a facility that treats wastewater but that is not a WWTP is comparable to the experience acquired by operators at WWTPs.

EXAMINATIONS (Section 3701)

Comment Summary 38: Comments recommending computerized testing for Grades I and II. (17, 20, 26)

Response: Computer based testing is not included in the proposed regulations. The State Water Board will explore this option further after the current proposed regulations are adopted.

EXAMINATION RESULTS (Section 3701.2)

Comment Summary 39: Comments recommending reducing the time allowed to grade examinations. (20, 26)

Response: Currently, the OOC sends examinees their results as soon as they are available. Typically, the State Water Board is able to send the results for Grade I and II examinations within 60 days. The State Water Board needs the full 90 days allotted by the regulations in order to grade and send the results for Grade III, IV, and V examinations. The State Water Board will not make the requested change.

CERTIFICATION OF WASTEWATER TREATMENT PLANT OPERATORS (Article 8)

Comment Summary 40: Comment that the effective date of certification should remain the date that the operator meets the certification requirement, not the date that the OOC approves the certification. (20)

Response: The current regulatory requirement to backdate certificates to the date the State Water Board received the application has made it difficult for the OE to enforce the requirement that any person operating a WWTP have a valid operator certificate.

The commenter suggests that there is a lengthy delay between the date the application is received and the date that the certificate is issued. This is incorrect. If the application is complete, the OOC will issue the certificate within 30 days. The State Water Board will not make the requested change.

Comment Summary 41: Comment suggesting the State Water Board issue operator certificates for three years instead of two. (20)

Response: The State Water Board does not have the authority to adopt this recommendation. Pursuant to Water Code section 13628, operator, provisional operator, and OIT certificates must be renewed biennially. The State Water Board will not make the requested change.

APPLICATION FOR CERTIFICATE RENEWAL (Section 3702.2)

Comment Summary 42: Comment recommending the term "operator" be replaced with the term "certificate holder" so that an operator who is between jobs can renew his or her certificate. (9)

Response: The State Water Board is amending the definition of the term "operator" to clarify that the definition of "operator" is not limited to a person who is currently employed as an operator at a WWTP. As amended, the term includes a person who has a valid, unexpired operator certificate, but is not currently employed in a position for which an operator certificate is required. Therefore, the replacement of the term "certificate holder" with the term "operator" in proposed section 3702.2(b) does not prevent an individual who is between operator jobs from renewing his or her certificate. The State Water Board will not make the requested change.

ISSUANCE OF A RENEWAL CERTIFICATE (Section 3702.3)

Comment Summary 43: Comment expressing concern that the inclusion of the operator's address on renewal certificates raises privacy concerns. (24)

Response: In response to this comment, the State Water Board has decided to amend section 3702.3 to delete the requirement to include the operator's address on the renewal certificate.

IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY (Section 3709)

Comment Summary 44: Comment stating that section 3709 is unnecessary and duplicative, may create confusion regarding compliance requirements, and has the potential to become inconsistent with the Water Code. (26)

Response: The State Water Board feels that it is important for all the possible repercussions of violating the operator certification regulations to be included in the operator certification regulations. Section 3709 is consistent with Water Code sections 13627.1, 13627.2, and 13627.4 of the Water Code. If the administrative civil liability provisions in the Water Code are ever amended, the State Water Board will amend the operator certification regulations accordingly. The State Water Board will not make the requested change.

GROUNDS FOR DISCIPLINARY ACTION (Section 3710)

Comment Summary 45: Comment encouraging the OE to continue using wise judgment before pursuing enforcement action against well-meaning operators. (20)

Response: The State Water Board appreciates your concern.

Comment Summary 46: Comment recommending that the word "any" be replaced with "an" in section 3710(a)(10). (25)

Response: The State Water Board has determined that the original wording is clear and that it is not appropriate to make the requested grammatical amendment.

ACTION BY THE DEPUTY DIRECTORY OF THE DIVISION (Section 3711.1)

Comment Summary 47: Comment recommending that the Deputy Director not have the authority to allow additional time for the OOC to file its recommendation. Commenter further wishes to shorten the time that the Division Deputy Director has to make the Final Division Decision (FDD) from 90 to 75 days and to provide that the appeal shall be deemed dismissed if an FDD is not issued within 90 days. Finally, the commenter objects to the use of the phrase "on the Division Deputy Director's own motion" in section 3711.1(c) and wants to amend the regulation to limit the Division Deputy Director's ability to issue an FDD. (26)

Response: There is a wide range of appeals to the Division Deputy Director. The State Water Board has determined that the Division Deputy Director needs 90 days to fully review a more complex appeal and issue a well-reasoned FDD. The proposed regulation, including allowing the Division Deputy Director to issue an FDD on his or her own motion, is consistent with other State Water Board programs. The State Water Board will not make the recommended changes.

REQUESTS FOR RECONSIDERATION OF PROPOSED DISCIPLINARY ACTION LETTERS (Section 3712)

Comment Summary 48: Comment recommending that a person against whom the OE issues a Proposed Disciplinary Action Letter have the option to petition the State Water Board for review of the discipline without first having to request reconsideration by the Director of the OE. (26)

Response: It appears that the commenter feels that the recommended amendment would make the process quicker and more efficient. The State Water Board disagrees. In order to ensure that the person being disciplined gets due process, the petition process includes the option for an administrative hearing, which is very time-consuming. It is essential that a person against whom the OE issues a Proposed Disciplinary Action Letter first request reconsideration by the Director of the OE, before petitioning the State Water Board for review of the OE's decision. This procedure serves to resolve or at least narrow the issues, making the reconsideration and petition process more efficient. The State Water Board will not make the recommended changes.

ACTION BY THE DIRECTOR OF THE OFFICE OF ENFORCEMENT (Section 3712.1)

Comment Summary 49: Comment recommending that the request for reconsideration shall be deemed dismissed if the Director of the OE does not issue the Final Office of Enforcement Decision within 90 days of receiving a request for reconsideration. The commenter also objects to the use of the phrase "on the Director of the Office of Enforcement's own motion" in section 3712.1(c) and wants to amend the regulation to limit the Director of the OE's ability to issue a Final Office of Enforcement Decision. (26)

Response: The proposed regulations, including allowing the Division Deputy Director to issue an FDD on his or her own motion, are consistent with other State Water Board programs. The State Water Board will not make the recommended changes.

ACTION BY THE STATE WATER BOARD ON A PETITION (Section 3714)

Comment Summary 50: Comment recommending that the State Water Board be required to decide to refuse to review the petition or take further action on the petition within 90 days. (26)

Response: The proposed regulations make the petition process for the Operator Certification Program consistent with the process for other State Water Board programs. Further, the proposed regulations ensure that the State Water Board has sufficient time to review the petition and that the person filing the petition is given due process. The State Water Board will not make the recommended changes.

OPERATOR, PROVISIONAL OPERATOR, AND OPERATOR-IN-TRAINING FEES (Section 3717)

Comment Summary 51: Comments expressing concern regarding the proposed fee increases. The concerns focused on economic factors such as agency budget cuts, city bankruptcy filings, and employee pay cuts; the size of the increase; program expenditure transparencies; clarification of revenue vs. expenditure analyses. (14, 19, 20, 21, 24, 25, 26)

Response: The State Water Board appreciates your concerns. Water Code section 13628 requires the State Water Board to establish a fee schedule to provide revenue to cover the cost of the Operator Certification Program. The current fee schedule for operators has not been modified since 2003; however, the number of applications and associated costs has increased significantly. In addition, resources are needed to implement the new requirements of the provisional operator and inclusion of the privately-owned wastewater plant operator certifications. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, the State Water Board determined that the fee increase is essential for sustainability of the program. The State Water Board will not make any change to this section.

WASTEWATER TREATMENT PLANT CONTRACT OPERATORS (Article 12)

Comment Summary 52: Comment suggesting the State Water Board issue contract operator registrations for two years instead of one. (20)

Response: The State Water Board does not have the authority to adopt this recommendation. Pursuant to Water Code section 13627.3, contract operator registrations must be renewed annually. The State Water Board will not make the requested change.

WASTEWATER TREATMENT PLANT CONTRACT OPERATOR REGISTRATION FEES (Section 3719.16)

Comment Summary 53: Comment expressing concern about the size of the fee increase for contract operators. The commenter feels that fee increase is burdensome and unwarranted. (20)

Response: The State Water Board appreciates your concern. Water Code section 13627.3(e) requires the State Water Board to establish a fee schedule to pay for the cost of the Contract Operator Registration Program. The current fee schedule for contract operators was established on August 29, 1994, and has never been increased. The costs of registering contract operators have increased significantly since 1994 and the fees collected for not cover the costs. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, the State Water Board has determined that the fee increase is essential for sustainability of the program. The State Water Board will not make any change to this section.

SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD FROM OCTOBER 1 TO OCTOBER 15, 2012

List of Comment Letters (Alphabetical Order)
Public Comments regarding Operator Certification Regulations
Comment Letters (#)

Commenter(s)	Submitted by:
City of Los Angeles, Bureau of Sanitation (#5)	Enrique C. Zaldivar
Forest Home Mill Creek Canyon (#3)	Randy Martindale
General Public (#1)	David Taylor
General Public (#2)	Orazio Belsito
Phillips & Associates (#4)	Gary Phillips

List of Comment Letters (Numerical Order) Public Comments regarding Operator Certification Regulations Comment Letters (#)	
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Forest Home Mill Creek Canyon (#3)	Randy Martindale
Phillips & Associates (#4)	Gary Phillips
City of Los Angeles, Bureau of Sanitation (#5)	Enrique C. Zaldivar

Commenters 1 and 2 did not submit any comments pertaining to the modified text reflected in underline and strikeout.

GENERAL COMMENTS

Comment Summary 1: One question regarding the effective date of the proposed regulations. (3)

Response: State Water Board staff stated that if the proposed regulations are adopted by the State Water Board, and if approved by the Office of Administrative Law, staff anticipates the proposed regulations would become effective on April 1, 2013.

LONE OPERATOR (Section 3681)

Comment Summary 2: Comment expressing concern about the impact of the requirements for approval to use a lone operator on small WWTPs. Another commenter believes that this section poses an unnecessary burden because the potential for violations already ensures that operators will not be assigned to "lone operator" duties without meeting minimum competency standards. (4, 5)

Response: The State Water Board disagrees with the commenter who asserts that operators will not be assigned to "lone operator" duties without meeting minimum competency standards out of concern for the potential of violations of waste discharge requirements. This regulation is necessary to ensure that operators meet minimum competency standards.

The State Water Board has determined that an operator who does not meet the minimum grade level required by these regulations does not have the necessary competency to operate a WWTP alone except under the requirements in this section. The requirements in section 3681 are necessary to protect public health, safety and the environment. Therefore, the State Water Board will not make any change to this section.

LOCAL MANDATE

The State Water Board has determined that the proposed action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 2. Additionally, the State Water Board has determined that the proposed action will not result in costs or savings to any state agency or any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the State.

The State Water Board has determined that these proposed regulations impose additional expenditures on local agencies of approximately $350,258, which are not reimbursable by the State pursuant to section 6 of article XII B of the California Constitution and sections 17500 et seq. of the Government Code because the fee increase will be fully financed from the sewer assessments collected by publicly owned WWTPs authorized by section 5470 et seq. of the Health and Safety Code.

ALTERNATIVES DETERMINATION

The State Water Board has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations implement chapter 422, statutes 2002 by setting forth the procedures and timeframes by which operators at privately owned WWTPs must obtain operator certificates, owners of privately owned WWTPs must comply with the regulations, and contract operators at privately owned WWTPs must register with the State Water Board. The proposed regulations will protect public health and the environment by providing for the effective operation of privately owned WWTPs. The proposed regulations also include increases in the current fee schedules for operators and contract operators, which are essential for the sustainability of the program.

The State Water Board has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the regulations result in the elimination of existing businesses or the creation or expansion of businesses in the State of California. The small businesses affected by these regulations are contract operators and privately owned WWTPs. The State Water Board has determined that contract operators will pass on their increased costs to the WWTPs in the form of increased service rates. The State Water Board has determined that on average, a privately owned WWTP will incur an annual cost of $3,483 to either employ operators or contract for operating services.

There will be minimal impact on both creation and elimination of jobs because uncertified operators at privately owned WWTPs will probably become certified. The State Water Board expects that all privately owned WWTPs and half of the publicly owned WWTPs will pay or

reimburse operators, provisional operators, and OITs for their fees and education costs. The State Water Board has determined that the average annual cost for operators, provisional operators, and OITs at privately owned WWTPs and publicly owned WWTPs is $47.

Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board and Regional Water Quality Control Boards
Chapter 26. Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration

ADDENDUM TO THE FINAL STATEMENT OF REASONS

ADDENDUM TO SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE INITIAL 45-DAY COMMENT PERIOD FROM JUNE 15 TO JULY 30, 2012

OPERATOR, PROVISIONAL OPERATOR, AND OPERATOR-IN-TRAINING FEES (Section 3717)

Addendum to the Response to Comment Summary 51: The fees for an exemption renewal and the late fee for submitting a late renewal application are set forth in section 3677.5. If an exemption renewal is late, the Office of Operator Certification (OOC) has to process the renewal application in an expeditious manner to ensure that the wastewater treatment plant (WWTP) is in compliance with regulatory requirements. The State Water Resources Control Board (State Water Board) estimates that the administrative costs of processing a late renewal are approximately $100. Further, it is necessary to set the late fee high enough to serve as a deterrent so that WWTP owners will submit their renewal applications on time. Therefore, the late fee for exemption renewal is set at $100.

WASTEWATER TREATMENT PLANT CONTRACT OPERATOR REGISTRATION FEES (Section 3719.16)

Addendum to the Response to Comment Summary 53: If a contract operator registration renewal is late, the OOC has to process the renewal application in an expeditious manner to ensure that the contract operator does not operate a WWTP without a valid contract operator registration. The State Water Board estimates that the administrative costs of processing a late renewal are approximately $100. Further, it is necessary to set the late fee high enough to serve as a deterrent so that contract operators will submit their renewal applications on time. Therefore, the late fee for contract operator registration is increased from $50 to $100.

ADDENDUM TO SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD FROM OCTOBER 1 TO OCTOBER 15, 2012

Addendum to the List of Comment Letters (Numerical Order)
Public Comments regarding Operator Certification Regulations
Comment Letters (#)

Commenter(s)	Submitted by:
Oro Loma Sanitary District (#6)	Paul Zolfarelli
The City of San Diego (#7)	Agnes Generoso

LONE OPERATOR (Section 3681)

Comment Summary 3: Comments expressing concern that the lone operator requirements hinder the ability to appropriately staff and operate WWTPs. One commenter requested that the Lone Operator section be removed, or at the very least amended so that WWTP owners merely have to advise the OOC that they are using a lone operator. Another commenter asserted that

the lone operator requirements prevent a Class V WWTP from being solely operated by a Grade III WWTP operator during a weekend or evening shift. (6, 7)

Response: As expressed in the response to Comment Summary 2, the State Water Board has determined that this regulation is necessary to ensure that operators meet minimum competency standards. The State Water Board has determined that it is not appropriate for WWTPs to merely advise the OOC that they are using a lone operator. The requirements in section 3681 are necessary to protect public health, safety and the environment. Therefore, the State Water Board will not make any change to this section.

Further, the commenter is incorrect in stating that the lone operator requirements prevent a Class V WWTP from being solely operated by a Grade III WWTP operator during a weekend or evening shift. A Grade III WWTP operator may operate a Class V WWTP alone. The lone operator requirements do not apply to this situation.

REPORTING COSTS FOR PRIVATELY OWNED WWTPS

As outlined in the Economic Impact Analysis, the regulation imposes minor reporting requirements on privately owned WWTPs. The State Water Board estimates that on average a privately owned WWTP that chooses to employ Grade I or II operators will incur $50 annually to comply with the reporting requirements. The State Water Board estimates that on average a privately owned WWTP that chooses to employ a provisional operator instead of a Grade I operator will incur $2,000 in costs for preparation of the initial written plan and will incur an additional cost of $200 every two years to comply with the requirement to report any changes in the initial written plan to the OOC and the Regional Water Quality Control Board 30 days prior to implementation. The proposed reporting requirements provide for the effective operation of privately owned WWTPs and are necessary for the health, safety, or welfare of the people of the state.

STATE WATER RESOURCES CONTROL BOARD ACTION

STATE WATER BOARD

BOARD MEETING

Tuesday, December 4, 2012 – 9:00 a.m.

Coastal Hearing Room – Second Floor
Joe Serna Jr. - Cal/EPA Building
1001 I Street, Sacramento

DECLARATION OF A QUORUM

Charles R. Hoppin, Chairman; Frances Spivy-Weber, Vice Chair; Tam M. Doduc, Member; Steven Moore, Member; Felicia Marcus, Member

BOARD MEETING

Public comments on agenda items will be limited to 5 minutes or otherwise at the discretion of the Board Chair

PRESENTATION OF SUSTAINED SUPERIOR & SUPERIOR ACCOMPLISHMENT AWARDS

PUBLIC FORUM

Any member of the public may address and ask questions of the Board relating to any matter within the State Water Board's jurisdiction provided the matter is not on the agenda, or pending before the State Water Resources Control Board or any California Regional Water Quality Control Board.

BOARD BUSINESS

1. The Board will consider adoption of the November 6, 2012 Board Meeting minutes.

2. Board Member Report.

UNCONTESTED ITEMS* (Items 3-4)

*3. Consideration of a proposed Resolution amending the Proposition 84 Stormwater Grant Program Implementation Round 1 Projects Pending Approval List.

*4. Consideration of a proposed Resolution to allocate $99,500 from the Cleanup and Abatement Account to the San Diego Unified Port District for the removal of marine debris from the A-8 Anchorage, San Diego Bay, San Diego.

DIVISION OF FINANCIAL ASSISTANCE

5. Consideration of a proposed Resolution to allocate $955,646 from the Cleanup and Abatement Account to the San Gabriel Basin Water Quality Authority for the Whitmore Street Groundwater Remediation Facility.

   - Comment Letters

6. Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) Annual Progress Report and Consideration of a proposed Resolution to release the remaining $1.8 million of Cleanup and Abatement Account funding for CV-SALTS based on demonstration of adequate progress.

7. Consideration of a proposed Resolution adopting Amendments to the California Code of Regulations, Title 23, Division 3, Chapter 26 (commencing with section 3670) relating to the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program. *(Written comments were due on October 15, 2012 by 12 noon.)*

PRESENTATION BY CALIFORNIA WATER ENVIRONMENT ASSOCIATION

DIVISION OF WATER RIGHTS

8. Consideration of a draft Order denying reconsideration of State Water Board Order WR 2010-0026-EXEC, which approved a settlement agreement in the matter of the diversion and use of water by Gallo Vineyards, Inc. from the Old River in San Joaquin County. *(Written comments were due on November 19, 2012 by 12 noon.)*

INFORMATIONAL ITEMS

9. Fourth Annual Update on Efforts to Assist Small and/or Disadvantaged Communities in Meeting their Wastewater Needs.

10. Office of the Delta Watermaster Report on Term 91: Stored Water Bypass Requirements.

Items 11 & 12 will not be heard until after 1:00 p.m.

OFFICE OF CHIEF COUNSEL

11. Consideration of a proposed Order regarding the Petitions of Sacramento Regional County Sanitation District and California Sportfishing Protection Alliance for review of Waste Discharge Requirements Order No. R5-2010-0114 [NPDES NO. CA0077682] for the Sacramento Regional Wastewater Treatment Plant. SWRCB/OCC Files A-2144(a) and A-2144(b). The State Water Board will consider adoption of a revised draft order amending Order No. R5-2010-0014. *(Written comments limited to changes reflected in draft cirulated October 29, 2012 and all materials to be presented during the Board Meeting were due on November 13, 2012 by 12 noon.)*

12. Consideration of a proposed Resolution to authorize the Chief Deputy Director to negotiate, approve, and execute tentative settlement agreements with parties potentially responsible for contamination of the Rialto-Colton Groundwater Basin from a 160-acre site in Rialto. *(Written comments and all other materials to be presented during the Board Meeting are due on November 28, 2012 by 12 noon.)*

CLOSED SESSION

Closed Session are not open to the Public

DIVISION OF WATER RIGHTS

The Board will meet in closed session to deliberate on a decision to be reached pertaining to a Draft Order Denying Reconsideration of State Water Board Order WR 2010-0026-EXEC. (This closed session is authorized under Government Code section 11126, subdivision (c)(3).)

OFFICE OF CHIEF COUNSEL

The Board will meet in closed session to discuss the status of and receive legal advice concerning *GenOn Energy Inc., et al., v. State Water Resources Control Board, et al.*, Sacramento Superior Court, Case No. 34-2010-CV-80000701. (This closed session is authorized under Government Code section 11126, subdivision (e).)

IMPORTANT INFORMATION!!

Unless otherwise specified, submittal of written comments must be received by 12:00 p.m. on November 27, 2012, **and will not be accepted after that time.**

Submittal of **electronic Powerpoint presentations** must be received by 12:00 p.m. on November 27, 2012, **and will not be accepted after that time.**

Submittals are to be sent via e-mail to the Clerk to the Board at commentletters@waterboards.ca.gov. Please indicate in the subject line, "**12/4/12 BOARD MEETING (fill in bolded subject from appropriate item).**" If you have questions about the agenda, contact the Clerk to the Board at (916) 341-5600.

Agenda and items will be available electronically at: http://www.waterboards.ca.gov/board_info/calendar/index.shtml

* Items on the uncontested items calendar may be removed at the request of any Board member or person. If an item is removed from the uncontested items calendar, it will only be voted on at this meeting if the Board accepts the staff recommendation for the agenda item. Otherwise, the item will be continued to a subsequent board meeting to allow input by interested persons.

Video broadcast of meetings will be available at: http://www.calepa.ca.gov/Broadcast/.

For a map to our building, visit: http://www.calepa.ca.gov/EPABldg/location.htm. For security purposes, all visitors are required to sign in and receive a badge prior to entering the building. Valid picture identification may be required due to the security level so please allow up to 15 minutes for this process. Individuals who require special accommodations are requested to contact the Office of Employee Assistance, at (916) 341-5881.

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
DECEMBER 4, 2012

ITEM 7

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AMENDMENTS TO THE CALIFORNIA CODE OF REGULATIONS, TITLE 23, DIVISION 3, CHAPTER 26 (COMMENCING WITH SECTION 3670) RELATING TO THE WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION PROGRAM

DISCUSSION

Chapter 9 of division 7 of the Water Code designates the State Water Resources Control Board (State Water Board) as responsible for the administration of the Wastewater Treatment Plant (WWTP) Classification and Operator Certification Program. The State Water Board adopted California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) to implement chapter 9 of the Water Code.

Amendments to the Water Code enacted by chapter 422, statutes of 2002, require the State Water Board to adopt regulations prescribing the procedures and requirements for certifying operators at privately owned WWTPs. The proposed amendments to the regulations would prescribe the procedures and requirements for certifying operators at privately owned WWTPs. All operators at privately owned WWTPs will be required to become certified at the Grade I level or higher no later than two years after the effective date of the proposed regulations. In accordance with Water Code section 13627.5, the proposed regulations provide that any operator employed at a privately owned WWTP will receive a minimum of one year of qualifying experience credit upon passing an examination.

Amendments to the Water Code enacted by chapter 422, statutes of 2002, exempt a Class I WWTP from the requirements of chapter 9 of the Water Code and the regulations if the facility could not, due to operator error, violate water quality objectives. The proposed amendments to the regulations would prescribe the procedures and requirements for obtaining an exemption from the operator certification requirements. The fee for an application for an exemption will be $800 and the fee for renewing an exemption will be $300.

Administrative civil liability provisions were added to the Water Code by chapter 869, statutes of 2001 and chapter 664, statutes of 2002. The proposed amendments to the regulations would incorporate the administrative civil liability provisions.

The proposed amendments to the regulations would update the appeals and petition processes to be consistent with the State Water Board's other programs and to establish a separate process for requesting reconsideration of a Proposed Disciplinary Action Letter issued by the Director of the Office of Enforcement.

Water Code section 13628 requires the State Water Board to establish a fee schedule to pay for its costs to implement the Operator Certification Program. Water Code section 13627.5, subdivision (b) permits the State Water Board to charge a reasonable fee for processing examination applications and administering applications. The number of applications and the associated costs of the Operator Certification Program have increased significantly since the last fee increase in 2003. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, staff proposes the State Water Board determine that it is necessary to increase operator and operator-in-training (OIT) fees, in order to cover the costs of the Operator Certification Program. The certification, OIT application, and renewal fees, which currently range from $95 to $190 depending on the grade level of the operator or OIT, will increase to between $170 and $340. The examination application fees, which currently range from $40 to $80 depending on the grade level of the examination, will increase to between $70 and $140. The examination fees, which currently range from $40 to $170 depending on the grade level of the examination, will increase to between $70 and $300. Staff also proposes that the State Water Board determine that it is necessary to increase the reinstatement fee, the certificate replacement fee, and the reciprocity fee, which is renamed the examination waiver fee.

Water Code section 13627.3, subdivision (e) requires the State Water Board to establish a fee schedule to pay for its costs to implement the Contract Operator Registration Program. The costs of registering contract operators have increased significantly since the contract operator registration fees were established on August 29, 1994, and the fees have never been increased. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, staff proposes that the State Water Board determine it is necessary to increase the initial registration, annual renewal, and employee registration fee by the contract operator in order to cover the costs of the Contract Operator Registration Program. The contract operator registration fee will increase from $100 to $350 and the employee registration fee will increase from $25 to $100. Staff also proposes that the State Water Board determine that it is necessary to increase the late fee and the registration replacement fee.

To comply with the direct supervision requirement in existing regulations, a WWTP that wishes to train an OIT must employ both the OIT and a certified operator to directly supervise that OIT. For Class I WWTPs, some of which require only a part-time operator, it may be prohibitively expensive to employ both an OIT and an operator. Further, some small communities, particularly communities that are also rural and/or disadvantaged, have difficulty finding a certified operator. Staff proposes that the State Water Board determine that it is appropriate to establish a provisional operator certificate to assist Class I WWTPs to train and retain qualified operators when the owner has had difficulty, despite due diligence, hiring a certified operator to operate the WWTP. The proposed regulations would prescribe the procedures and requirements for owners of WWTPs to receive approval to use a provisional operator. The fee for a request for approval to use a provisional operator will be $1,000. The proposed regulations would also prescribe the procedures and requirements for an individual to obtain a provisional operator certificate. The provisional operator certification fee will be equivalent to the certification fee for Grade I OITs and Grade I operators.

Staff proposes that the State Water Board determine that the requirements to obtain an operator certificate by reciprocity in the existing regulations serve to unnecessarily restrict qualified people from being certified by the State Water Board. Several of the existing limitations are no longer necessary because the requirements of other certifying bodies have improved.

The proposed regulations would replace the limited reciprocity provision in existing regulations with an examination waiver that will be available for eligible applicants with current certification from another state, a territory, or an Indian tribe certifying body.

Staff proposes that the State Water Board determine that it is necessary to amend the regulations to clarify ambiguities in the existing regulations, for consistency with chapter 9 of the Water Code and between different provisions in the regulations, and to address previously unforeseen issues.

Although State Water Board staff is proposing not to include continuing education requirements in the proposed regulations, the proposed resolution directs the Division of Financial Assistance to consider proposing continuing education requirements after the adoption of these proposed regulations.

The Operator Certification Advisory Committee met on February 1, 2007, June 7, 2007, June 10, 2008, June 11, 2009, July 21, 2010, November 2, 2010, and August 28, 2012, to review and make recommendations on the proposed regulatory action.

The State Water Board published and distributed a Notice of Proposed Regulatory Action on June 15, 2012. The 45-day public comment period ended on July 30, 2012, and the State Water Board received 38 timely comment letters and one late comment letter.

The State Water Board held a Public Hearing on August 7, 2012, to accept comments on the proposed regulations. This public hearing satisfies the public hearing requirement in the Administrative Procedures Act.

The State Water Board published and distributed a Notice of Modification to Text of Proposed Regulation and the modified text of the proposed regulations in underline and strikeout on October 1, 2012. The 15-day public comment on the proposed modifications ended on October 15, 2012, and the State Water Board received 5 timely comment letters.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution:

1. Approving the proposed regulations, and authorizing the Executive Director to transmit the regulations to the Office of Administrative Law (OAL);

2. Directing the Division of Financial Assistance to analyze the costs of the Operator Certification and Contract Operator Registration Programs to evaluate whether the fee schedules for operator certification and contract operator registration should be modified in order to cover the cost of the program; and

3. Directing the Division of Financial Assistance to consider proposing continuing education requirements after the adoption of these proposed regulations?

FISCAL IMPACT

The proposed regulations require approximately $380,000 in additional expenditures to: 1) develop and implement the new provisional operator certificate; 2) bring approximately 434 privately owned WWTPs into the Operator Certification Program, including plant classification, registering contract operators, processing certificate applications and give examinations to the additional 468 certified operators, certified provisional operators, or certified OITs; and 3) maintain the current workload of certifying operators and registering contract operators at publicly owned WWTPs.

REGIONAL BOARD IMPACT

There will be a minor absorbable increase in workload as a result of coordinating with the State Water Board on applications for WWTP Class I exemptions and the classification of approximately 434 privately owned WWTPs.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed resolution:

1. Approving the proposed regulations, and authorizing the Executive Director to transmit the regulations to OAL;

2. Directing the Division of Financial Assistance to analyze the costs of the Operator Certification and Contract Operator Registration Programs to evaluate whether the fee schedules for operator certification and contract operator registration should be modified in order to cover the cost of the program; and

3. Directing the Division of Financial Assistance to propose continuing education requirements after the adoption of these proposed regulations.

State Water Board action on this item will assist the Water Boards in reaching Goals 4 and 6 of the Strategic Plan Update: 2008-2012 to narrative of goal. In particular, approval of these items will assist in fulfilling the State Water Boards' environmental priorities, which are: Protect and restore surface water quality; Protect and restore groundwater quality; Promote sustainable local water supplies; and Water quality planning.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2012-0067

ADOPTING AMENDMENTS TO THE CALIFORNIA CODE OF REGULATIONS, TITLE 23, DIVISION 3, CHAPTER 26 (COMMENCING WITH SECTION 3670) RELATING TO THE WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION PROGRAM

WHEREAS:

1. Under chapter 9 of division 7 of the Water Code, the State Water Resources Control Board (State Water Board) is responsible for the administration of the Wastewater Treatment Plant (WWTP) Classification and Operator Certification Program.

2. The State Water Board adopted California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) to implement chapter 9 of the Water Code.

3. Amendments to the Water Code enacted by chapter 422, statutes of 2002, require the State Water Board to adopt regulations prescribing the procedures and requirements for certifying operators at privately-owned WWTPs.

4. State Water Board staff has proposed amendments to the regulations to prescribe the procedures and requirements for certifying operators at privately owned WWTPs. All operators at privately-owned WWTPs will be required to become certified at the Grade I level or higher no later than two years after the effective date of the proposed regulations. In accordance with Water Code, section 13627.5, the proposed regulations provide that any operator employed at a privately-owned WWTP will receive a minimum of one year of qualifying experience credit upon passing an examination.

5. Amendments to the Water Code enacted by chapter 422, statutes of 2002, exempt a Class I WWTP from the requirements of chapter 9 of the Water Code and the regulations if the facility could not, due to operator error, violate water quality objectives.

6. State Water Board staff has proposed amendments to the regulations to prescribe the procedures and requirements for obtaining an exemption from the operator certification requirements. The fee for an application for an exemption will be $800 and the fee for renewing an exemption will be $300.

7. Administrative civil liability provisions were added to the Water Code by chapter 869, statutes of 2001 and chapter 664, statutes of 2002.

8. State Water Board staff has proposed amendments to the regulations to incorporate the administrative civil liability provisions.

9. State Water Board staff has proposed amendments to the regulations to update the appeals and petition processes to be consistent with the State Water Board's other programs and to establish a separate process for requesting reconsideration of a Proposed Disciplinary Action Letter issued by the Director of the Office of Enforcement.

10. Water Code section 13628 requires the State Water Board to establish a fee schedule to pay for its costs to implement the Operator Certification Program and Water Code section 13627.5, subdivision (b) permits the State Water Board to charge a reasonable fee for processing examination applications and administering applications.

11. The number of applications and the associated costs of the Operator Certification Program have increased significantly since the last fee increase in 2003.

12. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, the State Water Board has determined that it is necessary to increase operator and operator-in-training (OIT) fees, in order to cover the costs of the Operator Certification Program. The certification, OIT application, and renewal fees, which currently range from $95 to $190 depending on the grade level of the operator or OIT, will increase to between $170 and $340. The examination application fees, which currently range from $40 to $80 depending on the grade level of the examination, will increase to between $70 and $140. The examination fees, which currently range from $40 to $170 depending on the grade level of the examination, will increase to between $70 and $300. The State Water Board also has determined that it is necessary to increase the reinstatement fee, the certificate replacement fee, and the reciprocity fee, which is renamed the examination waiver fee.

13. Water Code section 13627.3, subdivision (e) requires the State Water Board to establish a fee schedule to pay for its costs to implement the Contract Operator Registration Program.

14. The costs of registering contract operators have increased significantly since the contract operator registration fees were established on August 29, 1994, and the fees have never been increased.

15. After analyzing all of the available data, including an economic impact analysis of the fee increase impact, the State Water Board has determined it is necessary to increase the initial registration, annual renewal, and employee registration fee by the contract operator in order to cover the costs of the Contract Operator Registration Program. The contract operator registration fee will increase from $100 to $350 and the employee registration fee will increase from $25 to $100. The State Water Board also has determined that it is necessary to increase the late fee and the registration replacement fee.

16. To comply with the direct supervision requirement in existing regulations, a WWTP that wishes to train an OIT must employ both the OIT and a certified operator to directly supervise that OIT.

17. For Class I WWTPs, some of which require only a part-time operator, it may be prohibitively expensive to employ both an OIT and an operator. Further, some small communities, particularly communities that are also rural and/or disadvantaged, have difficulty finding a certified operator.

18. The State Water Board has determined that it is appropriate to establish a provisional operator certificate to assist Class I wastewater treatment plants to train and retain qualified operators when the owner has had difficulty, despite due diligence, hiring a certified operator to operate the wastewater treatment plant.

19. State Water Board staff has proposed regulations prescribing the procedures and requirements for owners of wastewater treatment plants to receive approval to use a provisional operator. The fee for a request for approval to use a provisional operator will be $1,000.

20. State Water Board staff has proposed regulations prescribing the procedures and requirements for an individual to obtain a provisional operator certificate. The provisional operator certification fee will be equivalent to the certification fee for Grade I OITs and Grade I operators.

21. The State Water Board has determined that the requirements to obtain an operator certificate by reciprocity in the existing regulations serve to unnecessarily restrict qualified people from being certified by the State Water Board. Several of the existing limitations are no longer necessary because the requirements of other certifying bodies have improved.

22. State Water Board staff has proposed amendments to the regulations to replace the limited reciprocity provision in existing regulations with an examination waiver that will be available for eligible applicants with current certification from another state, a territory, or an Indian tribe certifying body.

23. The State Water Board has determined that it is necessary to amend the regulations to clarify ambiguities in the existing regulations, for consistency with chapter 9 of the Water Code and between different provisions in the regulations, and to address issues previously unforeseen by the State Water Board.

24. The State Water Board's Operator Certification Advisory Committee participated in the development of the amended regulations.

25. The State Water Board published and distributed a Notice of Proposed Regulatory Action and text of the proposed regulations on June 15, 2012. The 45-day public comment period ended on July 30, 2012, and the State Water Board received 38 timely comment letters. Responses to all timely comments and one late comment received on the proposed regulations are contained in the Final Statement of Reasons.

26. On August 7, 2012, the State Water Board held a public hearing on the proposed regulations.

27. The State Water Board distributed a Notice of Modification to Text of Proposed Regulation and the modified text of the proposed regulations in underline and strikeout on October 1, 2012. The 15-day public comment period on the proposed modifications ended on October 15, 2012, and the State Water Board received five written comment letters. Responses to all timely comments received pertaining to the proposed modifications are contained in the Final Statement of Reasons.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the proposed amendment of California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) (Attachment) and authorizes the Executive Director to submit the regulation to the Office of Administrative Law for filing with the Secretary of State, and to make any non-substantive revisions to the regulation to address any concerns of the Office of Administrative Law.

2. Directs the Division of Financial Assistance to analyze the costs of the Operator Certification and Contract Operator Registration Programs to evaluate whether the fee schedules for operator certification and contract operator registration should be modified in order to cover the cost of the program.

3. Directs the Division of Financial Assistance to consider proposing continuing education requirements after the adoption of these proposed regulations.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 4, 2012.

AYE:	Chairman Charles R. Hoppin Vice Chair Frances Spivy-Weber Board Member Tam M. Doduc Board Member Steven Moore Board Member Felicia Marcus
NAY:	None
ABSENT:	None
ABSTAIN:	None

Jeanine Townsend
Clerk to the Board

Water Code

§ 185.

The board shall adopt rules for the conduct of its affairs in conformity, as nearly as practicable, with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 1058.

The board may make such reasonable rules and regulations as it may from time to time deem advisable in carrying out its powers and duties under this code.

§ 13625.

As used in this chapter unless the context otherwise requires, the following definitions apply:

(a) "Certificate" means a certificate of competency issued by the state board stating that the supervisor or operator has met the requirements for a specific classification in the certification program.

(b) "Wastewater treatment plant" means any of the following:

(1) Any facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage or industrial wastes.

(2) Any privately owned facility used in the treatment or reclamation of sewage or industrial wastes, and regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of Division 1 of, the Public Utilities Code.

(3) Any privately owned facility used primarily in the treatment or reclamation of sewage for which the state board or a regional board has issued waste discharge requirements.

(c) "Operator" means any person who operates a wastewater treatment plant.

(d) "Supervisor" means any person who has direct responsibility for the operation of a wastewater treatment plant or who supervises any operators of a wastewater treatment plant.

§ 13625.1.

(a) The state board may exempt from the requirements of this chapter any facility that is classified as a Class 1 plant by the state board under Section 3675 of Title 23 of the California Code of Regulations, and the facility could not, due to operator error, violate water quality objectives.

(b) An exemption granted pursuant to this section is valid for four years, and may be renewed by the state board upon request.

(c) The state board may condition an exemption under this section, and the exemption may be terminated at any time by the board.

(d) The state board may charge a reasonable administrative fee for processing a facility's original or renewal application for exemption.

§ 13626.

The state board shall classify types of waste water treatment plants for the purpose of determining the levels of competence necessary to operate them. The state board shall adopt regulations setting forth the types of plants and the factors on which the state board based its classification.

§ 13627.

(a) Supervisors and operators of those wastewater treatment plants described in paragraph (1) or (2) of subdivision (b) of Section 13625 shall possess a certificate of appropriate grade. Subject to the approval of regulations by the state board, supervisors and operators of

those wastewater treatment plants described in paragraph (3) of subdivision (b) of Section 13625 shall possess certificates of the appropriate grade. All certificates shall be issued in accordance with, and to the extent recommended by the advisory committee and required by, regulations adopted by the state board. The state board shall develop and specify in its regulations the training necessary to qualify a supervisor or operator for certification for each type and class of plant. The state board may accept experience in lieu of qualification training. For supervisors and operators of water recycling treatment plants, the state board may approve use of a water treatment plant operator of appropriate grade certified by the State Department of Public Health pursuant to Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code in lieu of a wastewater treatment plant operator certified by the state board, provided that the state board may refuse to approve use of an operator certified by the department or may suspend or revoke its approval of the use of an operator certified by the department if the operator commits any of the prohibited acts described in Article 7 (commencing with Section 3710) of Chapter 26 of Division 3 of Title 23 of the California Code of Regulations.

(b) The regional water quality control board, with jurisdiction for issuing and ensuring compliance with applicable water reclamation or waste discharge requirements, shall notify the department in writing if, pursuant to an inspection conducted under Section 13267, the regional board makes a determination that there are reasonable grounds for not issuing, or for suspending or revoking, the certificate of a certified water treatment plant operator who is operating or supervising the operation of a water recycling treatment plant. The department shall make its determination regarding the issuance, suspension, or revocation of a certificate in accordance with Section 106876 of the Health and Safety Code.

(c) For purposes of this section, "water recycling treatment plant" means a treatment plant that receives and further treats secondary or tertiary effluent, or both, from a wastewater treatment plant.

(d) A person employed as a wastewater treatment plant supervisor or operator on the effective date of regulations adopted pursuant to this chapter shall be issued an appropriate certificate if the person meets the training, education, and experience requirements prescribed by regulations.

(e) The state board may refuse to grant, suspend, or revoke any certificate issued by the state board to operate a wastewater treatment plant, or may place on probation, or reprimand, the certificate holder upon any reasonable ground, including, but not limited to, all of the following reasons:

(1) Submitting false or misleading information on an application for a certificate.

(2) The employment of fraud or deception in the course of operating the wastewater treatment plant.

(3) A certificate holder's failure to use reasonable care or judgment in the operation of the plant.

(4) A certificate holder's inability to perform operating duties properly.

(5) Willfully or negligently violating, or causing, or allowing the violation of, waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(f) The state board shall conduct all proceedings for the refusal to grant a certificate, and suspension or revocation of a certificate, pursuant to subdivision (e), in accordance with the rules adopted pursuant to Section 185.

§ 13627.1.

(a) Any person who operates a wastewater treatment plant who does not hold a valid, unexpired certificate of the appropriate grade issued pursuant to this chapter is guilty of a

misdemeanor and may be liable civilly in an amount not to exceed one hundred dollars ($100) for each day of violation.

(b) Any person or entity that owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as a wastewater treatment plant operator who does not hold a valid and unexpired certificate of the appropriate grade issued pursuant to this chapter is guilty of a misdemeanor and may be liable civilly in an amount not to exceed one hundred dollars ($100) for each day of violation.

(c) Any person who commits any of the acts listed in paragraph (2), (3), or (5) of subdivision (e) of Section 13627 or paragraph (3) or (5) of subdivision (c) of Section 13627.3, or who engages in dishonest conduct during an examination for certification, may be liable civilly in an amount not to exceed five thousand dollars ($5,000) for each violation.

§ 13627.2.

Any person who submits to the state board false or misleading information on an application for a certificate or on an application for registration may be liable civilly in an amount not to exceed five thousand dollars ($5,000) for each violation.

§ 13627.3.

(a) Any person or entity that contracts with the owner of a wastewater treatment plant to operate that plant shall register with the state board, and shall, within a year after the registration or the renewal of the registration, and annually thereafter, prepare and submit to the state board a report with all of the following information:

(1) The name and address of the person or entity.

(2) The name and address of the wastewater treatment plants which the person or entity operates, or has operated during the preceding year, and the name of the applicable regional board which oversees each wastewater treatment plant.

(3) The name and grade of each wastewater treatment plant operator employed at each plant.

(4) Other information which the state board requires.

(b) The state board shall, by regulation, prescribe the procedures, and requirements for, registration pursuant to subdivision (a).

(c) The state board may refuse to grant, and may suspend or revoke, any registration issued by the state board pursuant to this section for good cause, including, but not limited to, any of the following reasons:

(1) The submission of false or misleading information on an application for registration.

(2) Employment of a person to operate a wastewater treatment plant who does not hold a valid, unexpired certificate of the appropriate grade.

(3) Willfully or negligently causing or allowing a violation of waste discharge requirements or permits issued pursuant to the Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

(4) Failure to meet the registration requirements prescribed by the state board pursuant to subdivision (b).

(5) Failure to use reasonable care in the management or operation of the wastewater treatment plant.

(d) The state board shall conduct all proceedings relating to the refusal to grant, or the suspension or revocation of, registration pursuant to subdivision (c) in accordance with the rules adopted pursuant to Section 185.

(e) The state board shall establish a fee schedule to pay for its costs to implement this section.

(f) Any person or entity that fails to comply with subdivision (a) is guilty of a misdemeanor and may be civilly liable in an amount not to exceed one thousand dollars ($1,000) for each day of the violation.

§ 13627.4.

(a) The state board may administratively impose the civil liability described in Section 13627.1, 13627.2, or 13627.3 in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5.

(b) A remedy under this chapter is in addition to, and does not supersede or limit, any other remedy, civil or criminal, except that liability is not recoverable against an operator under subdivision (c) of Section 13627.1 for a violation for which liability is recovered against the operator under Section 13350 or 13385.

§ 13627.5.

(a) Any operator employed at a wastewater treatment plant described in paragraph (3) of subdivision (b) of Section 13625 shall pass any written examination that may be administered by the state board. Upon passage of the examination, the operator shall be credited with one year of experience for purposes of operator certification.

(b) The state board may charge a reasonable fee for administering this section.

§ 13628.

Certificates issued pursuant to this chapter shall be renewed biennially, subject to compliance by applicants with renewal requirements prescribed by regulations. Fees shall be payable to the state board at the time of issuance of a certificate and at the time of renewal. The state board shall establish a fee schedule to provide revenues to cover the cost of this program.

§ 13628.5.

(a) The Wastewater Operator Certification Fund is hereby created in the State Treasury.

(b) All of the following moneys shall be deposited in the Wastewater Operator Certification Fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) Fees collected pursuant to this chapter.

(3) Notwithstanding Section 16305.7 of the Government Code, all interest earned upon moneys that are deposited in the fund.

(c) The state board may expend the moneys in the Wastewater Operator Certification Fund, upon appropriation by the Legislature, for purposes of administering this chapter.

§ 13629.

The state board may approve courses of instruction at higher educational institutions which will qualify operators for each grade of certification. The state board shall also approve courses of instruction given by professional associations, or other nonprofit private or public agencies which shall be deemed equivalent to courses of instruction given by higher educational institutions.

§ 13630.

The state board is the state agency which is authorized to represent the state and its local governmental agencies in administering any federal or state funds available for wastewater treatment plant operator training. The state board may provide technical and financial assistance to organizations providing operator training programs.

§ 13631.

Prior to adopting or amending any regulations or approving any courses for operator training, the state board shall appoint an advisory committee to assist it in carrying out its responsibilities under this chapter.

§ 13632.

The advisory committee appointed pursuant to Section 13631 shall consist of the following:

(a) Two persons from a statewide organization representing waste water treatment plant operators and supervisors, who shall be employed in a waste water treatment plant as an operator or supervisor.

(b) Two persons from statewide organizations representing municipalities, including counties or private utility waste water treatment plants.

(c) Two persons from statewide organizations representing local sanitation agencies, other than agencies specified in subdivision (b).

(d) One person who is a professional engineer specializing in sanitary engineering.

(e) One person from a university or a state university school or division of engineering.

(f) One person who is a member of an organized labor union which represents waste water treatment plant operators.

§ 13633.

The advisory committee shall review all proposed regulations and make recommendations to the state board prior to adoption of any regulations or amendments thereto.

United States Code
Title 33 - Navigation and Navigable Waters
Chapter 26 - Water Pollution Prevention and Control
Subchapter IV - Permits and Licenses

§1342. National Pollutant Discharge Elimination System

(a) Permits for discharge of pollutants

(1) Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet either (A) all applicable requirements under sections 1311, 1312, 1316, 1317, 1318, and 1343 of this title, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this chapter.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 407 of this title shall be deemed to be permits issued under this subchapter, and permits issued under this subchapter shall be deemed to be permits issued under section 407 of this title, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this chapter.

(5) No permit for a discharge into the navigable waters shall be issued under section 407 of this title after October 18, 1972. Each application for a permit under section 407 of this title, pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 1314(i)(2) of this title, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (i)(2) of section 1314 of this title, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 1311, 1312, 1316, 1317, and 1343 of this title;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 1318 of this title; or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 1318 of this title;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 1316 of this title if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 1311 of this title if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 1284(b), 1317, and 1318 of this title.

(c) Suspension of Federal program upon submission of State program; withdrawal of approval of State program; return of State program to Administrator

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the

issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 1314(i)(2) of this title. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314(i)(2) of this title.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) Limitations on partial permit program returns and withdrawals.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) of this section only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) of this section only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d) Notification of Administrator

(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after December 27, 1977, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this chapter.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) Point source categories

The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Other regulations for safe transportation, handling, carriage, storage, and stowage of pollutants

Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in section 1292 of this title) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Federal enforcement not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 1319 of this title.

(j) Public information

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with permits

Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with sections 1311, 1312, 1316, 1317, and 1343 of this title, except any standard imposed under section 1317 of this title for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 1311, 1316, or 1342 of this title, or (2) section 407 of this title, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on October 18, 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date which source is not subject to section 407 of this title, the discharge by such source shall not be a violation of this chapter if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l) Limitation on permit requirement

(1) Agricultural return flows

The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) Stormwater runoff from oil, gas, and mining operations

The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment

operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(m) Additional pretreatment of conventional pollutants not required

To the extent a treatment works (as defined in section 1292 of this title) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 1314(a)(4) of this title into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 1317(b)(1) of this title. Nothing in this subsection shall affect the Administrator's authority under sections 1317 and 1319 of this title, affect State and local authority under sections 1317(b)(4) and 1370 of this title, relieve such treatment works of its obligations to meet requirements established under this chapter, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) Partial permit program

(1) State submission

The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) Minimum coverage

A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b) of this section.

(3) Approval of major category partial permit programs

The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b) of this section.

(4) Approval of major component partial permit programs

The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) of this section if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b) of this section; and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) of this section by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) Anti-backsliding

(1) General prohibition

In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 1314(b) of this title subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of

section 1311(b)(1)(C) or section 1313(d) or (e) of this title, a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 1313(d)(4) of this title.

(2) Exceptions

A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B) of this section;

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 1311(c), 1311(g), 1311(h), 1311(i), 1311(k), 1311(n), or 1326(a) of this title; or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification). Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this chapter or for reasons otherwise unrelated to water quality.

(3) Limitations

In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 1313 of this title applicable to such waters.

(p) Municipal and industrial stormwater discharges

(1) General rule

Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under this section) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) Exceptions

Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before February 4, 1987.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) Permit requirements

(A) Industrial discharges

Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 1311 of this title.

(B) Municipal discharge

Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) Permit application requirements

(A) Industrial and large municipal discharges

Not later than 2 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after February 4, 1987. Not later than 4 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) Other municipal discharges

Not later than 4 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after February 4, 1987. Not later than 6 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) Studies

The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality. Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) Regulations

Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish

priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

(q) Combined sewer overflows

(1) Requirement for permits, orders, and decrees

Each permit, order, or decree issued pursuant to this chapter after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the "CSO control policy").

(2) Water quality and designated use review guidance

Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) Report

Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) Discharges incidental to the normal operation of recreational vessels

No permit shall be required under this chapter by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
State Water Resources Control Board	Gerald Horner	916-324-5279
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		**NOTICE FILE NUMBER**
Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- [x] a. Impacts businesses and/or employees
- [x] b. Impacts small businesses
- [x] c. Impacts jobs or occupations
- [ ] d. Impacts California competitiveness
- [x] e. Imposes reporting requirements
- [ ] f. Imposes prescriptive instead of performance
- [x] g. Impacts individuals
- [ ] h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 434 Describe the types of businesses (Include nonprofits.): Wastewater treatment plants (WWTPs)

Enter the number or percentage of total businesses impacted that are small businesses: 100%

3. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: Fiscal impact is not sufficient to change business operations

4. Indicate the geographic extent of impacts: [x] Statewide [ ] Local or regional (List areas.): _____

5. Enter the number of jobs created: 0 or eliminated: 0 Describe the types of jobs or occupations impacted: There will be minimal impact because most of the uncertified WWTP operators currently working at privately owned WWTPs will become certified.

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

[ ] Yes [x] No If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ 7,895,062

a. Initial costs for a small business: $ 3,483 Annual ongoing costs: $ 3,483 Years: 5

b. Initial costs for a typical business: $ 3,483 Annual ongoing costs: $ 3,483 Years: 5

c. Initial costs for an individual: $ 47 Annual ongoing costs: $ 47 Years: _____

d. Describe other economic costs that may occur: See attachment.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: No other industries are impacted.

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): $ See Attached

4. Will this regulation directly impact housing costs? ☐ Yes ☑ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☑ No Explain the need for State regulation given the existence or absence of Federal regulations:

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: The benefits of the proposed regulation were not estimated. The regulation will protect public health and the environment by providing for the effective operation of privately owned WWTPs. The regulation also provides additional revenue for operation of the Operator Certification Program.

2. Are the benefits the result of : ☑ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: Water Code sections 13625(b) and 13627(a) require operators at privately owned WWTPs to be certified.

3. What are the total statewide benefits from this regulation over its lifetime? $ N/A

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Water Code sections 13625(b) and 13627(a) require operators at privately owned WWTPs to be certified. No alternatives were considered since this is the least cost alternative that will meet the objectives of the Operator Certification Unit.

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $ Not quantified	Cost: $ 7,985,062
Alternative 1:	Benefit: $	Cost: $
Alternative 2:	Benefit: $	Cost: $

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☑ No
Explain: The regulation does not require the use of specific technologies or equipment.

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes ☑ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: $ _____ Cost-effectiveness ratio: $ _____

Alternative 1: $ _____ Cost-effectiveness ratio: $ _____

Alternative 2: $ _____ Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☑ 2. Additional expenditures of approximately $ 350,258 in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____

☐ b. implements the court mandate set forth by the _____

court in the case of _____ vs. _____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

☐ d. is issued only in response to a specific request from the _____

_____, which is/are the only local entity(s) affected;

☑ e. will be fully financed from the sewer assessments collected by publicly owned WWTPs (FEES, REVENUE, ETC.) authorized by Section 5470 et seq. of the Health and Safety Code Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☑ 1. Additional expenditures of approximately $ 380,000 in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☑ b. request an increase in the currently authorized budget level for the 2013/14 fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

FISCAL OFFICER SIGNATURE	Thomas Howard	DATE 3/23/12
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE 3/23/12
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE 5/23/12

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

12 APR -5 AM 8:26

DEPARTMENT OF FINANCE
CAPITAL OUTLAY

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 2-98)

TITLE 23. WATERS

DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS

CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Calculations and Assumptions
(to be included in the rulemaking record)

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ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

1. Impacts of Regulation

This regulation will impact small businesses, employees, and jobs, and imposes reporting requirements.

2. Number of Businesses Impacted

Privately Owned WWTPs

Water Code section 13627, subdivision (a) requires operators of wastewater treatment plants (WWTPs) to possess certificates of the appropriate grade issued by the State Water Resources Control Board (State Water Board). Additionally, pursuant to Water Code section 13627.3, subdivision (a), any person who contracts with the owner of a WWTP to operate the WWTP must register with the State Water Board. The definition of a WWTP located in Water Code section 13625, subdivision (b) was amended by chapter 422, statutes of 2002 to include privately owned facilities used in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Quality Control Board has issued waste discharge requirements. The regulation implements chapter 422, statutes of 2002 by setting forth the procedures and timeframes by which operators at privately owned WWTPs must obtain operator certificates, owners of privately owner WWTPs must comply with the regulations, and contract operators at privately owned WWTPs must register with the State Water Board. No later than two years from the effective date of the regulation, all operators at privately owned WWTPs must be certified at the appropriate grade level.

This regulation will impact a total of 434 privately owned WWTPs.[1] All privately owned WWTPs are considered small businesses. Privately owned WWTPs may incur either increased employment costs or increased contracting costs as a result of the requirements that all WWTP operators must be certified at the appropriate grade by the State Water Board and all contract operators must be registered with the State Water Board.

Contract Operators

The regulation requires unregistered contract operators operating privately owned WWTPs to register with the State Water Board. The regulation also increases the contract operator registration fee. Contract operators at both privately owned and publicly owned WWTPs will pass these increased costs on to WWTPs in the form of increased service costs.

3. Number of Business That Will Be Created or Eliminated

No businesses will be created or eliminated because of this regulation.

4. Geographic Extent of the Impacts

The regulation will affect all WWTPs in California.

5. Number of Jobs Created or Eliminated

No jobs will be created or eliminated because of this regulation.

6. State Competitiveness

The regulation will not affect the ability of California businesses to compete with businesses in other states because California WWTPs do not operate outside of California.

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[1] State Water Board, California Information Water Quality System (CIWQS) permit database.

B. ESTIMATED COSTS

1. Total Statewide Cost to Businesses and Individuals to Comply With Regulation

The total statewide dollar cost that businesses and individuals may incur to comply with this regulation over its lifetime is $7,985,062. The following describes how the State Water Board calculated this estimate.

Privately Owned WWTPs

The State Water Board estimates that of the approximately 434 privately owned WWTPs in California, 400 will be classified as Class I WWTPs and 34 will be classified as Class II WWTPs. The State Water Board estimates that half of the existing privately owned WWTPs (217) employ uncertified operators and the remaining half (217) contract with an unregistered contract operator. The State Water Board projects that in order to comply with this regulation, half of the existing privately owned WWTPs (217) will choose to employ certified operators and the remaining half (217) will choose to contract with a registered contract operator.

As a result of increasing population, the State Water Board projects that the number of operators and contract operators will increase by 1.7 percent annually.[2] The State Water Board assumes that there will be no increase in the real wage rate for operators, provisional operators, or operators-in-training (OITs) or the real contract rate for contract operators over the 30 year period.

[2] The Department of Finance's projected annual increase in population.

Employing Certified Operators

Current Scenario (without regulation) (See Table 1.)

Currently, a privately owned Class I WWTP typically employs an uncertified Grade I operator. A privately owned Class II WWTP typically employs an uncertified Grade II operator and either an uncertified Grade I operator or an uncertified Grade I OIT. For the purpose of calculating the cost of operating a privately owned Class II WWTP without the regulation, the State Water Board has used the cost of employing both an uncertified Grade II operator and an uncertified Grade I operator.

The current wage for an uncertified Grade I operator is $11 per hour and the current wage for an uncertified Grade II operator is $12 per hour. Currently, the cost to employ an uncertified Grade I operator is $5,500 per year and the cost to employ an uncertified Grade II operator is $6,000 per year. Annually, privately owned WWTPs incur a total of $1,193,500 to employ uncertified Grade I operators and a total of $102,000 to employ uncertified Grade II operators. In the current year, the total annual WWTP operator costs are estimated to be $1,295.500. The total annual WWTP operator costs are projected to increase to $1,956,205 by Year 30.

Table 1. Number and Cost of Employing Operators at Privately Owned WWTPs Without the Regulation (Uncertified Operators).

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No. of Operators[1]							
Grade I	217	235	254	272	291	309	328
Grade II	17	18	20	21	23	24	26
Wage/Hour[2]							
Grade I	$11.00	$11.00	$11.00	$11.00	$11.00	$11.00	$11.00
Grade II	$12.00	$12.00	$12.00	$12.00	$12.00	$12.00	$12.00
Hours/Year[2]							
Grade I	500	500	500	500	500	500	500
Grade II	500	500	500	500	500	500	500
Average Annual WWTP Operator Cost[3]							
Grade I	$5,500	$5,500	$5,500	$5,500	$5,500	$5,500	$5,500
Grade II	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000
Total Annual WWTP Operator Costs[4]							
Grade I	$1,193,500	$1,294,948	$1,396,395	$1,497,843	$1,599,290	$1,700,738	$1,802,185
Grade II	$102,000	$110,670	$119,340	$128,010	$136,680	$145,350	$154,020
Total	$1,295,500	$1,405,618	$1,515,735	$1,625,853	$1,735,970	$1,846,088	$1,956,205

[1] Current year data are from the CIWQS permit database. The number of operators is assumed to increase at the rate of 1.7 percent per annum.
[2] No increase in the real wage rate is assumed over the 30 period.
[3] Average Annual Cost = Wages/Hour x Hours/Year
[4] Total Annual Cost = Average Annual Cost x No. of Operators

Proposed Scenario (with the regulation) (See Table 2.)

Pursuant to the regulation, a privately owned Class I WWTP must employ either a certified Grade I operator or a certified provisional operator. The State Water Board estimates that ten percent of Class I privately owned WWTPs will use a provisional operator.

At a minimum, a Class II WWTP must employ a certified Grade II operator. Typically, a Class II WWTP will employ either a certified Grade I operator or a certified Grade I OIT in addition to a certified Grade II operator. For the purpose of calculating the cost of operating a privately owned Class II WWTP with the regulation, the State Water Board has used the cost of employing both a certified Grade II operator and a certified Grade I operator.

The number of certified provisional operators, certified Grade I operators, and certified Grade II operators that the State Water Board estimates will be needed to replace existing uncertified operators is shown in Table 2.[3]

Based on information from the Operator Certification Advisory Committee, the State Water Board estimates that the real wage for a certified Grade I operator will be $18.70 per hour and the real wage for a certified Grade II operator will be $23.10 per hour. The State Water Board projects that the real wage for a certified provisional operator will be $13 per hour. The State Water Board expects that privately owned WWTPs will pay for or reimburse their operators' and provisional operators' fees and education costs. Therefore, the estimated real wage rate for certified provisional operators, certified Grade I operators, and certified Grade II operators includes fees and education costs.[4]

Currently, the annual cost to employ a certified Grade I operator is $9,350 per year and the cost to employ a certified Grade II operator is $11,500 per year. The annual cost for a privately owned Class I WWTP to employ a certified provisional operator, instead of a Grade I operator, is $6,500.

Currently, the average annual costs for 217 privately owned WWTPs to employ certified operators are estimated to be $141,050 for provisional operators, $1,826,055 for Grade I operators, and $196,305 for Grade II operators. In the current year, the total annual WWTP operator costs are estimated to be $2,163,455. The total annual WWTP operator costs are projected to increase to $3,266,817 by Year 30.

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[3] The State Water Board projects that many of the uncertified operators currently working at privately owned WWTPs will become certified by the State Water Board.

[4] The real wage rate for certified provisional operators includes the $1,000 Request to Use a Provisional Operator Fee that must be paid by the WWTP every five years. The real wage rate also includes the estimated cost of contracting for required consulting services (eight hours/month at $50/hour) and replacement contract operator services ($500/year).

Table 2. Number and Cost of Employing Operators at Privately Owned WWTPs With the Regulation (Certified Operators).

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No. of Operators[1]							
Provisional[5]	22	24	25	27	29	31	33
Grade I	195	212	229	245	262	278	295
Grade II	17	18	20	21	23	24	26
Wage/Hour[2]							
Provisonal[6]	$13.00	$13.00	$13.00	$13.00	$13.00	$13.00	$13.00
Grade I	$18.70	$18.70	$18.70	$18.70	$18.70	$18.70	$18.70
Grade II	$23.10	$23.10	$23.10	$23.10	$23.10	$23.10	$23.10
Hours/Year[2]							
Provisional	500	500	500	500	500	500	500
Grade I	500	500	500	500	500	500	500
Grade II	500	500	500	500	500	500	500
Average Annual WWTP Operator Cost[3]							
Provisional	$6,500	$6,500	$6,500	$6,500	$6,500	$6,500	$6,500
Grade I	$9,350	$9,350	$9,350	$9,350	$9,350	$9,350	$9,350
Grade II	$11,550	$11,550	$11,550	$11,550	$11,550	$11,550	$11,550
Total Annual WWTP Operator Costs[4]							
Provisional	$141,050	$153,039	$165,029	$177,018	$189,007	$200,996	$212,986
Grade I	$1,826,055	$1,981,270	$2,136,484	$2,291,699	$2,446,914	$2,602,128	$2,757,343
Grade II	$196,350	$213,040	$229,730	$246,419	$263,109	$279,799	$296,489
Total	$2,163,455	$2,347,349	$2,531,242	$2,715,136	$2,899,030	$3,082,923	$3,266,817

[1] Current year data are taken from the CIWQS permit database. The number of operators is assumed to increase at the rate of 1.7 percent per annum.
[2] No increase in the real wage rate is assumed over the 30 period. The real wage rate includes fees and education costs.
[3] Average Annual Cost = Wages/Hour x Hours/Year
[4] Total Annual Cost = Average Annual Cost x No. of Operators
[5] The State Water Board estimates that ten percent of Class I privately owned WWTPs will use a provisional operator.
[6] Provisional operator wage rate is assumed to approximate the current uncertified wage rate. In addition to fees and education costs, the real wage rate includes the $1,000 Request to Use a Provisional Operator Fee that must be paid by the WWTP every five years. The real wage rate also includes the estimated cost of contracting for required consulting services (eight hours/month at $50/hour) and replacement contract operator services ($500/year). The State Water Board estimates that these additional costs will cost privately owned WWTPs $2 per hour.

Increase in Costs as a Result of the Regulation (See Table 3.)

The estimated increase in annual employment costs for a privately owned WWTP is calculated by subtracting total costs without the regulation from the projected costs with the regulation. In the current year, the total annual increase in costs as a result of the regulation is estimated to be $867,955. The increase is projected to rise to $1,310,612 by Year 30.

Table 3. Increase in the Cost of Employing Operators at Privately Owned WWTPs as a Result of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Total Annual WWTP Operator Costs Without Regulation[1]							
Total	$1,295,500	$1,405,618	$1,515,735	$1,625,853	$1,735,970	$1,846,088	$1,956,205
Total Annual WWTP Operator Costs With Regulation[2]							
Total	$2,163,455	$2,347,349	$2,531,242	$2,715,136	$2,899,030	$3,082,923	$3,266,817
Total Annual Increase in WWTP Operator Costs							
Total	$867,955	$941,731	$1,015,507	$1,089,284	$1,163,060	$1,236,836	$1,310,612

[1] Table 1
[2] Table 2

Contracting for Registered Contract Operator Services

Current Scenario (without the regulation) (See Table 4.)

Currently, the cost to contract for an unregistered contract operator to operate a privately owned WWTP is $770 per month for a Class I WWTP ($9,240 per year) and $800 per month for a Class II WWTP ($9,600 per year). The total annual cost for 217 privately owned WWTPs to contract with unregistered contract operators is $1,848,000 for Class I WWTPs and $163,200 for Class II WWTPs. In the current year, the total annual WWTP contract costs are estimated to be $2,011,200. The total annual WWTP operator costs are projected to increase to $2,987,160 by Year 30.

Table 4. Number and Cost of Contracting With Contract Operators at Privately Owned WWTPs Without the Regulation (Unregistered Contract Operators).

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No. of WWTPs[1]							
Class I	200	217	234	251	268	285	302
Class II	17	17	18	18	19	19	20
Cost/Month[2]							
Class I	$770	$770	$770	$770	$770	$770	$770
Class II	$800	$800	$800	$800	$800	$800	$800
Months/Year							
Class I	12	12	12	12	12	12	12
Class II	12	12	12	12	12	12	1
Average Annual WWTP Contract Cost[3]							
Class I	$9,240	$9,240	$9,240	$9,240	$9,240	$9,240	$9,240
Class II	$9,600	$9,600	$9,600	$9,600	$9,600	$9,600	$9,600
Total Annual WWTP Contract Costs[4]							
Class I	$1,848,000	$2,005,080	$2,162,160	$2,319,240	$2,476,320	$2,633,400	$2,790,480
Class II	$163,200	$167,280	$171,360	$175,440	$179,520	$183,600	$187,680
Total	$2,011,200	$2,172,360	$2,333,520	$2,494,680	$2,655,840	$2,817,000	$2,978,160

[1] Current year data are taken from the CIWQS permit database. The number of WWTPs is assumed to increase at the rate of 1.7 percent per annum.
[2] No increase in the real wage rate is assumed over the 30 period.
[3] Average Annual Cost = Wages/Month x Months/Year
[4] Total Annual Costs = Average Annual Cost x No. of WWTPs

Proposed Scenario (with the regulation) (See Table 5.)

The State Water Board projects that the cost to contract for an registered contract operator to operate a privately owned Class I WWTP is $1,000 per month ($12,000 per year) and the cost to contract for an registered contract operator to operate a privately owned Class II WWTP is $1,250 per month ($15,000 per year). Currently, the total annual cost for 217 privately owned WWTPs to contract with registered contract operators is $2,400,000 for Class I WWTPs and $255,000 for Class II WWTPs. In the current year, the total annual WWTP contract costs are estimated to be $2,655,000. The total annual WWTP operator costs are projected to increase to $3,917,250 by Year 30.

Table 5. Number and Cost of Contracting With Contract Operators at Privately Owned WWTPs With the Regulation (Registered Contract Operators).

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No. of WWTPs[1]							
Class I	200	217	234	251	268	285	302
Class II	17	17	18	18	19	19	20
Wage/Month[2]							
Class I	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000
Class II	$1,250	$1,250	$1,250	$1,250	$1,250	$1,250	$1,250
Months/Year							
Class I	12	12	12	12	12	12	12
Class II	12	12	12	12	12	12	12
Average Annual WWTP Contract Cost[3]							
Class I	$12,000	$12,000	$12,000	$12,000	$12,000	$12,000	$12,000
Class II	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000
Total Annual WWTP Contract Costs[4]							
Class I	$2,400,000	$2,604,000	$2,808,000	$3,012,000	$3,216,000	$3,420,000	$3,624,000
Class II	$255,000	$261,375	$267,750	$274,125	$280,500	$286,875	$293,250
Total	$2,655,000	$2,865,375	$3,075,750	$3,286,125	$3,496,500	$3,706,875	$3,917,250

[1] Current year data are taken from the CIWQS permit database. The number of WWTPs is assumed to increase at the rate of 1.7 percent per annum.
[2] No increase in the real wage rate is assumed over the 30 period.
[3] Average Annual Cost = Wages/Month x Months/Year
[4] Total Annual Costs = Average Annual Cost x No. of WWTPs

Increase in Costs as a Result of the Regulation (See Table 6.)

The estimated increase in annual contractor costs for a privately owned WWTP is calculated by subtracting total costs without the regulation from the projected costs with the regulation. In the current year, the total annual increase is estimated to be $643,800. The total annual increase is projected to rise to $939,090 by Year 30.

Table 6. Increase in the Cost of Contracting With Contract Operators at Privately Owned WWTPs as a Result of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Total Annual WWTP Contractor Costs Without Regulation[1]							
Total	$2,011,200	$2,172,360	$2,333,520	$2,494,680	$2,655,840	$2,817,000	$2,978,160
Total Annual WWTP Contractor Costs With Regulation[2]							
Total	$2,655,000	$2,865,375	$3,075,750	$3,286,125	$3,496,500	$3,706,875	$3,917,250
Total Annual Increase in WWTP Contractor Costs							
Total	$643,800	$693,015	$742,230	$791,445	$840,660	$889,875	$939,090

[1] Table 4
[2] Table 5

Publicly Owned WWTPs

The regulation increases fees for operators and OITs imposed pursuant to Water Code sections 13627.5, subdivision (b) and 13628.[5] The regulation also adds a new certificate for a provisional operator. The certificate fee for an individual to become certified as a provisional operator is the same as the certificate fee for an individual to become certified as a Grade I operator or a Grade I OIT.

Contract operators will pass their increased costs on to publicly owned WWTPs in the form of increased service rates. The impacts of the regulation on publicly owned WWTPs that pay increased service rates to contract operators will be discussed below in the Economic Impact Statement under the topic of Fiscal Effect on Local Governments.

Currently, approximately half of the publicly owned WWTPs pay or reimburse operators and OITs for these fees and half of the publicly owned WWTPs do not pay or reimburse operators and OITs for these fees.[6] The impacts of the regulation on individual operators, provisional operators, and OITs that operate publicly owned WWTPs that do not pay or reimburse operators, provisional operators, and OITs for these fees will be discussed in this section. The impacts of the regulation on publicly owned WWTPs that pay or reimburse operators, provisional operators, and OITs for these fees will be discussed below in the Economic Impact Statement under the topic of Fiscal Effect on Local Governments.

Under the regulation, a small percentage of individuals will be certified as provisional operators instead of either a Grade I operator or a Grade I OIT. As discussed above, the certificate fee for an individual to become certified as a provisional operator is the same as the certificate fee for an individual to become certified as a Grade I operator or a Grade I OIT. For purposes of calculating the impacts on individual Grade I operators, provisional operators, and Grade I OITs that operate publicly owned WWTPs that do not

[5] The reciprocity fee is replaced with an examination waiver fee.

[6] As discussed above, these fees are included in the estimated wage rate for certified operators at privately owned WWTPs.

pay or reimburse operators and OITs, the State Water Board, the State Water Board has used the cost of the fee increase for Grade I operators and Grade I OITs using current data from the Office of Operator Certification (OOC).

As a result of increasing population, the State Water Board projects that the number of operators and OITs will increase 1.7 percent annually.[7]

[7] The Department of Finance's projected annual increase in population.

Operator Fees

The number of individuals applying for examinations, taking examinations, and applying for operator certificates and the number of operators at each grade are shown in Table 7.

Table 7. Number of Examination Applications, Examinations, Operator Certificate Applications, and Certified Operators Employed at Publicly Owned WWTPs.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Examination Application[1]							
Grade I	537	583	628	674	720	765	811
Grade II	502	545	587	630	673	715	758
Grade III	334	362	391	419	448	476	504
Grade IV	137	149	160	172	184	195	207
Grade V	105	114	123	132	141	150	159
Examination[1]							
Grade I	494	536	578	620	662	704	746
Grade II	458	497	536	575	614	653	692
Grade III	290	315	339	364	389	413	438
Grade IV	113	123	132	142	151	161	171
Grade V	88	95	103	110	118	125	133
Initial Operator Certificate[1]							
Grade I	292	317	342	366	391	416	441
Grade II	250	271	293	314	335	356	378
Grade III	140	152	164	176	188	200	211
Grade IV	42	46	49	53	56	60	63
Grade V	46	50	54	58	62	66	69
No. of Operators[1]							
Grade I	857	930	1,003	1,076	1,148	1,221	1,294
Grade II	1,547	1,678	1,810	1,941	2,073	2,204	2,336
Grade III	1,426	1,547	1,668	1,790	1,911	2,032	2,153
Grade IV	531	576	621	666	712	757	802
Grade V	865	939	1,012	1,086	1,159	1,233	1,306

[1] Current year data are from the OOC. The number of operators is assumed to increase at the rate of 1.7 percent per annum.

Current Scenario (without the regulation) (See Table 9.)

The current operator fee schedule is shown in Table 8. Table 9 shows the total fee revenue projected under the current fee schedule. In the current year, the total annual fees are estimated to be $698,253. The total annual fees under the current fee schedule are projected to increase to $1,054,361 by Year 30.

Table 8. Operator Examination and Certificate Fees Without the Regulation.

Fee Type Grade	**Current**	**Year 5**	**Year 10**	**Year 15**	**Year 20**	**Year 25**	**Year 30**
Examination Application							
Grade I	$40	$40	$40	$40	$40	$40	$40
Grade II	$50	$50	$50	$50	$50	$50	$50
Grade III	$70	$70	$70	$70	$70	$70	$70
Grade IV	$80	$80	$80	$80	$80	$80	$80
Grade V	$80	$80	$80	$80	$80	$80	$80
Examination							
Grade I	$40	$40	$40	$40	$40	$40	$40
Grade II	$50	$50	$50	$50	$50	$50	$50
Grade III	$125	$125	$125	$125	$125	$125	$125
Grade IV	$170	$170	$170	$170	$170	$170	$170
Grade V	$170	$170	$170	$170	$170	$170	$170
Certificate							
Grade I	$95	$95	$95	$95	$95	$95	$95
Grade II	$130	$130	$130	$130	$130	$130	$130
Grade III	$170	$170	$170	$170	$170	$170	$170
Grade IV	$190	$190	$190	$190	$190	$190	$190
Grade V	$190	$190	$190	$190	$190	$190	$190

Table 9. Cost of Operator Fees for Operators Employed at Publicly Owned WWTPs Without the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Examination Application[1]							
Grade I	$21,480	$23,306	$25,132	$26,957	$28,783	$30,609	$32,435
Grade II	$25,100	$27,234	$29,367	$31,501	$33,634	$35,768	$37,901
Grade III	$23,380	$25,367	$27,355	$29,342	$31,329	$33,317	$35,304
Grade IV	$10,960	$11,892	$12,823	$13,755	$14,686	$15,618	$16,550
Grade V	$8,400	$9,114	$9,828	$10,542	$11,256	$11,970	$12,684
Examination[1]							
Grade I	$19,760	$21,440	$23,119	$24,799	$26,478	$28,158	$29,838
Grade II	$22,900	$24,847	$26,793	$28,740	$30,686	$32,633	$34,579
Grade III	$36,250	$39,331	$42,413	$45,494	$48,575	$51,656	$54,738
Grade IV	$19,210	$20,843	$22,476	$24,109	$25,741	$27,374	$29,007
Grade V	$14,960	$16,232	$17,503	$18,775	$20,046	$21,318	$22,590
Initial Certificate[1]							
Grade I	$27,740	$30,098	$32,456	$34,814	$37,172	$39,530	$41,887
Grade II	$32,500	$35,263	$38,025	$40,788	$43,550	$46,313	$49,075
Grade III	$23,800	$25,823	$27,846	$29,869	$31,892	$33,915	$35,938
Grade IV	$7,980	$8,658	$9,337	$10,015	$10,693	$11,372	$12,05
Grade V	$8,740	$9,483	$10,226	$10,969	$11,712	$12,455	$13,197
Biannual Certificate Renewal[2]							
Grade I	$40,708	$44,168	$47,628	$51,088	$54,548	$58,008	$61,468
Grade II	$100,555	$109,102	$117,649	$126,197	$134,744	$143,291	$151,838
Grade III	$121,210	$131,513	$141,816	$152,119	$162,421	$172,724	$183,027
Grade IV	$50,445	$54,733	$59,021	$63,308	$67,596	$71,884	$76,172
Grade V	$82,175	$89,160	$96,145	$103,130	$110,115	$117,099	$124,084
Total Cost[3]							
Grade I	$109,688	$119,011	$128,334	$137,658	$146,981	$156,305	$165,628
Grade II	$181,055	$196,445	$211,834	$227,224	$242,614	$258,003	$273,393
Grade III	$204,640	$222,034	$239,429	$256,823	$274,218	$291,612	$309,006
Grade IV	$88,595	$96,126	$103,656	$111,187	$118,717	$126,248	$133,778
Grade V	$114,275	$123,988	$133,702	$143,415	$153,129	$162,842	$172,555
Total	$698,253	$757,604	$816,955	$876,307	$935,658	$995,010	$1,054,361

[1] No. of Fee Types (Table 7) x Fees (Table 8)
[2] Biannual Certificate Renewal = Initial Certificate (Table 7) x Certificate Fee (Table 8) / 2
[3] Sum of all fees

Proposed Scenario (with the regulation) (See Table 11.)

The proposed operator fee schedule is shown in Table 10. Table 11 shows the total fee revenue projected under the proposed operator fee schedule. In the current year, the total annual fees are estimated to be $1,241,000. The total annual fees under the proposed operator fee schedule are projected to increase to $1,873,910 by Year 30.

Table 10. Operator Examination and Certificate Fees With the Regulation.

Fee Type Grade	**Current**	**Year 5**	**Year 10**	**Year 15**	**Year 20**	**Year 25**	**Year 30**
Examination Application							
Grade I	$70	$70	$70	$70	$70	$70	$70
Grade II	$90	$90	$90	$90	$90	$90	$90
Grade III	$130	$130	$130	$130	$130	$130	$130
Grade IV	$140	$140	$140	$140	$140	$140	$140
Grade V	$140	$140	$140	$140	$140	$140	$140
Examination							
Grade I	$70	$70	$70	$70	$70	$70	$70
Grade II	$90	$90	$90	$90	$90	$90	$90
Grade III	$220	$220	$220	$220	$220	$220	$220
Grade IV	$300	$300	$300	$300	$300	$300	$300
Grade V	$300	$300	$300	$300	$300	$300	$300
Certificate							
Grade I	$170	$170	$170	$170	$170	$170	$170
Grade II	$230	$230	$230	$230	$230	$230	$230
Grade III	$300	$300	$300	$300	$300	$300	$300
Grade IV	$340	$340	$340	$340	$340	$340	$340
Grade V	$340	$340	$340	$340	$340	$340	$340

Table 11. Cost of Operator Fees for Operators Employed at Publicly Owned WWTPs With the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Examination Application[1]							
Grade I	$37,590	$40,785	$43,980	$47,175	$50,371	$53,566	$56,761
Grade II	$45,180	$49,020	$52,861	$56,701	$60,541	$64,382	$68,222
Grade III	$43,420	$47,111	$50,801	$54,492	$58,183	$61,874	$65,564
Grade IV	$19,180	$20,810	$22,441	$24,071	$25,701	$27,332	$28,962
Grade V	$14,700	$15,950	$17,199	$18,449	$19,698	$20,948	$22,197
Examination[1]							
Grade I	$34,580	$37,519	$40,459	$43,398	$46,337	$49,277	$52,216
Grade II	$41,220	$44,724	$48,227	$51,731	$55,235	$58,739	$62,242
Grade III	$63,800	$69,223	$74,646	$80,069	$85,492	$90,915	$96,338
Grade IV	$33,900	$36,782	$39,663	$42,545	$45,426	$48,308	$51,189
Grade V	$26,400	$28,644	$30,888	$33,132	$35,376	$37,620	$39,864
Initial Certificate[1]							
Grade I	$49,640	$53,859	$58,079	$62,298	$66,518	$70,737	$74,956
Grade II	$57,500	$62,388	$67,275	$72,163	$77,050	$81,938	$86,825
Grade III	$42,000	$45,570	$49,140	$52,710	$56,280	$59,850	$63,4[illegible]
Grade IV	$14,280	$15,494	$16,708	$17,921	$19,135	$20,349	$21,563
Grade V	$15,640	$16,969	$18,299	$19,628	$20,958	$22,287	$23,616
Biannual Certificate Renewal[2]							
Grade I	$72,845	$79,037	$85,229	$91,420	$97,612	$103,804	$109,996
Grade II	$177,905	$193,027	$208,149	$223,271	$238,393	$253,515	$268,637
Grade III	$213,900	$232,082	$250,263	$268,445	$286,626	$304,808	$322,989
Grade IV	$90,270	$97,943	$105,616	$113,289	$120,962	$128,635	$136,308
Grade V	$147,050	$159,549	$172,049	$184,548	$197,047	$209,546	$222,046
Total Cost[3]							
Grade I	$194,655	$211,201	$227,746	$244,292	$260,838	$277,383	$293,929
Grade II	$321,805	$349,158	$376,512	$403,865	$431,219	$458,572	$485,926
Grade III	$363,120	$393,985	$424,850	$455,716	$486,581	$517,446	$548,311
Grade IV	$157,630	$171,029	$184,427	$197,826	$211,224	$224,623	$238,021
Grade V	$203,790	$221,112	$238,434	$255,756	$273,079	$290,401	$307,723
Total	$1,241,000	$1,346,485	$1,451,970	$1,557,455	$1,662,940	$1,768,425	$1,873,910

[1] No. of Fee Types (Table 7) x Fees (Table 10)
[2] Biannual Certificate Renewal = Initial Certificate (Table 7) x Certificate Fee (Table 8) / 2
[3] Sum of all fees

Increase in Operator Fees as a Result of the Regulation (See Table 12.)

The estimated increase in annual operator fees for operators at publicly owned WWTPs is calculated by subtracting total fees without the regulation from the projected fees with the regulation. In the current year, the total annual increase in costs as a result of the regulation is estimated to be $542,748. The increase is projected to rise to $819,549 by Year 30. Half of the increase will be directly paid by operators. The remaining half will be paid or reimbursed by the WWTPs.

Table 12. Increase in Operator Fees for Operators Employed at Publicly Owned WWTPs as a Result of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Operator Fees Without Regulation[1]							
Total	$698,253	$757,604	$816,955	$876,307	$935,658	$995,010	$1,054,361
Operator Fees With Regulation[2]							
Total	$1,241,000	$1,346,485	$1,451,970	$1,557,455	$1,662,940	$1,768,425	$1,873,910
Increase in Total Operator Fees							
Total	$542,748	$588,881	$635,015	$681,148	$727,282	$773,415	$819,549
Increase in Individual Operator Fees[3]							
Total	$271,374	$294,441	$317,507	$340,574	$363,641	$386,708	$409,774
Increase in Public WWTP Operator Fees[3]							
Total	$271,374	$294,441	$317,507	$340,574	$363,641	$386,708	$409,774

[1] Table 9
[2] Table 11
[3] Increase in Total Operator Fees / 2

OIT Certificate Fees

The number of individuals applying for OIT certificates and renewing certificates are shown in Table 13.

Table 13. Number of OIT Certificates and Renewal Applications for OITs Employed at Publicly Owned WWTPs Without the Regulation.

Fee Type Grade	**Current**	**Year 5**	**Year 10**	**Year 15**	**Year 20**	**Year 25**	**Year 30**
Initial Certificate[1]							
Grade I	457	496	535	574	612	651	690
Grade II	71	77	83	89	95	101	107
Grade III	20	22	23	25	27	29	30
Grade IV	7	8	8	9	9	10	11
Grade V	5	5	6	6	7	7	8
Biannual Certificate Renewal[1]							
Grade I	379	418	457	496	535	574	612
Grade II	59	65	71	77	83	89	95
Grade III	17	18	20	22	23	25	27
Grade IV	6	6	7	8	8	9	9
Grade V	4	5	5	5	6	6	7

[1] Current year data are from the OOC. The number of OITs is assumed to increase at the rate of 1.7 percent per annum.

Current Scenario (without the regulation) (See Table 15.)

The current OIT certificate fee schedule is shown in Table 14. Table 15 shows the total OIT certificate fee revenue projected under the current OIT certificate fee schedule. In the current year, the total annual OIT certificate fees are estimated to be $106,735. The total annual OIT certificate fees under the current fee schedule are projected to increase to $166,226 by Year 30.

Table 14. OIT Certificate Fees Without the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Certificate Fee							
Grade I	$95	$95	$95	$95	$95	$95	$95
Grade II	$130	$130	$130	$130	$130	$130	$130
Grade III	$170	$170	$170	$170	$170	$170	$170
Grade IV	$190	$190	$190	$190	$190	$190	$190
Grade V	$190	$190	$190	$190	$190	$190	$190

Table 15. Cost of OIT Certificate Fees for OITs Employed at Publicly Owned WWTPs Without the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Initial Certificate[1]							
Grade I	$43,415	$47,105	$50,796	$54,486	$58,176	$61,866	$65,557
Grade II	$9,230	$10,015	$10,799	$11,584	$12,368	$13,153	$13,937
Grade III	$3,400	$3,689	$3,978	$4,267	$4,556	$4,845	$5,134
Grade IV	$1,330	$1,443	$1,556	$1,669	$1,782	$1,895	$2,008
Grade V	$950	$1,031	$1,112	$1,192	$1,273	$1,354	$1,435
Biannual Certificate Renewal[1]							
Grade I	$36,034	$39,725	$43,415	$47,105	$50,796	$54,486	$58,176
Grade II	$7,661	$8,445	$9,230	$10,015	$10,799	$11,584	$12,368
Grade III	$2,822	$3,111	$3,400	$3,689	$3,978	$4,267	$4,556
Grade IV	$1,104	$1,217	$1,330	$1,443	$1,556	$1,669	$1,782
Grade V	$789	$869	$950	$1,031	$1,112	$1,192	$1,273
Total Certificate Fees[2]							
Grade I	$79,449	$86,830	$94,211	$101,591	$108,972	$116,352	$123,733
Grade II	$16,891	$18,460	$20,029	$21,598	$23,167	$24,736	$26,306
Grade III	$6,222	$6,800	$7,378	$7,956	$8,534	$9,112	$9,690
Grade IV	$2,434	$2,660	$2,886	$3,112	$3,338	$3,564	$3,791
Grade V	$1,739	$1,900	$2,062	$2,223	$2,385	$2,546	$2,708
Total	$106,735	$116,650	$126,565	$136,481	$146,396	$156,311	$166,226

[1] No. of Fee Types (Table 13) x Certificate Fee (Table 13)
[2] Sum of all fees

Proposed Scenario (with regulation) (See Table 17.)

The proposed OIT certificate fee schedule is shown in Table 16. Table 17 shows the total OIT certificate fee revenue projected under the proposed OIT certificate fee schedule. In the current year, the total annual OIT certificate fees are estimated to be $190,503. The total annual OIT certificate fees under the proposed OIT certificate fee schedule are projected to increase to $296,685 by Year 30.

Table 16. Cost of OIT Certificate Fees for OITs Employed at Publicly Owned WWTPs With the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Certificate							
Grade I	$170	$170	$170	$170	$170	$170	$170
Grade II	$230	$230	$230	$230	$230	$230	$230
Grade III	$300	$300	$300	$300	$300	$300	$300
Grade IV	$340	$340	$340	$340	$340	$340	$340
Grade V	$340	$340	$340	$340	$340	$340	$340

Table 17. Cost of OIT Certificate Fees for OITs Employed at Publicly Owned WWTPs With the Regulation.

Fee Type Grade	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Initial Certificate[1]							
Grade I	$77,690	$84,294	$90,897	$97,501	$104,105	$110,708	$117,312
Grade II	$16,330	$17,718	$19,106	$20,494	$21,882	$23,270	$24,658
Grade III	$6,000	$6,510	$7,020	$7,530	$8,040	$8,550	$9,060
Grade IV	$2,380	$2,582	$2,785	$2,987	$3,189	$3,392	$3,594
Grade V	$1,700	$1,845	$1,989	$2,134	$2,278	$2,423	$2,567
Biannual Certificate Renewal[1]							
Grade I	$64,483	$71,086	$77,690	$84,294	$90,897	$97,501	$104,105
Grade II	$13,554	$14,942	$16,330	$17,718	$19,106	$20,494	$21,882
Grade III	$4,980	$5,490	$6,000	$6,510	$7,020	$7,530	$8,040
Grade IV	$1,975	$2,178	$2,380	$2,582	$2,785	$2,987	$3,189
Grade V	$1,411	$1,556	$1,700	$1,845	$1,989	$2,134	$2,278
Total Certificate Fees[2]							
Grade I	$142,173	$155,380	$168,587	$181,795	$195,002	$208,209	$221,417
Grade II	$29,884	$32,660	$35,436	$38,212	$40,988	$43,764	$46,541
Grade III	$10,980	$12,000	$13,020	$14,040	$15,060	$16,080	$17,100
Grade IV	$4,355	$4,760	$5,165	$5,569	$5,974	$6,378	$6,783
Grade V	$3,111	$3,400	$3,689	$3,978	$4,267	$4,556	$4,845
Total	$190,503	$208,200	$225,897	$243,594	$261,291	$278,988	$296,685

[1] No. of Fee Types (Table 15) x Certificate Fee (Table 15)
[2] Sum of all fees

Increase in OIT Certificate Fees as a Result of the Regulation (See Table 18.)

The estimated increase in annual OIT certificate fees for OITs at publicly owned WWTPs is calculated by subtracting total fees without the regulation from the projected fees with the regulation. In the current year, the total annual increase in costs as a result of the regulation is estimated to be $83,768. The increase is projected to rise to $130,459 by Year 30. Half of the increase will be directly paid by OITs. The remaining half will be paid or reimbursed by the WWTPs.

Table 18. Increase in OIT Certificate Fees as a Result of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
OIT Certificate Fees Without Regulation[1]							
Total	$106,735	$116,650	$126,565	$136,481	$146,396	$156,311	$166,226
OIT Certificate Fees With Regulation[2]							
Total	$190,503	$208,200	$225,897	$243,594	$261,291	$278,988	$296,685
Increase in Total OIT Certificate Fees							
Total	$83,768	$91,550	$99,332	$107,114	$114,895	$122,677	$130,459
Increase in Individual OIT Certificate Fees[3]							
Total	$41,884	$45,775	$49,666	$53,557	$57,448	$61,339	$65,229
Increase in Public WWTP OIT Certificate Fees[3]							
Total	$41,884	$45,775	$49,666	$53,557	$57,448	$61,339	$65,229

[1] Table 16
[2] Table 17
[3] Increase in Total OIT Certificate Fees / 2

Total Individual and Private Sector Cost Impacts of the Regulation (See Table 19.)

The four components of the economic impacts of the regulation are summarized in Table 19. In the current year, the total annual cost that businesses and individuals may incur to comply with this regulation is estimated to be $1,825,013. The cost of the regulation is projected to increase to $2,724,706 by Year 30.

Table 19. Total Individual and Private Sector Cost Impacts of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Total Increase in Private WWTP Operator Costs[1]							
	$867,955	$941,731	$1,015,507	$1,089,284	$1,163,060	$1,236,836	$1,310,612
Total Increase in Private WWTP Contractor Costs[2]							
	$643,800	$693,015	$742,230	$791,445	$840,660	$889,875	$939,090
Total Increase in Individual Public WWTP Operator Fees[3]							
	$271,374	$294,441	$317,507	$340,574	$363,641	$386,708	$409,774
Total Increase in Individual Public WWTP OIT Certificate Fees[4]							
	$41,884	$45,775	$49,666	$53,557	$57,448	$61,339	$65,229
Total	$1,825,013	$1,974,962	$2,124,911	$2,274,859	$2,424,808	$2,574,757	$2,724,706

[1] Table 3
[2] Table 6
[3] Table 12
[4] Table 18

The State Water Board assumes that the lifetime of the regulation is five years. A six percent discount rate was used to calculate the present value of the costs of the regulation.[8] The annual interval is calculated by interpolating between the one year and five year values. (See Table 19.) The total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime is $7,985,062. (See Table 20.)

Table 20. Total Annual and Present Value of Individual and Private Sector Cost Impacts of the Regulation.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Cost of the Regulation	$1,825,013	$1,862,500	$1,899,987	$1,937,474	$1,974,962	$9,499,936
Present Value[1]	$1,721,710	$1,657,618	$1,595,266	$1,534,661	$1,475,806	$7,985,062

[1] Discounted at the rate of 6 percent.

[8] A six percent discount rate is typically used by State of California agencies when discounting future benefits and costs of proposed actions. (Center for Watershed Sciences, University of California, Davis, "Guidelines for Preparing Economic Analysis for Watershed Recycling Projects," Prepared for the State Water Board, April 2011.)

a. Initial and Annual Costs for a Small Business

As discussed above, contract operators will pass their increased costs on to the WWTPs in the form of increased service rates.

All private WWTPs are considered small businesses. No initial (capital) costs are required by the regulation. The average annual cost for a small business employing operators is $867,955 (Table 3) divided by 217 WWTPs (Table 1), or $4,000. The average annual cost for a small business contracting for operator services is $643,800 (Table 6) divided by 217 WWTPs (Table 4), or $2,967. The average annual cost for a small business employing operators or contracting for operator services is $3,483.

b. Initial and Annual Costs for a Typical Business

The small business is the typical business therefore the economic impacts estimated in the previous section also applies here.

c. Initial and Annual Costs for an Individual.

The State Water Board expects that privately owned WWTPs will pay for or reimburse the approximately 468 (Table 2, Total No. of operators and provisional operators x 2) operators and provisional operators for their fees and education costs. Therefore, the estimated real wage rate for certified provisional operators, certified Grade I operators, and certified Grade II operators at privately owned WWTPs includes fees and education costs.

The State Water Board expects that half of publicly owned WWTPs will pay or reimburse operators, provisional operators, and OITs for their fees and half of the publicly owned WWTPs will not pay or reimburse operators, provisional operators, and OITs for their fees. Approximately 5,226 operators (Table 7, Total No. of Operators) and 1,025 OITs (Table 13, Total No. of OIT certificate and renewal applications), or a total of 6,251 operators and OITs, are employed at publicly owned WWTPs.

No initial (capital) costs are required by the regulation. Approximately 2,613 operators (Table 7, Total No. of Operators / 2) and 513 OITs (Table 13, Total No. of OIT certificate and renewal applications / 2), or a total of 3,126 operators and OITs, are employed at publicly owned WWTPs that will not pay or reimburse operators, provisional operators, and OITs for their fees. The average annual cost of the operator and OIT certification fee increase for operators and OITs employed by publicly owned WWTPs that will not pay or reimburse operators, provisional operators, and OITs for their fees is $271,371 (Table 12) plus $41,884 (Table 18),or $313,258. The average annual cost for operators and OITs employed at publicly owned WWTPs that will not pay or reimburse operators, provisional operators, and OITs for their fees is $313,258 divided by 3,126, or $100.

The average annual cost for operators, provisional operators, and OITs at privately owned WWTPs and publicly owned WWTPs is $313,258 (Tables 12 and 18) divided by 6,719 (Tables 2, 7, and 13, total number of operators, provisional operators, and OITs at privately owned WWTPs and publicly owned WWTPs), or $47.

d. Other Economic Costs

This regulation implements Water Code section 13652.1, which was added by chapter 422, statutes of 2002, by providing the procedures for owners of Class I WWTPs to apply for an exemption from the regulatory and statutory requirements. If they are exempted, they would not be required to either hire certified operators or contract with a registered contract operator. The regulation sets the application fee at $800. The State Water Board estimates that 15 percent of privately owned WWTPs and two percent of publicly owned WWTPs will apply for an exemption. A WWTP exemption must be renewed every four years for a fee of $300. The cost of obtaining and renewing an exemption is significantly lower than the cost of complying with the regulation.

3. Reporting Costs

The regulation imposes minor reporting requirements on privately owned WWTPs that employ Grade I or II operators. The State Water Board estimates that on average a privately owned WWTP that employs Grade I or II operators will incur $50 annually to comply with the reporting requirements.

Privately owned WWTPs that choose to employ a provisional operator instead of a Grade I operator will incur additional costs to comply with reporting costs. Specifically, the WWTP owner to will be required to prepare an initial written plan that includes a description of the provisional operator's duties and work schedule, the procedures for training and testing the provisional operator, and provisions for consultation and operator coverage. The State Water Board estimates that preparation of the written plan will cost $2,000. The State Water Board estimates that the WWTP will incur an additional cost of $200 to comply with the requirement to report any changes in the initial written plan to the OOC and the Regional Board 30 days prior to implementation. Based on the amount of time required for a provisional operator to acquire sufficient experience to meet the requirements to become a Grade I certified operator, the average frequency of changes to the written report is estimated to be two years.

FISCAL IMPACT STATEMENT

A. Fiscal Impact on Local Government

2. Additional Expenditures Required

Contracting for Registered Contract Operator Services

Approximately, 100 registered contract operators with a total of 240 employees currently provide operator services for publicly owned WWTPs. (See Table 21.) The regulation increases fees for contract operators imposed pursuant to Water Code section 13627.3, subdivision (e). Contract operators will pass their increased costs on to the WWTPs in form of increased service rates.

As a result of increasing of increasing population, the State Water Board projects that the number of contract operators will increase 1.7 percent annually.[9]

Current Scenario (without the regulation) (See Table 21.)

The number of contract operators and their employees and the current contract operator registration fee schedule are shown in Table 21. Table 21 shows the total contract operator registration fee revenue projected under the current contract operator registration fee schedule. In the current year, the total annual contract operator registration fees are estimated to be $16,000. The total annual contract operator registration fees under the current fee schedule are projected to increase to $24,160 by Year 30.

Table 21. Number of Contract Operators and Employees and Cost of Contract Operator Registration Fees for Contract Operators at Publicly Owned WWTPs Without the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No of Contract Operators[1]	100	109	117	126	134	143	151
Employees/ Contractor[1]	240	260	281	301	322	342	362
Registration Fees	$100.00	$100.00	$100.00	$100.00	$100.00	$100.00	$100.00
Fees/Employee	$25.00	$25.00	$25.00	$25.00	$25.00	$25.00	$25.00
Total Annual Costs[2]							
Registration Fees	$10,000	$10,850	$11,700	$12,550	$13,400	$14,250	$15,100
Fees/Employee	$6,000	$6,510	$7,020	$7,530	$8,040	$8,550	$9,060
Total	$16,000	$17,360	$18,720	$20,080	$21,440	$22,800	$24,160

[1] Current year data are from the CIWQS permit database. The number of contract operators is assumed to increase at the rate of 1.7 percent per annum.

[2] Total Annual Cost = (Registration Fees x No. of Contractor Operators) + (Employees/Contractor x Fees/Employee)

[9] The Department of Finance's projected annual increase in population.

Proposed Scenario (with regulation) (See Table 22.)

The number of contract operators and their employees and the proposed contract operator registration fee schedule are shown in Table 22. Table 22 shows the total contract operator registration fee revenue projected under the proposed contract operator registration fee schedule. In the current year, the total annual contract operator registration fees are estimated to be $53,000. The total annual contract operator registration fees under the proposed fee schedule are projected to increase to $80,030 by Year 30.

Table 22. Number of Contract Operators and Employees and Cost of Contract Operator Registration Fees for Contract Operators at Publicly Owned WWTPs Contract Operator Registration Fees With the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
No of Contract Operators[1]	100	109	117	126	134	143	151
Employees/ Contractor[1]	240	260	281	301	322	342	362
Registration Fees	$350.00	$350.00	$350.00	$350.00	$350.00	$350.00	$350.00
Fees/Employee	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00	$75.00
Total Annual Costs[2]							
Registration Fees	$35,000	$37,975	$40,950	$43,925	$46,900	$49,875	$52,850
Fees/Employee	$18,000	$19,530	$21,060	$22,590	$24,120	$25,650	$27,180
Total	$53,000	$57,505	$62,010	$66,515	$71,020	$75,525	$80,030

[1] Current year data are from the CIWQS permit database. The number of contract operators is assumed to increase at the rate of 1.7 percent per annum.

[2] Total Annual Cost = (Registration Fees x No. of Contractor Operators) + (Employees/Contractor x Fees/Employee)

Increase in Contract Operator Registration Fees as a Result of the Regulation (See Table 23.)

The estimated increase in annual contract operator fees for contract operator providing operating services to publicly owned WWTPs is calculated by subtracting total fees without the regulation from the projected fees with the regulation. In the current year, the total annual increase in costs as a result of the regulation is estimated to be $37,000. The increase is projected to rise to $55,870 by Year 30.

Table 23. Increase in Contract Operator Registration Fees as a Result of the Regulation.

Title	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Total Annual Public WWTP Contract Operator Fees Without Regulation[1]							
Total	$16,000	$17,360	$18,720	$20,080	$21,440	$22,800	$24,160
Total Annual Public WWTP Contract Operator Fees With Regulation[2]							
Total	$53,000	$57,505	$62,010	$66,515	$71,020	$75,525	$80,030
Total Annual Increase in Public WWTP Contract Operator Fees							
Total	$37,000	$40,145	$43,290	$46,435	$49,580	$52,725	$55,870

[1] Table 21

[2] Table 22

Operator and OIT Fees Paid or Reimbursed by Publicly Owned WWTPs

Increase in Operator Fees as a Result of the Regulation (See Table 12.)

The estimated increase in annual operator fees for operators at publicly owned WWTPs is shown in Table 12. In the current year, the total annual increase in costs as a result of the regulation is estimated to be $542,748. The increase is projected to rise to $819,549 by Year 30. Half of the increase will be directly paid by operators. Half of the increase will be paid or reimbursed by the WWTPs.

Increase in OIT Certificate Fees as a Result of the Regulation (See Table 18.)

The estimated increase in annual OIT certificate fees for OITs at publicly owned WWTPs is shown in Table 18. In the current year, total annual the increase in costs as a result of the regulation is estimated to be $83,768. The increase is projected to rise to $130,459 by Year 30. Half of the increase will be directly paid by OITs. The remaining half will be paid or reimbursed by the WWTPs.

Total Additional Expenditures as a Result of the Regulation

The three components of the fiscal effect of the regulation are summarized in Table 24. Publicly owned WWTPs will incur additional expenditures of approximately $350,258 in the current State Fiscal Year which are not reimbursable by the State pursuant of section 6 of article XIII B of the California Constitution and section 17500 et seq. of the Government Code. This expenditure represents half of the costs for the operator fee increase estimated in the Economic Impact Statement. As a result of increasing population, the State Water Board projects that number of operators and contract operators will increase 1.7 percent annually.[10] Because of this increase in population, this expenditure is projected to increase to $530,874 by Year 30.

Table 24. Total Additional Expenditures as a Result of the Regulation.

	Current	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Increase in Public WWTP Operator Fees[1]							
Total	$271,374	$294,441	$317,507	$340,574	$363,641	$386,708	$409,774
Increase in Public WWTP OIT Certificate Fees[1]							
Total	$41,884	$45,775	$49,666	$53,557	$57,448	$61,339	$65,229
Total Increase in Public WWTP Contract Operator Fees[2]							
Total	$37,000	$40,145	$43,290	$46,435	$49,580	$52,725	$55,870
Total Increase in Public WWTP Expenditures							
Total	$350,258	$380,361	$410,463	$440,566	$470,668	$500,771	$530,874

[1] Table 12
[2] Table 18
[3] Table 23

[10] The Department of Finance's projected annual increase in population.

Other Fiscal Effect

The regulation adds a new certificate for a provisional operator. A publicly owned Class I WWTP that meets certain eligibility requirements may make a request to use a provisional operator instead of a Grade I operator. The regulation adopts provisional operator fees in accordance with Water Code section 13628. The regulation sets the fee for a Request to Use a Provisional Operator at $1,000. Approval to use a provisional operator is valid for five years. The cost to employ a provisional operator is lower than the cost to employ a Grade I operator, offsetting the cost of the fee for a Request to Use a Provisional Operator.

This regulation also implements Water Code section 13652.1, which was added by chapter 422, statutes of 2002, by providing the procedures for owners of Class I WWTPs to apply for an exemption from the regulatory and statutory requirements. If they are exempted, they would not be required to either hire certified operators or contract with a registered contract operator. The regulation sets the application fee at $800. The State Water Board estimates that 15 percent of privately owned WWTPs and two percent of publicly owned WWTPs will apply for an exemption. A WWTP exemption must be renewed every four years for a fee of $300. The cost of obtaining and renewing an exemption is significantly lower than the cost of complying with the regulation.

e. Funding Sources

Additional expenditures will be fully financed from the sewer assessments collected by publicly owned WWTPs authorized by section 5470 et seq. of the Health and Safety Code.

B. Fiscal Impact on State Government

1. Additional Expenditures Required

Approximately $380,000 in additional expenditures are required to: 1) develop and implement the new provisional operator certificate; 2) bring approximately 434 privately owned WWTPs into the Operator Certification Program, including plant classification, registering contract operators, and processing certificate applications and give examinations to the additional 468 certified operators, certified provisional operators, or certified OITs (Table 2, No. of Operators at 217 WWTPs x 2) required to operate the privately owned WWTPs; and 3) maintain the current workload of certifying operators and registering contract operators at publicly owned WWTPs.

b. Funding Sources

It is anticipated that the State Water Board will request an increase in the currently authorized budget level for the 2013-14 fiscal year. The increase of authority will be supported by the fee revenue collected by the Operator Certification Program.

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS
CHAPTER 26. ~~CLASSIFICATION OF~~ WASTEWATER TREATMENT PLANTS ~~CLASSIFICATION, AND~~ OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Article 1. General Provisions

§ 3670. Purpose.

The primary purpose of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program is to protect public health and the environment by providing for the effective operation of wastewater ~~and water recycling~~ treatment plants, including water recycling treatment plants, through the certification of wastewater treatment plant operators and the registration of contract operators.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

§ 3670.1. Certification Requirements for ~~Operation of~~ Operating Wastewater Treatment Plants.

(a) Except as provided in subdivision (b), ~~No~~ no person shall operate a wastewater treatment plant ~~within the meaning of these regulations unless that person has been certified by the division as a wastewater treatment plant operator or operator in training~~ without a valid, unexpired, State Water Board-issued operator, provisional operator, or operator-in-training certificate at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680, 3680.1, and 3680.2.

(b) A person certified by the California Department of Public Health as a water treatment plant operator may operate a water recycling treatment plant at a grade level appropriate for the class of wastewater treatment plant being operated as set forth in sections 3680 and 3680.1.

(1) For the purpose of this subdivision, a water treatment plant operator certificate is equivalent to a wastewater treatment plant operator certificate as follows:

Certificate Requirements for Water Recycling Treatment Plants

Wastewater Treatment Plant Classification	Water Treatment Plant Operator Certificate	Wastewater Treatment Plant Operator Certificate
I	T1	Grade I
II	T2	Grade II
III	T3	Grade III
IV	T4	Grade IV
V	T5	Grade V

(2) The State Water Board may prohibit the use of a certificate issued by the California Department of Public Health if the water treatment plant operator has committed or commits any act in violation of this chapter.

(c) Any person who operates a wastewater treatment plant without a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to sections 3710 and 3719.12.

(d) Any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person performing the duties of an operator who does not hold a valid, unexpired certificate as required by subdivisions (a) and (b) is subject to administrative civil liability as set forth in section 3709(b)(2) and disciplinary action pursuant to sections 3710 and 3719.12.

Authority: Sections 1058 and 13627, Water Code.
Reference: ~~Chapter 9 and~~ Sections 13625, 13627, 13627.1, and 13627.3, Water Code.

~~§ 3670.2. Certification Requirement for Operation of Water Recycling Treatment Plants.~~

~~(a) Except as provided in subsection (b) below, no person shall operate a water recycling treatment plant unless that person has been certified by the division as a wastewater treatment plant operator or operator-in-training at a grade appropriate for the class of plant being operated.~~

~~(b) A person certified by the Department of Health Services as a water treatment plant operator may operate a water recycling treatment plant at a grade appropriate for the class of plant operated.~~

~~(c) The State Board may refuse to approve use of a certificate issued by the Department of Health Services or suspend or revoke its approval of the use of the certificate if the operator commits any of the prohibited acts described in Article 7 (commencing with section 3710) of Chapter 26 of Division 3 of the California Code of Regulations.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Chapter 9 and Section 13625, Water Code.~~

§ 3671. Definitions.

The following definitions shall apply to this chapter:

~~(a)~~ "Activated sludge treatment" means a wastewater treatment process in which predominantly ~~biodegradeable~~ biodegradable pollutants in wastewater are adsorbed and/or absorbed by a suspended mass of living aerobic organisms called "activated sludge." ~~.~~ The suspended mass is subsequently separated from the treated wastewater by ~~a~~ sedimentation ~~proces~~ either for further use in the process or for disposal.

~~(b) "Agency" or "municipality" means any government agency created by federal law or any city, town, county, district, or other government created by or pursuant to state law which owns or operates a wastewater treatment plant. "Agency" also includes any privately owned~~

~~organization which owns or operates a wastewater treatment plant regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of division 1 of the Public Utilities Code.~~

~~(c)~~ "Appellant" means a person who appeals a discretionary decision made by the Office of Operator Certification~~, Office of Enforcement, or division Chief~~ regarding: 1) denial of an application~~,~~ for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination~~, or disciplinary action taken~~.

~~(d)~~ "Applicant" means: ~~a person who files an application for an examination, certification, renewal, or reinstatement as a wastewater treatment plant operator or operator-in-training~~ 1) a person who files an application for an examination; 2) a person who files an application for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 3) a person who files an application for a contract operator registration or a contract operator credential or the renewal of a contract operator registration or a contract operator credential; 4) an owner who files an application for an exemption or the renewal of an exemption for a Class I wastewater treatment plant; 5) a chief plant operator who requests approval to use a lone operator; or 6) an owner who requests approval to use a provisional operator.

"Associate's degree" means a degree issued by a college or university accredited to award associate's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education, for the completion of a program of study equivalent to the first two years of a baccalaureate degree.

"Bachelor's degree" means a baccalaureate degree issued by a college or university accredited to award bachelor's degrees by the Western Association of Schools and Colleges or another accrediting organization recognized by the California Postsecondary Education Commission or the United States Department of Education.

~~(e) "Basic science courses" means college level courses in the combined fields of mathematics, physics, chemistry, and biology.~~

~~(f)~~ "Biological filtration treatment" (biofiltration) means a wastewater treatment process in which predominantly biodegradable pollutants in wastewater are adsorbed and/or absorbed by masses of living aerobic organisms ~~and which are~~ attached to stationary support media as the wastewater ~~is caused to~~ trickles over the media. Settleable material that may have sloughed from the media surfaces is subsequently separated from the treated wastewater by a sedimentation process for disposal.

~~(g) "Board" or "State Water Board" as used in this chapter means the five members of the State Water Resources Control Board.~~

"Certifying body" means a state other than California, a territory, or an Indian tribe or unit thereof, that certifies or registers any person performing duties at a facility that treats

wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant. "Certifying body" includes entities designated by an Indian tribe to administer the tribe's certification and/or contract registration program.

~~(h)~~ "Chief ~~Plant Operator~~ plant operator" means any of the following:

(1) ~~a supervisor who is certified as an operator and who is~~ the operator responsible for the overall operation of a wastewater treatment plant including compliance with effluent limitations established in the wastewater treatment plant's waste discharge requirements and ensuring that operators-in-training are supervised directly as required by section 3682; or

(2) the provisional operator who is solely responsible for the operation of a Class I wastewater treatment plant whose owner has received approval to use a provisional operator in accordance with section 3680.2.

~~(i)~~ "Contract operator" means ~~any~~ a person ~~or entity~~ who enters ~~a promissory agreement~~ into a contract with an owner to operate ~~a~~ one or more wastewater treatment plants.

"Conventional treatment pond" means a pond in which biological oxidation of organic matter occurs through the natural transfer of oxygen in the wastewater. A pond that uses surface aerators solely to control odors shall be considered a conventional treatment pond unless the effluent receives disinfection before it is discharged.

"Design flow" means that amount of flow for which the wastewater treatment plant was designed.

"Designated operator-in-charge" means an operator appointed by the chief plant operator pursuant to section 3680(b) to be responsible for the overall operation of a wastewater treatment plant, including compliance with the applicable waste discharge requirements, when the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in this section. The designated operator-in-charge shall report to the chief plant operator.

~~(j)~~ "Direct supervision" means the supervising operator shall oversee and inspect the ~~oversight and inspection of the work performance of an operator-in-training by the supervisor, without an intervening person, to ensure the safe and proper execution of the duties of the operator-in-training~~ work performed by an operator-in-training and provide training to ensure the safe and proper execution of the operator-in-training's duties. Direct supervision shall be carried out by an operator at the same or higher grade level as the operator-in-training. The supervising operator shall be present at the wastewater treatment plant or otherwise available to consult with, and provide assistance to, the operator-in-training in order to ensure the safe and proper execution of the operator-in-training's duties.

"Disinfection" means a wastewater or water treatment process that uses physical or chemical processes to treat the effluent to inactivate or destroy pathogens remaining in wastewater after primary, secondary, or tertiary treatment. "Disinfection" includes the removal of chlorine if it is required by the wastewater treatment plant's waste discharge requirements.

~~(k)~~ "Division" means ~~that~~ the unit of the ~~division of the board~~ State Water Board in which the Office of Operator Certification is located.

~~(l)~~ "Extended aeration treatment" means a modification of the activated sludge treatment process which utilizes long aeration periods to promote aerobic digestion of the biomass.

"Full time" for purposes of qualifying experience means any of the following:

(1) an average of 40 hours worked per week by an operator or operator-in-training at a wastewater treatment plant while performing job duties that meet the definition of qualifying experience. Any used paid vacation or sick leave earned as a result of hours spent performing job duties that meet the definition of qualifying experience may be counted toward full-time employment. In no case, however, may an operator or operator-in-training be considered to be working full time if he or she spends less than 1,800 hours per year performing duties defined as qualifying experience;

(2) less than an average of 40 hours worked per week by an operator or provisional operator at a wastewater treatment plant if the operator or provisional operator is solely responsible for the operation of a wastewater treatment plant; or

(3) less than an average of 40 hours worked per week by an operator-in-training at a wastewater treatment plant if the operator-in-training works as the only operator-in-training under the direct supervision of an operator who is solely responsible for the operation of the wastewater treatment plant and who is working less than an average of 40 hours per week.

"Indian tribe" means an Indian entity recognized by, and eligible to receive services from, the United States, and included in the list of the entities periodically published by the Bureau of Indian Affairs in the Federal Register.

"Lone operator" means an operator, at a grade level lower than the designated-operator-in-charge, approved by the Office of Operator Certification pursuant to section 3681 to work alone at a wastewater treatment plant. An operator-in-training shall not be a "lone operator."

~~(m) "Maintenance" means those activities which will be credited toward operator experience under the certification program. Those activities are limited to the day-to-day servicing, adjustment or regulation of equipment which are performed by an operator and are necessary to maintain reliable operation of major treatment processes.~~

"Management course" means a course that teaches supervision and management skills including oral communication, technical writing, public administration, business management, and finance. Operators may earn educational points for completion of management courses pursuant to section 3685(b).

"Modified treatment pond" means a pond in which either the biological oxidation of organic matter is enhanced by the addition of aeration or the effluent receives disinfection before discharge.

~~(n)~~ "Office of Enforcement" means ~~that~~ the unit of the State Water Board ~~that is~~ responsible for enforcement of the Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Program pursuant to ~~Article~~ article ~~7~~9 and ~~Article~~ article ~~10~~12.

~~(o)~~ "Office of Operator Certification" means ~~that~~ the unit of the ~~division which~~ State Water Board that administers the Wastewater Treatment Plant Classification, ~~and~~ Operator Certification, and Contract Operator Registration Program.

~~(p)~~ "Operates" means ~~the performance of day-to-day activities primarily consisting of the control of any process which may affect the quality of the discharge of a wastewater treatment plant. "Operates" may include performance of day-to-day maintenance work so long as the primary function of the operator is control of the process. "Operates" does not include maintenance functions which are not necessarily for the reliable operation of major treatment processes~~ actions or decisions to control the performance or outcome of one or more wastewater treatment processes. The term also includes the supervision of other operators acting or making decisions to control the performance or outcome of one or more wastewater treatment processes.

~~(q)~~ "Operator" means ~~any~~ a person ~~operating~~ who operates a wastewater treatment plant and ~~who occupies a position and performs duties for which the Office of Operator Certification requires an operator certificate~~ possesses a valid, unexpired operator certificate. The term "operator" includes a person who possesses a valid, unexpired operator certificate, but who is not currently employed in a position for which an operator certificate is required.

~~(r)~~ "Operator-in-training" means ~~any person who operates a wastewater treatment plant under the direct supervision of a certified operator while gaining experience to qualify for an operator certificate~~ a person who has been issued an operator-in-training certificate by the State Water Board and who is acquiring qualifying experience at a wastewater treatment plant under the direct supervision of an operator at the same or a higher grade level as the operator-in-training.

"Owner" means a person who owns a wastewater treatment plant.

"Person" means an individual, entity, firm, association, organization, partnership, business trust, corporation, limited liability company, company, city, county, district, the state, and the United States, to the extent authorized by federal law.

"Petitioner" means a person who petitions the State Water Board seeking review of a Final Division Decision issued by the Deputy Director of the Division or a Final Office of Enforcement Decision issued by the Director of the Office of Enforcement.

~~(s) "Pond treatment" means processing in a pond in which biological oxidation of organic matter is effected by natural or artificially accelerated transfer of oxygen to the water.~~

~~(t)~~ "Preliminary treatment" means a wastewater treatment process ~~or processes~~ to remove or reduce ~~in~~ the size of solids ~~which~~ that could damage equipment or reduce the effectiveness of other treatment processes.

~~(u)~~ "Primary treatment" means a wastewater treatment process that allows ~~those~~ substances in wastewater that readily settle or float to be separated from the water being treated.

"Provisional operator" means a person who is solely responsible for the operation of a Class I wastewater treatment plant that has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2 and who possesses a valid, unexpired provisional operator certificate.

"Qualifying experience" means experience acquired by an operator, provisional operator, or operator-in-training while operating a wastewater treatment plant as defined in this section. "Qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. The term may

include the performance of minor maintenance related to the servicing, adjustment, or regulation of equipment necessary to maintain reliable operation of wastewater treatment processes.

"Qualifying experience credit" means credit awarded in lieu of qualifying experience pursuant to section 3684. "Qualifying experience" includes experience acquired by a water treatment plant operator while operating a water recycling treatment plant in accordance with section 3670.1. Qualifying experience credit is equivalent to qualifying experience and may be used to meet the experience requirements for operator certification pursuant to section 3687.

"Regional Water Board" means a California Regional Water Quality Control Board.

"Requestor" means a person who requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter.

"Satellite plant" means a wastewater treatment plant that is physically separated from the main wastewater treatment plant, but that has the potential to affect the operation of, or effluent quality from, the main wastewater treatment plant. To qualify as a satellite plant, both the main wastewater treatment plant and the satellite plant shall be owned by the same person and shall be classified as one wastewater treatment plant. The owner's employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel shall include a chief plant operator who is responsible for the overall operation of both the main wastewater treatment plant and the satellite plant.

"Science course" means a course in mathematics, physics, engineering, chemistry, or biology. Operators may earn educational points for completion of science courses pursuant to section 3685(a).

~~(v)~~ "Secondary treatment" means a wastewater treatment process that goes beyond primary treatment to remove colloidal and dissolved organic matter and further remove suspended matter, usually by biological processes such as activated sludge and biological filtration treatment.

"Sequencing batch reactor" means a wastewater treatment system that uses a variation of the activated sludge process in which aeration and sedimentation or clarification occur in a single tank in sequential stages. A programmable logic controller is used to monitor the time associated with the process stages to achieve specific treatment objectives.

~~(w) "Shift supervisor" means a certified operator who oversees and directs the operation or a phase of operation of a wastewater treatment plant during a specific work period and who reports to a supervisor or a chief plant operator.~~

~~(x) "Supervisor" means a certified operator who oversees and directs the operation of a wastewater treatment plant, who inspects the performance of other operators of a wastewater treatment plant, and who reports to the chief plant operator.~~

"Solids treatment" means a wastewater treatment process used to stabilize solids that have been removed from wastewater by using biological, chemical, or thermal treatment methods. "Solids treatment" includes using physical processes at a wastewater treatment plant to further reduce the volume of stabilized solids.

"State Water Board" means the State Water Resources Control Board.

~~(y)~~ "Tertiary treatment" ~~(advanced waste treatment)~~ means a wastewater treatment process that goes beyond secondary treatment, which may include filtration, coagulation, and nutrient removal~~, but excluding disinfection~~.

"Waste discharge requirements" means waste discharge requirements issued pursuant to article 4, chapter 4, division 7 of the Water Code or chapter 5.5 of division 7 of the Water Code.

"Water quality objectives" means the limits or levels of water quality constituents or characteristics established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

"Wastewater treatment course" means a course that teaches operators the skills to operate a wastewater treatment plant including water quality control, wastewater treatment, wastewater engineering, wastewater chemistry, and sanitation microbiology. Operators may earn educational points for completion of wastewater treatment courses pursuant to section 3685(a).

~~(z)~~ "Wastewater treatment plant" means ~~either~~ any of the following:

(1) ~~Any~~ A facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage ~~and~~ or industrial wastes~~.~~;

(2) ~~Any~~ A privately owned facility used in the treatment or reclamation of sewage ~~and~~ or industrial wastes, and regulated by the Public Utilities Commission pursuant to ~~Sections~~ sections 216 and 230.6 of, and ~~Chapter~~ chapter 4 (commencing with ~~Section~~ section 701) of ~~Part~~ part 1 of ~~Division~~ division 1, of the Public Utilities Code~~.~~; or

(3) A privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

"Wastewater treatment plant" includes water recycling treatment plants. The term, "wastewater treatment plant" does not include onsite sewage treatment systems as defined in section 13290 of the Water Code.

"Wastewater treatment process" means a process that improves the quality of wastewater before it is discharged from a wastewater treatment plant, and includes the use of preliminary, primary, pond, secondary, or tertiary treatment for liquid-solids separation of wastewater; the use of disinfection to inactivate or destroy pathogens in wastewater; and the use of solids treatment for solids stabilization and volume reduction before removal from the wastewater treatment plant site.

~~(aa)~~ "Water recycling treatment plant" (water reclamation plant) means a wastewater treatment plant that receives and further treats secondary and/or tertiary effluent from ~~a~~ another wastewater treatment plant for the purpose of meeting the uniform statewide recycling criteria established pursuant to section 13521 of chapter 7 of division 7 of the Water Code for the use of recycled water.

"Water treatment plant" means a facility that uses sedimentation, coagulation, filtration, disinfection, conditioning, softening, fluoridation, removal of tastes and odors, corrosion control, algae control, and/or aeration to reduce or remove contaminants that are present in water for the purpose of making water suitable for drinking.

Authority: Section 1058, Water Code.
Reference: Chapter 9 (commencing with Section 13625), Division 7, Water Code.

Article 2. Classification of Wastewater Treatment Plants, Owner ~~and Agency~~ Reporting Requirements, and Criteria for Exemption of a Class I Wastewater Treatment Plant

§ 3675. Classification of Wastewater ~~and Water Recycling~~ Treatment Plants.

(a) ~~The division~~ Within 45 days of receiving the information required pursuant to section 3676(b) or (c), the Office of Operator Certification shall classify ~~all~~ a wastewater treatment plants~~, including water recycling treatment plants,~~ according to the following criteria:

~~*Class Treatment Process Design Flow (in million gallons per day)*~~

~~I Pond..... All~~
~~Primary..... 1.0 or less~~

~~II Primary..... Greater than 1.0 through 5.0~~
~~Biofiltration..... 1.0 or less~~
~~Extended Aeration.. All~~

~~III Primary..... Greater than 5.0 through 20.0~~
~~Biofiltration..... Greater than 1.0 through 10.0~~
~~Activated Sludge..... 5.0 or less~~
~~Tertiary..... 1.0 or less~~

~~IV Primary..... Greater than 20.0~~
~~Biofiltration..... Greater than 10.0 through 30.0~~
~~Activated Sludge..... Greater than 5.0 through 20.0~~
~~Tertiary..... Greater than 1.0 through 10.0~~

~~V Biofiltration..... Greater than 30.0~~
~~Activated Sludge..... Greater than 20.0~~
~~Tertiary..... Greater than 10.0~~

WASTEWATER TREATMENT PLANT CLASSIFICATION TABLE

Class	Wastewater Treatment Process	**Design Flow** (in million gallons per day)
I	Primary.	1.0 or less
	Conventional Treatment Pond	All
II	Primary	Greater than 1.0 through 5.0
	Biofiltration	1.0 or less
	Modified Treatment Pond	All

III	Primary	Greater than 5.0 through 20.0
	Biofiltration	Greater than 1.0 through 10.0
	Activated Sludge	5.0 or less
	Sequencing Batch Reactor	1.0 or less
	Tertiary	1.0 or less
IV	Primary	Greater than 20.0
	Biofiltration	Greater than 10.0 through 30.0
	Activated Sludge	Greater than 5.0 through 20.0
	Sequencing Batch Reactor	Greater than 1.0 through 10.0
	Tertiary	Greater than 1.0 through 10.0
V	Biofiltration	Greater than 30.0
	Activated Sludge	Greater than 20.0
	Sequencing Batch Reactor	Greater than 10.0
	Tertiary	Greater than 10.0

(b) ~~Plants~~ A wastewater treatment plant may be classified ~~in a group different~~ other than as indicated in ~~this section~~ subdivision (a) if:

(1) ~~they have characteristics which make operation more difficult than the operation of other similar plants of the same flow range; or,~~ the wastewater treatment plant uses unconventional or innovative approaches due to conditions of flow or unusual requirements for discharge to a receiving water;

(2) the conditions of flow or the use of the receiving waters require an unusually high degree of wastewater treatment plant operational control; or~~,~~

(3) ~~they use~~ the wastewater treatment plant uses an approved method of wastewater treatment ~~which is~~ not included in ~~this section~~ subdivision (a).

(c) Satellite plants shall not be classified separately. A satellite plant and the main wastewater treatment plant shall be classified as a single wastewater treatment plant.

(d) Within 45 days of receiving written notice of any change in reportable items in section 3676(b) or (c), the Office of Operator Certification shall either reclassify the wastewater treatment plant or make a determination that the change does not result in a need for reclassification.

Authority: Sections 1058 and 13626, Water Code.
Reference: Section 13626, Water Code.

§ 3676. Reporting Requirements ~~by Agencies to the Division~~ for Owners of Wastewater Treatment Plants.

(a) Except as provided in subdivision (c), within 60 days from the effective date of this section, an owner shall submit to the Office of Operator Certification a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b) Except as provided in subdivision (c), in addition to providing the written acknowledgement required by subdivision (a), within 60 days from the effective date of this section, the owner of a privately owned wastewater treatment plant for which the State Water Board or a Regional Water Board has issued waste discharge requirements or any other wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control shall submit to the Office of Operator Certification a description and schematic of the wastewater treatment plant's treatment processes and design flow, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, job descriptions, and duty rosters for wastewater treatment plant personnel.

(a~~c~~) ~~Within 30 calendar~~ The owner of a wastewater treatment plant that will begin operating more than 60 days after the effective date of this section shall submit to the Office of Operator Certification at least 60 days ~~after a~~ before the wastewater treatment plant begins operating, ~~each agency shall submit to the division~~ a description and schematic of the wastewater treatment plant's treatment processes and~~,~~ ~~a~~ design flow ~~of the plant~~, the name of the Regional Water Board overseeing the wastewater treatment plant, an employee organization chart, ~~and~~ job descriptions, and duty rosters for wastewater treatment plant personnel. The owner shall submit a signed statement from the chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(b~~d~~) ~~Each agency~~ The owner shall notify the ~~division~~ Office of Operator Certification in writing within 30 ~~calendar~~ days of the closure of the wastewater treatment plant or ~~a~~ any change in the ~~employment of the person designated as chief plant operator and any change in the reportable items in subsection (a) above which~~ reportable items in subdivisions (b) or (c), that may affect the classification of the wastewater treatment plant.

(e) If the person designated as the chief plant operator changes, the owner shall notify the Office of Operator Certification in writing within 30 days and shall provide a signed statement from the new chief plant operator acknowledging and accepting the responsibilities of the position of "chief plant operator" as defined in section 3671.

(f) The owner shall notify the Office of Operator Certification in writing within 30 days of entering into or ending a contract with a contract operator.

~~(c) Each agency shall notify the division in writing within 30 calendar days of any final disciplinary action resulting in suspension, demotion, or discharge of a certified operator or operator in training if the disciplinary action is the result of the operator's commission of any of the acts which are grounds for discipline listed in Section 3710. The notice shall identify the name of the operator or operator in training, the specific violations and the disciplinary action taken.~~

~~(d) Reports regarding final disciplinary action received from agencies shall be retained in state board files for a period of three years unless the state board takes disciplinary action. If the state board takes disciplinary action, reports submitted by agencies shall remain in state board files for ten years.~~

(g) The owner shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action taken by the owner against an operator, provisional operator, operator-in-training, or contract operator. Disciplinary action includes reprimanding or placing on probation, suspending, demoting, or discharging an operator, provisional operator, operator-in-training, or contract operator for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name of the operator, provisional operator, operator-in-training, or contract operator, the specific violations, and the disciplinary action taken. The notice also shall include the operator's certificate number or the contract operator's registration number.

(1) Except as provided in (2) below, a notice received from an owner regarding final disciplinary action shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability or takes disciplinary action pursuant to article 9 or article 12 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

Authority: Sections 1058 and 13626, Water Code.
Reference: Sections 13626, 13627, 13627.1, 13627.2, 13627.3, and 13627.4, Water Code.

§ 3677. Exemption for a Class I Wastewater Treatment Plant.

An owner of a Class I wastewater treatment plant may apply to the Office of Operator Certification for an exemption from the requirements of this chapter and Water Code, division 7, chapter 9, if the wastewater treatment plant could not, due to operator error, violate water quality objectives.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.1. Application for Exemption for a Class I Wastewater Treatment Plant.

(a) An application for exemption shall contain sufficient information to demonstrate that the wastewater treatment plant meets the criteria prescribed in section 3677, and shall include:

(1) the name, mailing and business addresses, and telephone number of the owner of the wastewater treatment plant;

(2) the name, business address, and telephone number of the wastewater treatment plant;

(3) an employee organization chart;

(4) the original signature of the owner of the wastewater treatment plant or the owner's authorized representative;

(5) the name of the Regional Water Board overseeing the wastewater treatment plant and a copy of the current waste discharge requirements issued by the State Water Board or Regional Water Board;

(6) a description and schematic of the wastewater treatment plant showing all wastewater treatment and solids handling processes including a flow diagram showing design flows and present flows for all wastewater treatment processes and a solids balance diagram for the solids handling processes;

(7) an evaluation of the operations of the wastewater treatment plant signed and stamped by a California registered professional chemical, civil, or mechanical engineer. The engineer shall identify potential operator errors, evaluate the potential effects of the identified operator errors on the operation of the wastewater treatment plant, and determine whether the operator errors could cause the wastewater treatment plant to violate water quality objectives; and

(8) additional information, evidence, statements, or documents to support the application for exemption as requested by the Office of Operator Certification.

(b) A non-refundable application fee of $800 shall accompany each application for exemption.

(c) The applicant for exemption shall provide a copy of the application for exemption to the appropriate Regional Water Board.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.2. Issuance of a Notice of Exemption for a Class I Wastewater Treatment Plant.

(a) Within 60 days of receipt of a completed application for exemption, the Office of Operator Certification shall issue a notice of exemption or inform the applicant of the reason the notice of exemption shall not be issued.

(b) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying a request for exemption.

(c) A wastewater treatment plant shall be granted an exemption only if the Office of Operator Certification determines that the wastewater treatment plant could not, due to operator error, violate water quality objectives.

(d) A notice of exemption shall include:

(1) the name of the wastewater treatment plant;

(2) the name and business address of the owner;

(3) the issue and expiration dates of the exemption;

(4) the exemption number assigned by the State Water Board;

(5) the State Water Board seal;

(6) the name "State Water Resources Control Board;" and

(7) the signature of a State Water Board member or designee.

(e) An exemption granted by the Office of Operator Certification shall be valid for four years.

(f) The Office of Operator Certification may revoke or place conditions on an exemption at any time.

(g) If an application for exemption is denied or the Office of Operator Certification revokes an exemption, the owner shall, within 365 days from the date of the denial or revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.3. Changes to the Operation of an Exempt Wastewater Treatment Plant.

(a) At least 60 days before implementing any changes to the operation of an exempt wastewater treatment plant, the owner shall notify the Office of Operator Certification in writing of the proposed changes.

(b) Within 30 days of receiving notice of proposed changes to the operation of an exempt wastewater treatment plant, the Office of Operator Certification shall provide written notification of whether the wastewater treatment plant will remain exempt if the proposed changes are implemented.

(c) The owner shall notify the Office of Operator Certification in writing if the owner decides to implement proposed changes that the Office of Operator Certification determined will result in revocation of the exempt status of the wastewater treatment plant.

(d) The Office of Operator Certification shall revoke the wastewater treatment plant's exemption if the owner implements changes that result in the wastewater treatment plant no longer meeting the criteria for exemption in section 3677.2(c).

(e) If a wastewater treatment plant's exemption is revoked pursuant to this section, the owner shall, within 365 days from the date of the revocation, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.4. Notice of Expiration of an Exemption for a Class I Wastewater Treatment Plant.

At least 60 days before the expiration of an exemption, the Office of Operator Certification shall send a written notice of the expiration date to the owner. Failure to receive a notice of exemption expiration does not relieve the owner of the responsibility for renewing an exemption on or before the expiration date.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.5. Application for Exemption Renewal for a Class I Wastewater Treatment Plant.

(a) An application for exemption renewal shall include all of the information required for an application for exemption in section 3677.1(a) and a $300 application for exemption renewal fee.

(b)(1) The application for exemption renewal shall be received by the Office of Operator Certification no later than 30 days before the expiration of the exemption.

(2) If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the exemption, the owner of the wastewater treatment plant shall pay a late fee of $100 in addition to the renewal fee.

(c) The applicant for exemption renewal shall provide a copy of the application for exemption renewal to the appropriate Regional Water Board.

(d) Within 30 days of the receipt of a complete application for exemption renewal, the Office of Operator Certification shall renew the exemption for four years in accordance with section 3677.2 or shall inform the applicant of the reason the exemption shall not be renewed.

(e) If an application for exemption renewal is denied, the owner shall, within 365 days from the date of the denial, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in sections 3680 and 3680.1.

Authority: Sections 1058 and 13625.1, Water Code.
Reference: Section 13625.1, Water Code.

§ 3677.6. Posting Notices of Exemption for a Class I Wastewater Treatment Plant.

An exempt wastewater treatment plant shall display its notice of exemption in an area accessible to the public at the wastewater treatment plant. If no area is accessible to the public, the notice shall be posted at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13525.1, Water Code.
Reference: Section 13625.1, Water Code.

Article 3. Grades Levels of Operator Certification ~~for the Operation of Wastewater Treatment Plants~~

§ 3680. Grades Levels of Operator Certification.

Except as provided in section 3680.1, this section applies to operators.

(a) ~~Chief Plant Operators - For all plant classes, each chief plant operator shall possess a valid operator certificate of a grade at least equivalent to the class of plant operated.~~ Except as provided in section 3680.2, each chief plant operator and designated operator-in-charge shall possess a valid operator certificate at a grade level at least equivalent to the following:

Wastewater Treatment Plant Classification	Minimum Grade Level of Chief Plant Operator	Minimum Grade Level of Designated Operator-in-Charge
I	I	I
II	II	I
III	III	II
IV	IV	III
V	V	III

(b) ~~Supervisors and Shift Supervisors -~~ Except as provided in section 3680.2, a chief plant operator shall appoint a certified operator to be the designated operator-in-charge for any period of time during which the chief plant operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

~~(1) In Class II, III, and IV plants, supervisors and shift supervisors shall possess valid operator certificates no more than one grade lower than the class of plant operated.~~

~~(2) In Class V plants, shift supervisors shall possess at least valid Grade III certificates and supervisors shall possess at least Grade IV certificates~~

(c) ~~Operators - Each operator~~ All operators shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate. ~~In~~ At Class IV and V wastewater treatment plants, at least 50 percent of the operators shall possess ~~at least~~ valid ~~Grade II~~ operator or operator-in-training certificates ~~or valid operator-in-training certificates~~ at the Grade II level or higher ~~level~~.

(d) Notwithstanding subdivisions (a) through (c), if an owner of a wastewater treatment plant using a sequencing batch reactor or extended aeration treatment for process control submits the reportable items in section 3676(b) and the Office of Operator Certification gives the wastewater treatment plant a higher classification than the wastewater treatment plant's prior classification, the owner shall, within 365 days from the date that the Office of Operator Certification classifies the wastewater treatment plant, staff the wastewater treatment plant with certified operators of the appropriate grade level as set forth in this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.1. Grade Levels of Operators at Privately Owned Wastewater Treatment Plants.

This section applies only to privately owned wastewater treatment plants for which the State Water Board or a Regional Water Board has issued waste discharge requirements.

(a) No later than two years from the effective date of this section, all persons at a privately owned wastewater treatment plant performing duties that are comparable to the duties of an operator at a wastewater treatment plant shall possess at least a valid Grade I certificate, a valid provisional operator certificate, or a valid operator-in-training certificate and meet the requirements for operators set forth in section 3680 and 3680.2.

(b) No later than two years from the effective date of this section, the owner of a privately owned wastewater treatment plant shall staff the wastewater treatment plant with operators of appropriate grade levels as prescribed in section 3680 or use a provisional operator in accordance with section 3680.2.

(c) Notwithstanding the provisions in this section, a certified operator, certified provisional operator, or certified operator-in-training working at a privately owned wastewater treatment plant shall comply with the requirements of this chapter.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3680.2 Provisional Operator.

(a) An owner of a Class I wastewater treatment plant must receive written approval from the Office of Operator Certification before using a provisional operator. The owner shall demonstrate that the owner has had difficulty hiring, despite due diligence, a certified operator to operate the wastewater treatment plant. The owner shall submit a written request for approval to use a provisional operator, a $1,000 request to use a provisional operator fee, a copy of the wastewater treatment plant's waste discharge requirements and standard operating procedures, and a written plan that includes:

(1) a description of the duties that the provisional operator will be performing at the wastewater treatment plant, the provisional operator's work schedule, and a requirement that the provisional operator submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification;

(2) a description of the training that the provisional operator will receive on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) the procedures for testing the provisional operator's proficiency performing proper sampling procedures and understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will communicate with, and provide assistance to, the provisional operator when the provisional operator needs

direction and the procedure that the provisional operator will use to request this assistance; and

(5) the written agreement with a certified operator, a registered contract operator, or another wastewater treatment plant, providing that a certified operator will assist the provisional operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671 and the procedure that the provisional operator will use to request this assistance.

(b) The owner shall provide to the appropriate Regional Water Board, a copy of the request for approval to use a provisional operator and the written plan prepared pursuant to subdivision (a).

(c) Except as provided in subdivision (d), the Office of Operator Certification shall approve the request to use a provisional operator if the owner submits a complete request to use a provisional operator and the written plan prepared pursuant to subdivision (a) provides that the provisional operator:

(1) will submit a copy of the wastewater treatment plant's monitoring reports to the Office of Operator Certification and will not supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge;

(2) will receive training acceptable to the Office of Operator Certification on proper sampling procedures, the wastewater treatment plant's standard operating procedures, and the wastewater treatment plant's waste discharge requirements;

(3) will demonstrate proficiency performing proper sampling procedures and an understanding of the wastewater treatment plant's standard operating procedures and the wastewater treatment plant's waste discharge requirements;

(4) has the ability to communicate at all times with a certified operator; and

(5) has the ability to request assistance from a certified operator when the provisional operator is unable to carry out the responsibilities of the position of "chief plant operator" as defined in section 3671.

(d) The Office of Operator Certification shall consult with the Regional Water Board and may conduct an inspection of the wastewater treatment plant before approving or denying the request to use a provisional operator. The Office of Operator Certification may refuse to approve the request to use a provisional operator if the owner fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator to operate the wastewater treatment plant, or if the written plan does not ensure the protection of human health, safety, and the environment.

(e) An approval to use a provisional operator granted by the Office of Operator Certification shall be valid for five years.

(f) The following process shall govern any changes to the written plan approved pursuant to subdivision (c):

(1) At least 30 days before implementing any changes to the written plan, the owner shall notify the Office of Operator Certification and the appropriate Regional Water Board in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (c) or notify the owner that the proposed amended plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(3) The owner shall not amend the written plan as proposed if the Office of Operator Certification notifies the owner that the proposed plan does not meet the requirements for using a provisional operator as prescribed in subdivision (c).

(g) The Office of Operator Certification may revoke its written approval of request to use a provisional operator if it determines that the written plan on which approval was based has been violated.

(h) A provisional operator shall be solely responsible for the operation of a Class I wastewater treatment plant. In no event shall a provisional operator supervise an operator, another provisional operator, or an operator-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Section 13627 and 13628, Water Code.

§ 3681. Lone Operator.

(a) A chief plant operator of a wastewater treatment plant must receive written approval from the Office of Operator Certification before assigning an operator as a lone operator. The chief plant operator shall demonstrate that the owner has had difficulty, despite due diligence, hiring a certified operator of the appropriate grade to operate the wastewater treatment plant. The chief plant operator shall request approval and shall submit a written plan that includes:

(1) the name(s) and grade level(s) of the lone operator(s) and the proposed duties of the lone operator(s);

(2) a work schedule showing when the lone operator(s) will be working alone; and

(3) the procedure the lone operator(s) will use to communicate with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge when the lone operator(s) needs direction.

(b) Except as provided in subdivision (c), the Office of Operator Certification shall approve the request to use a lone operator if the written plan prepared pursuant to subdivision (a) provides that the lone operator(s):

(1) will perform only basic duties that require minimal judgment; and

(2) has the ability to communicate at all times with the chief plant operator, the designated operator-in-charge, or an operator at the same or higher grade level as the designated operator-in-charge.

(c) The Office of Operator Certification may refuse to approve the request to use a lone operator if the chief plant operator fails to demonstrate that the owner exercised due diligence but had difficulty hiring a certified operator of the appropriate grade to operate the wastewater treatment plant.

(d) An approval to use a lone operator granted by the Office of Operator Certification shall be valid for 180 days.

(d) The following process shall govern any changes to the written plan approved pursuant to subdivision (b):

(1) At least 30 days before implementing any changes to the written plan, the chief plant operator shall notify the Office of Operator Certification in writing of the proposed changes.

(2) Within 30 days of receiving notice of the proposed changes, the Office of Operator Certification shall provide written approval of the proposed amended plan in accordance with subdivision (b) or notify the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(3) The chief plant operator shall not amend the written plan as proposed if the Office of Operator Certification notifies the chief plant operator that the proposed amended plan does not meet the requirements for assigning a lone operator as prescribed in subdivision (b).

(e) The Office of Operator Certification may revoke its written approval if it determines that the plan has been violated.

(f) In no event shall an operator-in-training be assigned as a lone operator.

Authority: Sections 1058, Water Code.
Reference: Sections 13627, Water Code.

~~**Article 4. Minimum Qualifications**~~

~~§ 3683. Education and Experience Requirements.~~

~~(a) No person shall be issued a certificate unless that person passes a written examination specified by these regulations and meets the education and experience requirements prescribed by this article.~~

~~(b) Persons may apply to take an operator certification examination if:~~

(1) they have completed the education necessary for the certificate prior to the final filing date for the examination, in accordance with the provisions of subsection (c) of this section; and,

(2) there is sufficient time to gain the experience necessary to qualify for the certificate for which they are applying within four years of June 30 or December 31 (whichever is sooner) following an examination for Grades II, III, IV, and V and within two years of June 30 or December 31 (whichever is sooner) following an examination for Grade I.

(c) Eligibility for certification shall be based on the following qualifications for each grade of wastewater treatment plant operator. Educational points shall be credited pursuant to the provisions of Section 3685.

(1) Grade I:

Education: Six educational points; AND,
Experience: One year of experience performing the functions of a wastewater treatment plant operator.

(2) Grade II:

(A) Education: Graduation from high school or equivalent as specified in Section 3686 and six educational points; AND,
Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,

(B) Experience: One and one-half years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade I operator.

(3) Grade III:

(A) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,
Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,

(B) Education: Graduation from high school or equivalent as specified in Section 3686 and 16 educational points; AND,
Experience: Fours years of experience performing the functions of a wastewater treatment plant operator; OR,

(C) Experience: Three years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade II operator.

(4) Grade IV:

(A) Education: A bachelor's degree with a major related to wastewater treatment and which includes a minimum of 30 semester units of basic science courses; AND,
Experience: Two years of experience performing the functions of a wastewater treatment plant operator; OR,

(B) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,
Experience: Fours years of experience performing the functions of a wastewater treatment plant operator; OR,

(C) Education: Graduation from high school or equivalent as specified in Section 3686 and 32 educational points; AND,
Experience: Six years of experience performing the functions of a wastewater treatment plant operator; OR,

(D) Experience: Fours years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade III operator.

(5) Grade V:

(A) Credential: A valid license as a civil or chemical engineer issued by the California Department of Consumer Affairs, Board of Registration for Professional Engineers and Land Surveyors; AND,
Experience: Four years of experience performing the functions of a wastewater treatment plant operator; OR,

(B) Education: A bachelor's degree with a major related to wastewater treatment and which includes a minimum of 30 semester units of basic science courses; AND,
Experience: Five years of experience performing the functions of a wastewater treatment plant operator; OR,

(C) Education: An associate degree or completion of 60 semester units at a college or university, either of which includes 15 semester units of basic science courses; AND,
Experience: Six years of experience performing the functions of a wastewater treatment plant operator; OR,

(D) Education: Graduation from high school or equivalent as specified in Section 3686 and 48 educational points; AND,
Experience: Ten years of experience performing the functions of a wastewater treatment plant operator; OR,

(E) Experience: Six years of experience performing the functions of a wastewater treatment plant operator while certified as a Grade IV operator.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3684. Experience Credits.

(a) Applicants may be credited with one year of experience if they have had two or more years of full-time experience in the operation of a water treatment plant regulated by the California Department of Health Services or by a government agency in another state and while in possession of a valid water treatment plant operator certificate, if:

(1) the water treatment plant where the experience was gained uses two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, or disinfection; and,

(2) at the time of their application for certification, they have had one year of full-time experience in the operation of a wastewater treatment plant.

(b) Applicants, who have one year of experience in the operation of a wastewater treatment plant may substitute 16 educational points for one year of experience. Those educational points used to substitute for experience at one grade may not be used again to substitute for experience at another grade. The substitution may not be made by applicants qualifying under the provisions of Sections 3683(c)(1) and 3683(c)(4)(A).

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13625, Water Code.

§ 3685. Educational Points.

(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Educational points may be earned as follows:

(1) One completed three-unit semester course which is directly related to wastewater treatment and which is part of the curriculum of an accredited college or university is equal to eight educational points. Completed courses which result in more or less than three units or which are quarter units rather than semester units will be credited with educational points on a proportional basis.

(2) All other courses will be assigned educational points at the rate of one educational point per 10 hours of completed classroom instruction. Subjects which are directly related to wastewater treatment shall be assigned full credit for educational points. Subjects which are indirectly related shall be given one half credit.

(3) One Continuing Education Unit which is directly related to wastewater treatment is equal to one educational point.

(b) Applicants may not substitute experience for educational points.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13625, Water Code.

§ 3686. High School Equivalence.

High school equivalence may be obtained by substituting six educational points for each uncompleted year of high school through grade 12 or by passing an approved General Educational Development test, or by obtaining a Certificate of Proficiency issued by the State Board of Education in accordance with Section 48412 of the Education Code.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 4. Operators-in-Training

§ 3682. Employment or Training of an Operator-in-Training.

An owner may employ or train an operator-in-training at any grade level, provided the operator-in-training is under the direct supervision of an operator at the same or higher grade level as the operator-in-training and is performing the duties at the grade level for which the certificate was issued. Operators-in-training may not supervise operators or other operators-in-training, and may not act in the capacity of a chief plant operator, designated operator-in-charge, or lone operator.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.1. Application for Operator-in-Training Certification.

(a) An application for an operator-in-training certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) the certification fee prescribed in article 10; and 3) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the applicant will be in training.

(b) An applicant for an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which an operator-in-training certification is requested.

(c) Except as provided in section 3682.5(b), an applicant for a Grade I operator-in-training certificate may, but is not required to, pass the Grade I examination before being issued the certificate.

(d) A person may apply for operator-in-training certification at the Grade II through Grade V levels if the applicant has passed an examination at that grade level or higher and the applicant's examination results have not expired.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.2. Issuance of an Operator-in-Training Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator-in-training certificate or inform the applicant of the reason the certificate will not be issued. The operator-in-training certificate shall be issued in the name of the applicant and mailed to the

chief plant operator at the mailing address of the wastewater treatment plant where the applicant will be in training.

(b) An operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and
(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue an operator-in-training certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Except as provided in subdivision (e), operator-in-training certificates shall be valid for two years.

(e) The expiration date of Grade II through Grade V operator-in-training certificates shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.3. Renewal of an Operator-in-Training Certificate.

(a) An applicant for renewal of an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which a renewed operator-in-training certification is requested.

(b) Except as provided in section 3682.4(d), a valid, unexpired Grade I operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at the Grade I level or higher before the expiration of the initial certificate and the operator-in-training's examination results have not expired.

(c) A valid, unexpired Grade II through Grade V operator-in-training certificate may be renewed once for a two-year period provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(d) Following an initial renewal pursuant to subdivisions (a) or (b), and except as provided in section 3682.4(d), a valid, unexpired Grade I though Grade V operator-in-training certificate may be renewed repeatedly for additional two-year periods if the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired, and the chief plant operator submits a plan for the

operator-in-training to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687. The plan shall include:

(1) the chief plant operator's original signature verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(2) information regarding qualifying experience the applicant may have acquired at another wastewater treatment plant;

(3) the applicant's original signature;

(4) the average number of hours per week the applicant will be training at the wastewater treatment plant to acquire qualifying experience;

(5) an estimate of the amount of time required for the applicant to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687; and

(6) additional information, evidence, statements, or documents to support the application for renewal as requested by the Office of Operator Certification.

(e) At least 60 days before the expiration of an operator-in-training certificate, the Office of Operator Certification shall send a written notice of the expiration date to the chief plant operator at the wastewater treatment plant where the operator-in-training is training and to the operator-in-training. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(f) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, and classification or title;

(2) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the operator-in-training is in training;

(3) the renewal fee prescribed in article 10; and

(4) if the operator-in-training is applying for a renewal certificate pursuant to subdivision (c), a plan containing the information required by subdivision (c) submitted by the chief plant operator at the wastewater treatment plant where the operator-in-training is training.

(g) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the renewal application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the

specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3682.4. Issuance of a Renewed Operator-in-Training Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewed operator-in-training certificate or inform the applicant of the reason the certificate shall not be issued.

(b) The Office of Operator Certification may refuse to renew an operator-in-training certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator-in-training certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewed operator-in-training certificate shall include:

(1) the name and grade level of the operator-in-training;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the operator-in-training will be training;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed operator-in-training certificate shall not exceed the expiration date of the operator-in-training's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.5. Invalidation and Issuance of a New Operator-in-Training Certificate.

(a) Operator-in-training certificates are valid only while the operator-in-training is in training at the wastewater treatment plant for which the certificate was issued. When the training ceases, the chief plant operator shall return the certificate to the Office of Operator

Certification within 30 days with a statement as to the amount of qualifying experience the operator-in-training acquired before training ceased.

(b) Except as provided in subdivision (c), if a Grade I operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade I operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training:

(1) has passed an examination at the Grade I level or higher and the operator-in-training's examination results have not expired; or

(2) held all previous Grade I operator-in-training certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

(c) A Grade I operator-in-training certificate issued pursuant to subdivision (b)(2), shall be valid for a maximum of 24 months, including the time the applicant held all previous Grade I operator-in-training certificates.

(d) If a Grade II through Grade V operator-in-training certificate is returned to the Office of Operator Certification because the operator-in-training is no longer being trained at the wastewater treatment plant for which the certificate was issued, or if a Grade II through Grade V operator-in-training certificate is not renewed for any reason, the operator-in-training may apply for a new certificate at any time in accordance with this article, provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.

(e) Time and experience acquired under a previous operator-in-training certificate shall be credited to a new certificate issued pursuant to this section.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3682.6. Reporting Requirements for Operators-in-Training.

An operator-in-training shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator-in-training; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 5. Examination and Certification of Wastewater Treatment Plant Operators

§ 3700. Application for Examination.

(a) Content - An application for examination shall contain but not be limited to the following information:

(1) the applicant's full name, mailing address, work telephone number, and date of birth;

(2) information regarding former employment, current operator status, other operator certificates held in California or other states, engineering registrations held, and education and experience gained;

(3) if employed as an operator, the original signature of the chief plant operator, verifying the applicant's experience as an operator;

(4) the applicant's original signature;

(5) copies of college transcripts, grade cards, or certificates of completion for courses related to wastewater treatment to verify completion of education requirements;

(6) any additional information, evidence, statements, or documents to support the application for examination as requested by the division; and,

(7) the application fee and examination fee as prescribed by Article 8.

(b) Submittal - Applications for examination shall be postmarked by the final filing date as specified in this subsection. Applications postmarked after the final filing date shall be held over and processed for the next scheduled examination.

Date of Examination	*Final Filing Date*
April 4, 1998	February 1, 1998
October 3, 1998	August 1, 1998
April 10, 1999	February 1, 1999
October 2, 1999	August 1, 1999
April 1, 2000	February 1, 2000
October 7, 2000	August 1, 2000
April 7, 2001	February 1, 2001
October 6, 2001	August 1, 2001
April 6, 2002	February 1, 1002
October 5, 2002	August 1, 2002
April 5, 2003	February 1, 2003
October 4, 2003	August 1, 2003
April 3, 2004	February 1, 2004
October 2, 2004	August 1, 2004

(c) Division review - The division shall review applications and supporting documents to determine eligibility for examination.

Unless otherwise specified by this chapter, division evaluation of experience gained in California will be based on work performed while employed in a position which requires

~~operator certification in California. Evaluation of experience gained outside California will be based on work performed while employed in a position comparable to one which requires operator certification in California. Division evaluation of experience will be based on the actual work performed by the applicant without respect to job titles assigned by the employing agencies.~~

~~(d) Notice. The division shall notify applicants in writing within 30 calendar days of receipt of an application whether it is complete or deficient. If there is a deficiency, the division shall identify the deficiency and inform the applicant in writing of the specific information required.~~

~~(e) Deficient applications. Applications which do not contain proof of completion of education requirements and the correct application and examination fees shall be considered deficient applications. Deficient applications shall not be processed for the current examination. The applicant shall be required to reapply to take a subsequent examination.~~

~~(f) Processing times. the division's median, minimum, and maximum processing times for applications for examination between September 1989 and September 1991 were:~~

~~Median - 30 days~~
~~Minimum - 3 days~~
~~Maximum - 112 days~~

~~Authority: Sections 1058 and 13628, Water Code~~
~~Reference: Sections 13727, 13628 and 13629, Water Code; and Section 15376, Government Code.~~

~~§ 3701. Examinations.~~

~~(a) Written examinations for each wastewater treatment plant operator grade shall contain questions to determine applicants' knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation will be included. Each higher grade examination will require progressively more detailed knowledge of the subject matter.~~

~~(b) Content by grade~~

~~(1) Grade I examinations shall contain questions regarding knowledge of basic safety practices and hazards related to the operation of wastewater treatment plants; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding the classification of wastewater treatment plants and operator certification.~~

~~(2) Grade II examinations shall contain questions regarding knowledge of those components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling, and digestion; routine sampling and analysis procedures for evaluation of process and overall plant performance; and basic supervision responsibilities.~~

~~(3) Grade III examinations shall contain questions regarding knowledge of those components of the Grade I and II examinations as prescribed in (1) and (2) above;~~

~~limitations, controls, and performance calculations for primary and secondary treatment and sludge handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.~~

~~(4) Grade IV examinations shall contain questions regarding knowledge of those components of the Grade I, II, and III examinations as prescribed in (1), (2), and (3) above; limitations, controls, and performance calculations for tertiary treatment processes; wastewater treatment requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, and operator training and budget development and control.~~

~~(5) Grade V examinations shall contain questions regarding knowledge of those components of the Grades I, II, III, and IV examinations as prescribed in (1), (2), (3), and (4) above.~~

~~(c) Frequency - A minimum of two examinations shall be given each year.~~

~~(d) Dishonest conduct - An applicant who engages in dishonest conduct during an examination shall have his or her examination materials confiscated, shall not have the examination graded, and shall be denied the opportunity to take the next scheduled examination. The application and examination fees paid by the applicant shall not be refunded. The applicant also may be subject to administrative sanctions pursuant to Article 7 and Section 13627 of the Water Code.~~

~~(e) Confidentiality of examination questions - Examination questions are confidential. Any person who copies questions or removes all or part of any examination from the examination room or who conveys or exposes all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of Article 7. The applicant also may be subject to administrative sanctions pursuant to Article 7 and Section 13627 of the Water Code.~~

~~(f) Notification of results - Within 90 calendar days after an examination, the division shall notify applicants in writing whether they have passed or failed the examination.~~

~~(1) If an applicant fails the examination, he or she may be eligible to take a subsequent examination upon request and upon submitting an application and examination fee prescribed by Article 8. The request for re-examination must be postmarked by the final filing date set forth in Section 3700.~~

~~(2) An applicant who passes the examination and who had completed the education and experience requirements before taking the examination shall be instructed in the notice of examination results to remit the applicable certification fee. Within 30 calendar days of receiving the certification fee, the division shall issue the operator certificate.~~

~~(3) An applicant who passes the examination before completing the experience requirements shall apply for certification upon completing the requirements in accordance with the provisions of Section 3702.~~

(g) Expiration of examination results - Examination results are valid for four years from June 30 or December 31 following the examination (whichever date is sooner).

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627, 13628-13629, Water Code; and Section 15376, Government Code.

§ 3702. Application for Certification.

(a) If an applicant is qualified for certification at the time of the examination, and has documented such qualification in the application for examination, no application for certification is required. However, if an applicant must gain experience after the final filing date for the examination before being eligible for certification, an application for certification is required in accordance with the provisions of this section.

(b) An application for certification shall include but not be limited to:

(1) the applicant's full name, mailing address, work telephone number, and date of birth;

(2) all employment, education, and experience information not reported on the application for examination, including current employment and current operator status;

(3) the date when the applicant passed the examination;

(4) information regarding current employment and current operator status;

(5) the applicant's original signature;
(6) if employed at a wastewater treatment plant, the chief plant operator's original signature; AND,

(7) the certification fee prescribed by Article 8.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.1. Issuance of Certificates.

(a) Operator certificates issued by the division shall contain, but not be limited to the following:

(1) The operator's name and grade;

(2) The certificate number;

(3) The issue date of the certificate;

(4) The State Water Board seal;

(5) The name, "State Water Resources Control Board"; and

(6) The signature of a board member or board member designee.

(b) Upon successful completion of the application and examination process and within 30 calendar days of payment of the certification fee prescribed by Article 8, the board shall issue an operator certificate or operator-in-training certificate.

(c) The issue date of a certificate shall be the date of receipt of an application for examination and certification which meets the requirements of these regulations.

(d) The division may refuse to issue a certificate if it has determined that the applicant has committed any act which is grounds for disciplinary action as specified in section 3710.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.2. Application for Certificate Renewal.

(a) Renewal dates - Except as specified in Subsection 3709(d), operator certificates are renewable every two years. Certificates issued for applications with a postmark between May 1 and October 31 shall have a renewal date of June 30. Certificates issued for applications with a postmark between November 1 and April 30 shall have a renewal date of December 31.

(b) Division notice - At least 60 calendar days prior to expiration of an operator certificate, the division shall provide written notification of the expiration date to the certificate holder at his or her address of record. Failure to receive a notice of renewal does not relieve the certificate holder from the responsibility of renewing a certificate on or before the expiration date.

(c) Content - An application for renewal shall include, but not be limited to:

(1) the applicant's name, mailing address, grade, certificate number, and classification or title;

(2) if employed by a wastewater treatment plant as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed and the name of the supervisor;

(3) the renewal fee prescribed by Article 8.

(d) Submittal - A certificate holder who wishes to renew a certificate shall submit to the division a completed application as specified in subsection (c) of this section. The application shall be postmarked no later than the expiration date on the certificate holder's renewal card.

(e) Division review - Within 15 calendar days of receipt of an application for renewal, the division shall notify the certificate holder if the application is deficient. If there is a deficiency, the division shall inform the certificate holder by telephone or letter of the specific information necessary to complete the application for renewal. Deficiencies will not prevent the Office of

Operator Certification from issuing a new certificate if the application and fee are postmarked by the expiration date of the certificate.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.3. Issuance of Renewal Certificate.

An operator certificate shall indicate the first expiration date of the certificate. Thereafter, a renewal certificate shall be issued in accordance with the provisions of Section 3702.2 and this section.

(a) Within 30 calendar days of receipt of a completed application for renewal, the division shall issue a renewal certificate or inform the applicant of the reason the card will not be issued.

(b) The renewal certificate shall not be issued until any unpaid fees have been paid.

(c) The division may refuse to renew a certificate if it has determined that the applicant has operated a wastewater treatment plant while the operator certificate was expired or at a grade for which the applicant was not certified or that the applicant has committed any act which is grounds for disciplinary action.

(d) A renewal certificate shall contain, but not be limited to the following:

(1) The certificate holder's name and address;

(2) The certificate number and grade;

(3) The expiration date of the certificate.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following the expiration of the certificate, provided the holder of the expired certificate applies for renewal and reinstatement as prescribed by Subsection (b) of this section. A certificate which has been expired for more than one year shall not be reinstated. If the applicant wishes to become certified again, he or she must meet all requirements for an initial operator certificate.

(b) The application for reinstatement shall be considered complete when it includes the renewal and reinstatement fees prescribed by Article 8 and all the information required to renew the certificate as prescribed by Section 3702.2.

(c) The division may refuse to reinstate a certificate if it has determined that the applicant has operated a wastewater treatment plant while his or her certificate was expired or at a grade for which he or she was not certified or has committed any act which is grounds for disciplinary action.

(d) The expiration date of a reinstated certificate shall remain the same as if the certificate had not expired.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3702.5. Replacement.

A certificate which has been lost, stolen, or destroyed may be replaced by the division provided the operator or operator-in-training submits a signed statement explaining the circumstances of the loss, theft or destruction of the certificate. A replacement fee prescribed by Article 8 must be submitted with the signed statement.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code; and Section 15376, Government Code.

§ 3703. Posting Certificates.

Certified operators and operators-in-training shall display their valid certificates with renewal cards attached at the wastewater treatment plant where employed.

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3704. Reciprocity with Other States.

(a) The division may issue Grades I and II operator certificates by reciprocity in accordance with the procedures set forth in Article 5. No examination or examination fee will be required of persons who hold comparable certifications in other states, provided:

(1) the experience and education requirements of that state are comparable to the division's requirements;

(2) the applicant has passed a written examination within the preceding four years in another state that is comparable to the examination given by the division;

(3) reciprocal privileges are granted by the other state to operators certified by the division;

(4) the applicant completes an application for operator certification and meets the minimum qualifications for certification in California; and,

(5) the applicant pays the application, certification, and reciprocity fees prescribed by Article 8.

(b) The division may refuse to issue an operator's certificate by reciprocity if it has determined that the applicant's certificate to operate a wastewater treatment plant has been revoked or

~~suspended in another state, or if the applicant has been otherwise disciplined in another state for any of the violations set forth in Section 3710.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Sections 13627 and 13628, Water Code.~~

Article 5. Provisional Operators

§ 3683. Employment of a Provisional Operator.

An owner of a Class I wastewater treatment plant may employ a provisional operator to be solely responsible for the operation of the wastewater treatment plant, provided the owner has received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2. Provisional operators may not supervise operators, other provisional operators, or operators-in-training or appoint a designated operator-in-charge.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.1. Application for Provisional Operator Certification.

(a) An application for a provisional operator certificate shall include: 1) all of the information required in section 3702 for an application for an operator certificate; 2) provisional operator certification fee prescribed in article 10; and 3) the name, contact information, and signature of the owner of the wastewater treatment plant where the applicant will be employed.

(b) An applicant for a provisional operator certificate must have completed the minimum amount of education prescribed in section 3687 for certification as a Grade I operator.

(c) A person may apply for a provisional operator certificate if the applicant has passed an examination at the Grade I level or higher and the applicant's examination results have not expired.

(d) The owner of the wastewater treatment plant where the applicant will be employed must have received written approval from the Office of Operator Certification to use a provisional operator in accordance with section 3680.2.

(e) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.2. Issuance of a Provisional Operator Certificate.

(a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue a provisional operator certificate or inform the applicant of the reason the certificate will not be issued. The provisional operator certificate shall be issued in the name of the applicant and mailed to the owner at the mailing address of the wastewater treatment plant where the applicant will be employed.

(b) A provisional operator certificate shall include:

(1) the name of the provisional operator;

(2) the issue and expiration dates of the certificate;

(3) the name of the wastewater treatment plant where the provisional operator will be employed;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(c) The Office of Operator Certification may refuse to issue a provisional operator certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) A provisional operator certificate shall be valid for a maximum of 24 months, including the time the applicant held all previous provisional operator certificates. A provisional operator certificate shall not be renewed.

(e) The expiration date of a provisional operator certificate shall not exceed the expiration date of the applicant's passed examination results.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.3. Invalidation and Issuance of a New Provisional Operator Certificate.

(a) Provisional operator certificates are valid only while the provisional operator is employed at the wastewater treatment plant for which the certificate was issued. When the employment ceases, the owner shall return the certificate to the Office of Operator Certification within 30 days with a statement as to the amount of qualifying experience the provisional operator acquired before employment ceased.

(b) If a provisional operator certificate is returned to the Office of Operator Certification because the provisional operator is no longer employed at the wastewater treatment plant for which the certificate was issued, the provisional operator may apply for a new certificate at any time in accordance with this article, provided the provisional operator held all previous

provisional operator certificates for a total of less than 24 months and does not have one year of full-time qualifying experience.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3683.4. Reporting Requirements for Provisional Operators.

A provisional operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the provisional operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

~~**Article 6. Operators-in-Training.**~~

~~§ 3707. Employment of an Operator-in-Training.~~

~~An agency may employ a person to act in the capacity of any grade of certified operator, provided the person is certified as an operator-in-training, is under the direct supervision of a certified operator of the same or higher grade, and is performing the duties of the grade of operator for which the certificate was issued.~~

~~Authority: Sections 1058 and 13627, Water Code.~~
~~Reference: Section 13635, Water Code~~

~~§ 3708. Application for Operator-in-Training Examination and Certification.~~

~~(a) Persons may apply for examination and operator-in- training certification in accordance with the procedures set forth in Article 5.~~

~~(b) Applicants for Grade I operator-in-training certification may, but are not required to, pass the Grade I examination prior to issuance of the Grade I operator-in-training certificate.~~

~~(c) Persons may apply for operator-in-training certification at the Grades II, III, IV, and V levels if they:~~

~~(1) meet the minimum education requirements and could meet the minimum experience requirements for the grade for which they are applying as prescribed in Article 4 within four years of June 30 or December 31 following the examination (whichever date is sooner); and,~~

~~(2) pass the examination at the grade for which they are applying; and,~~

(3) make application for examination and operator-in-training certification in accordance with the procedures set forth in Sections 3700, 3701, and 3702 of Article 5; and,

(4) supply the name and telephone number of the supervising operator.

(d) Applications for operator-in-training certification at any grade must be signed by the chief plant operator of the plant where the operator-in-training is to be employed.

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627-13629, Water Code; and Section 15376, Government Code.

§ 3709. Issuance, Renewal, and Replacement of Operator-in-Training Certificates.

(a) Operator-in-training certificates shall be issued in the name of the applicant to the mailing address of the employing wastewater treatment plant. Operator-in-training certificates are valid only while the operator is employed at the plant for which the certificate was issued. The expiration date of the operator- in-training certificate shall not exceed the expiration date of the applicant's examination results.

(b) Operator-in-training certificates issued by the division shall contain but not be limited to the following:

(1) The name and grade of the operator-in-training;

(2) The issue date of the certificate; and,
(3) The name of the wastewater treatment plant at which the operator-in-training is to be employed.

(c) Operator-in-training certificates shall be issued, renewed, reinstated, and replaced in accordance with the provisions of Article 5 unless other specified in this article.

(d) Operator-in-training certificates at the Grade I level are valid for up to two years. If the Grade I operator passes the Grade I examination before the expiration of the Grade I operator-in-training certificate, that certificate may be renewed one time for two years. If the Grade I operator-in-training does not pass the Grade I examination before the expiration of the Grade I operator-in-training certificate, the Grade I operator- in-training certificate shall not be renewed. Operator-in- training certificates at the Grades II, III, IV, and V levels are valid for up to two years and may be renewed once pursuant to the provisions of Section 3702.2.

(e) A person certified as an operator-in-training at any grade must complete the education and experience requirements and obtain an operator certificate at that grade or higher before being eligible to apply for an operator-in-training certificate at a higher grade.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13625, Water Code.

Article 6. Minimum Qualifications for Wastewater Treatment Plant Operator Certification

§ 3684. Qualifying Experience Credit.

(a) An applicant for operator certification who has acquired at least one year of full-time qualifying experience at a wastewater treatment plant may receive qualifying experience credits as follows:

(1) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant:

(A) has acquired 3,600 or more hours of experience in the operation of a water treatment plant regulated by the California Department of Public Health, another state, a territory, or an Indian tribe;

(B) possessed a valid water treatment plant operator certificate at the time the experience was acquired; and

(C) has acquired 3,600 or more hours of experience using two or more of the following processes: coagulation, sedimentation, aeration, filtration, oxidation, and disinfection.

(2) An applicant may receive a one-time credit for one year of full-time qualifying experience if the applicant has acquired 3,600 or more hours of experience in one or more of the following areas:

(A) developing wastewater treatment plant operations and maintenance, safety, or laboratory procedural manuals;

(B) conducting training in wastewater treatment plant operations, safety, or laboratory procedures;

(C) developing, testing, and evaluating process control strategies to optimize wastewater treatment plant performance; or

(D) performing physical, chemical, and biological processes that are comparable to the duties of an operator at a wastewater treatment plant.

(3) When an applicant submits an application for certification to the Office of Operator Certification, the applicant may make an irrevocable election to substitute 16 educational points for one year of full-time qualifying experience credit. Educational points substituted for qualifying experience credit may not be used to satisfy education requirements in the Operator Certification Requirements Table in section 3687 for certification or qualifying for an examination.

(b) The Office of Operator Certification shall give qualifying experience credit for experience acquired at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and provided that during the time of employment, the applicant held a valid, unexpired certification of the appropriate grade level issued by a certifying body and the certification requirements are comparable to the requirements of this chapter.

(1) Evaluation of the experience shall be based on the actual work performed by the applicant without respect to job title.

(2) The Office of Operator Certification may refuse to give qualifying experience credit under this subdivision if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) Upon passing a written examination, each person applying for a certificate in accordance with section 3680.1 who is employed at a privately owned wastewater treatment plant before the effective date of section 3680.1, shall be credited with a minimum of one year of full-time qualifying experience.

(1) An applicant may receive more than one year of full-time qualifying experience credit if the applicant provides documentation of more than one year of experience acquired while employed at a privately owned facility used primarily in the treatment or reclamation of sewage, and for which the State Water Board or a Regional Water Board has issued waste discharge requirements, provided the duties are comparable to the duties of an operator at a wastewater treatment plant and the owner verifies the experience.

(2) An applicant also may receive qualifying experience credit in accordance with subdivisions (a) and (b).

Authority: Sections 1058, 13627, and 13627.5, Water Code.
Reference: Sections 13627 and 13627.5, Water Code.

§ 3685. Educational Points.

(a) Pursuant to the provisions of this article, applicants may be required to obtain educational points to qualify for certification. Operators may receive educational points for completing wastewater treatment courses or science courses as follows:

(1) One three-unit semester course completed as part of the curriculum of an accredited college or university is equal to eight educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) One Continuing Education Unit awarded by a professional association or other nonprofit private or public agency is equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, ten classroom hours are equal to one educational point.

(b) At Grades III, IV, and V, operators may earn up to sixteen educational points for completing management courses. An operator may not earn more than four educational points in each type of management course. Educational points for a management course may be earned as follows:

(1) One completed three-unit semester course that is part of the curriculum of an accredited college or university is equal to four educational points. Operators who have completed courses that result in more or less than three units or in quarter units rather than semester units shall be credited with educational points on a prorated basis.

(2) Two Continuing Education Units awarded by a professional association or other nonprofit private or public agency are equal to one educational point.

(3) For any other course given approval by the Office of Operator Certification, twenty classroom hours are equal to one educational point.

(c) Applicants may not substitute experience for educational points.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 13627 and 13629, Water Code.

§ 3686. High School Equivalence.

Passing an approved General Educational Development Test, or obtaining a Certificate of Proficiency issued by the Board of Education in accordance with section 48412 of the Education Code, are equivalent to obtaining a high school diploma.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3687. Education and Experience Requirements.

(a) The education and experience requirements in this section apply to applicants for a new operator, provisional operator, or operator-in-training certificate, a renewed operator-in-training certificate, or an examination. An operator holding a valid, unexpired certificate issued before the effective date of this section does not need to meet these requirements in order to renew a certificate. Additionally, an operator holding an expired certificate issued before the effective date of this section does not need to meet these requirements in order to reinstate a certificate in accordance with section 3702.4.

(b) The Office of Operator Certification shall issue a certificate if the applicant:
(1) has completed one of the education and experience paths prescribed in this section; and

(2) has passed an examination at the appropriate grade level or higher and the applicant's examination results have not expired, or has obtained an examination waiver in accordance with section 3689.

(c) Eligibility for certification shall be based on the education and experience requirements for each wastewater treatment plant operator grade level in the following table:

OPERATOR CERTIFICATION REQUIREMENTS TABLE

PATH	EDUCATION		QUALIFYING EXPERIENCE
GRADE I			
1	High school diploma or equivalent and 6 educational points	and	1 year of full-time qualifying experience
GRADE II			
1	High school diploma or equivalent and 9 educational points	and	18 months of full-time qualifying experience as a Grade I operator
2	High school diploma or equivalent and 12 educational points	and	2 years of full-time qualifying experience
3	Associate's degree, a higher degree, or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	1 year of full-time qualifying experience
GRADE III			
1	High school diploma or equivalent and 12 educational points	and	3 years of full-time qualifying experience as a Grade II operator
2	High school diploma or equivalent and 18 educational points	and	4 years of full-time qualifying experience
3	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	2 years of full-time qualifying experience
4	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	1 year of full-time qualifying experience

GRADE IV			
1	High school diploma or equivalent and 32 educational points	and	6 years of full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	4 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	3 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, territory, or Indian tribe	and	2 years of full-time qualifying experience
GRADE V			
1	High school diploma or equivalent and 48 educational points	and	10 years full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	6 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	5 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, a territory, or an Indian tribe	and	4 years of full-time qualifying experience

(d)(1) The Office of Operator Certification may award educational points to an operator for completing wastewater treatment, science, or management courses in accordance with section 3685.

(2) The Office of Operator Certification may accept comparable education obtained outside of the United States to satisfy the educational requirements listed below.

(3) Full-time qualifying experience shall be earned at a wastewater treatment plant in accordance with the definitions of "full time" and "qualifying experience" in section 3671. An operator shall acquire qualifying experience on a prorated basis if the operator spends less than full time performing job duties that meet the definition of qualifying experience. In addition, the Office of Operator Certification may award an operator qualifying experience credit in accordance with section 3684.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

Article 7. Examination for Wastewater Treatment Plant Operators

§ 3689. Examination Waiver.

(a) The Office of Operator Certification shall waive the examination requirement and the examination fee if the applicant holds a valid, unexpired certificate issued by a certifying body for a position comparable to that of an operator at a wastewater treatment plant, provided:

(1) the experience, education, and examination requirements of the certifying body are comparable to the Office of Operator Certification's requirements as prescribed in article 6;

(2) the applicant meets the minimum education and qualifying experience requirements for the applicable grade level as prescribed in article 6;

(3) the applicant has passed a written examination, administered by the certifying body, that is comparable to the examination given by the Office of Operator Certification for the applicable grade of operator certification; and

(4) the applicant completes an application for operator certification and pays the certification and examination waiver fees prescribed in article 10.

(b) The Office of Operator Certification may refuse to waive the examination requirement if, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, it determines that: the applicant's certification or registration has been revoked or suspended by a certifying body; discipline or administrative civil liability has been imposed against the applicant or the applicant is under investigation by a certifying body; or civil or criminal liability has been imposed upon the applicant.

(c) An applicant for certification who has been issued an examination waiver shall receive qualifying experience credit in accordance with section 3684(b).

Authority: Section 1058, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3700. Application for Examination.

(a) A person may apply to take an examination at any grade level if the applicant has completed the education required in section 3687 for that grade level before the final filing date for the examination. An application for an examination shall include:

(1) the applicant's full name, mailing address, and telephone number;

(2) the applicant's original signature;

(3) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(4) additional information, evidence, statements, or documents to support the application for examination as requested by the Office of Operator Certification; and

(5) the application fee for an examination and the examination fee as prescribed in article 10.

(b) Applications for examination shall be received by the Office of Operator Certification by the final filing date as prescribed in section 3701(a). Complete applications received after the final filing date shall not be processed for the current examination, but shall be held over and processed for the next scheduled examination.

(c)(1) The Office of Operator Certification shall notify applicants in writing within 30 days of receipt of an application whether it is complete or deficient and shall identify any deficiency.

(2) If the deficiency is not corrected before the final filing date for the examination, the application shall not be approved. The applicant shall be required to complete a new application to take a subsequent examination and pay the application fee for an examination. If the applicant has paid the examination fee, it will be applied to a future examination.

(d) An applicant who is scheduled to take an examination and wants to request a change of testing location or have the application held until the next examination date must make the request at least 30 days before the scheduled examination. If the applicant fails to attend the next examination, the applicant may apply to take a subsequent examination by submitting a new examination application and the application fee for examination.

(e) An applicant who has paid the examination fee, but does not take an examination, may request a refund of the examination fee from the Office of Operator Certification.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701. Examinations.

(a) A minimum of two examinations shall be given each year. The final filing date will be 60 days before the scheduled examination.

(b) Written examinations for each wastewater treatment plant operator grade level shall test an applicant's knowledge of wastewater treatment plant operation. Mathematical problems related to process control and evaluation shall be included. The examination for each progressively higher grade level shall require more detailed knowledge of the subject matter.

(c) The content of the examination for each grade level shall be as follows:

(1) Grade I examinations shall test the applicant's knowledge of: basic safety practices and hazards related to wastewater treatment plant operation; wastewater constituents including simple and routine sampling and analysis procedures; procedures involved in operating and maintaining preliminary and primary treatment facilities including sludge digestion and disinfection; specifics regarding the operation of stabilization ponds; and state regulations regarding wastewater treatment plant classification, waste discharge requirements, and operator certification.

(2) Grade II examinations shall test the applicant's knowledge of: the components of the Grade I examination as prescribed in (1) above; commonly used processes for preliminary, primary, and secondary treatment including disinfection, sludge handling, and digestion; routine sampling and analysis procedures for evaluation of process and overall wastewater treatment plant performance; and basic supervision responsibilities.

(3) Grade III examinations shall test the applicant's knowledge of: the components of the Grade II examination as prescribed in (2) above; limitations, controls, and performance calculations for primary and secondary treatment and sludge-handling processes; basic principles of tertiary treatment processes; state regulations regarding water recycling; and public health issues.

(4) Grade IV examinations shall test the applicant's knowledge of: the components of the Grade III examination as prescribed in (3) above; limitations, controls, and performance calculations for tertiary treatment processes; requirements and practices for water reclamation and reuse; supervision and management responsibilities including energy management, safety program development and control, operator training, and budget development and control.

(5) Grade V examinations shall test the applicant's knowledge of the components of the Grade IV examination as prescribed in (4) above as applied in more difficult and complex situations.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3701.1. Examination Security.

(a) An applicant shall be required to present photographic identification issued by a state or federal governmental entity to gain admission to the examination.

(b) The examination materials of an applicant who engages in dishonest conduct during an examination shall be confiscated and the applicant shall not have the examination graded, shall be denied the opportunity to take the next scheduled examination, and shall be subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710. The examination fee paid by the applicant shall not be refunded.

(c) Examination questions are confidential. Any person who copies questions or removes any examination material from the examination room or who conveys or reveals all or part of any examination for an unauthorized use may be denied certification pursuant to the provisions of section 3710. The applicant also is subject to administrative civil liability as set forth in section 3709 and disciplinary action pursuant to section 3710.

Authority: Sections 1058 and 13627.1, Water Code.
Reference: Section 13627.1, Water Code.

§ 3701.2. Examination Results.

(a) Within 90 days after an examination, the Office of Operator Certification shall send a notice of the examination results in writing to the applicant.

(b) An applicant who fails an examination may be eligible to take a subsequent examination upon submitting the examination application and examination fee as prescribed in article 10. Requests for reexamination shall be received by the final filing date set forth in section 3701(a).

(c) Passing examination results are valid for four years from the date on the notice of the examination results.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article 8. Certification of Wastewater Treatment Plant Operators

§ 3702. Application for Certification.

(a) An application for certification shall include the applicant's full name, mailing address, work and home telephone numbers, social security number, date of birth, the grade level of certification that is being requested; if currently certified, the operator's current grade level and certificate number, and all of the following information unless previously provided to the Office of Operator Certification:

(1) a copy of a high school diploma or equivalent; college transcripts; graduate school transcripts; report cards; certificates of completion for wastewater treatment and management courses; and chemical, civil, or mechanical engineering registrations issued to the applicant by California or another state, a territory, or an Indian tribe, to verify completion of education requirements;

(2) the business address and telephone number of each wastewater treatment plant at which the applicant has acquired qualifying experience, including current employment, and the amount of qualifying experience acquired at each wastewater treatment plant;

(A) An applicant who is currently employed as an operator shall submit an original signed statement by the chief plant operator verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(B) An applicant who is not currently employed as an operator, but who meets all certifications requirements is not required to submit an original signature from a chief plant operator.

(C) An applicant who is a chief plant operator shall submit an original signed statement by the owner verifying:

(i) the applicant's qualifying experience acquired at that wastewater treatment plant; and

(ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

(3) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant;

(4) information regarding any experience for which the applicant is requesting qualifying experience credit pursuant to section 3684;

(5) the applicant's original signature;

(6) additional information, evidence, statements, or documents to support the application as requested by the Office of Operator Certification; and

(7) the certification fee prescribed in article 10.

(b) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific

requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notification, the application shall be denied.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.1. Issuance of Certificates.

(a) An operator certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue and expiration dates of the certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(b) Upon successful completion of the application and examination process and within 30 days of payment of the certification fee prescribed in article10, the Office of Operator Certification shall issue an operator certificate. If an operator is employed at more than one wastewater treatment plant, the Office of Operator Certification shall issue duplicate operator certificates to the operator for posting at each wastewater treatment plant.

(c) The Office of Operator Certification may refuse to issue a certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Operator certificates shall be valid for two years from the date of issue.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.2. Application for Certificate Renewal.

(a) An operator certificate may be renewed repeatedly for two-year periods.

(b) At least 60 days before the expiration of an operator certificate, the Office of Operator Certification shall send a written notice of the expiration date to the operator. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

(c) An application for renewal shall include:

(1) the applicant's name, mailing address, grade level, certificate number, and classification or title;

(2) if employed as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed, and the name of the chief plant operator; and

(3) the renewal fee prescribed in article 10.

(d) Within 30 days of receipt of a renewal application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application.

(e) If there is a deficiency, and the deficiency is not corrected before expiration of the certificate, the Office of Operator Certification shall not issue a renewal certificate. After the applicant pays the reinstatement fee prescribed in section 3717, the Office of Operator Certification shall issue a new certificate if the requirements of section 3702.4 are met.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.3. Issuance of Renewal Certificate.

(a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.
(b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(c) A renewal certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue date of the initial certificate and the expiration date of the renewal certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board;" and

(6) the signature of a State Water Board member or designee.

(d) The expiration date of a renewed certificate shall be two years from the expiration date of the certificate being renewed.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.4. Reinstatement.

(a) An expired operator certificate may be reinstated within one year following expiration if the applicant applies for reinstatement as prescribed in this section.

(b) Experience acquired under the expired certificate shall be credited to the reinstated certificate.

(c) An application for reinstatement shall include:

(1) all the information prescribed in section 3702.2;

(2) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(3) the renewal and reinstatement fees prescribed in article 10.

(d) The Office of Operator Certification may refuse to reinstate a certificate if it determines that the applicant has:

(1) operated a wastewater treatment plant with an expired operator certificate;

(2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or

(3) committed any other act in violation of this chapter.

(e) The expiration date of a reinstated certificate shall be two years from the date of reinstatement of the certificate.

(f) A certificate that has been expired for more than one year shall not be reinstated. Upon passing another examination at the appropriate grade level, an applicant whose certificate has been expired for more than one year may apply for a new certificate in accordance with section 3702.

Authority: Sections 1058, 13627, and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.5. Reporting Requirements for Operators.

An operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627, Water Code.
Reference: Section 13627, Water Code.

§ 3702.6. Replacement.

A lost, stolen, damaged, or destroyed certificate may be replaced by the Office of Operator Certification if the operator, provisional operator, or operator-in-training signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction and submits the replacement fee prescribed in article 10.

Authority: Sections 1058 and 13628, Water Code.
Reference: Section 13628, Water Code.

§ 3702.7 Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, reinstate, or replace a certificate if the operator, provisional operator, or operator-in-training has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3703. Posting Certificates.

Operators, provisional operators, and operators-in-training shall display their valid certificates in an area accessible to the public at each wastewater treatment plant where employed. If no area is accessible to the public, the certificates shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

Article ~~79~~. ~~Prohibited Acts~~ Administrative Civil Liability, Disciplinary Action, ~~and~~ Appeal, and Petition Process

§ 3709. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivisions (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $100 for each day of violation upon:

(1) any person who operates a wastewater treatment plant without holding a valid, unexpired certificate at the appropriate grade level as required by this chapter; or

(2) any person who owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as an operator who does not hold a valid, unexpired certificate of the appropriate grade level as required by this chapter.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) employing fraud or deception in the course of operating a wastewater treatment plant;

(2) failing to use reasonable care or judgment in the operation of a wastewater treatment plant;

(3) willfully or negligently violating, or causing, or allowing the violation of waste discharge requirements;

(4) submitting false or misleading information to the State Water Board on an application for a certificate; or

(5) engaging in dishonest conduct during an examination.

Authority: Sections 13627.1, 13627.2, and 13627.4, Water Code.
Reference: Sections 13323, 13627.1, 13627.2, and 13627.4, Water Code.

§ 3710. Grounds for ~~Discipline~~ Disciplinary Action.

(a) ~~A certified operator or operator-in-training may be subject to administrative sanctions including reprimand or denial, suspension, probation, or revocation of a certificate pursuant to Section 13627 of the Water Code for~~ The State Water Board may refuse to grant, suspend, or revoke an operator, provisional operator, or operator-in-training certificate or may reprimand or place on probation an operator, provisional operator, or operator-in-training upon any reasonable ground, including performing, or allowing or causing another to perform, any of the following acts:

(1) willfully or negligently violating, causing, or allowing a violation of ~~these regulations~~ this chapter;

(2) without regard to intent or negligence, operating or allowing the operation of a wastewater treatment plant by a person who is not certified at ~~the~~ a grade level necessary for the position or whose operator, provisional operator, or operator-in-training certificate has expired;

(3) submitting false or misleading information on any document provided to ~~the division~~ State Water Board staff including applications for examination, certification, ~~or~~ renewal, or reinstatement, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(4) engaging in dishonest conduct during an examination~~,~~ or violating confidentiality of examination questions;

(5) using fraud or deception in the course of employment as an operator, provisional operator, or operator-in-training;

(6) failing to use reasonable care or good judgment in the course of employment as an operator, provisional operator, or operator-in-training or failing to apply knowledge or ability in the performance of duties;

(7) willfully or negligently ~~causing or~~ violating, ~~or~~ causing, or allowing the violation of ~~appropriate~~ waste discharge requirements ~~as prescribed by Article 4 of Chapter 4 of Division 7 of the Water Code, or the violation of Section 402 of the Clean Water Act which contains the provisions of the National Pollutant Discharge Elimination System permit.~~;

(8) failing to notify, as required by section 3682.6, 3683.4, or 3702.5, the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(9) without regard to intent or negligence, operating a wastewater treatment plant without posting a valid operator, provisional operator, or operator-in-training certificate as required by section 3703; or

(10) committing any act that is a reasonable ground for disciplinary action pursuant to this chapter if the act is associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be a reasonable ground for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

(b) A chief plant operator may be subject to the disciplinary actions specified in ~~subsection~~ subdivision (a) for willfully or negligently failing to ensure that an operator-in-training is ~~directly~~ supervised directly as required by section ~~3707~~ 3682.

Authority: Sections 1058 and 13627, Water Code.
Reference: Sections 185, 13260, and 13627, Water Code; and Title IV, 33 USC, Section 1342 (Clean Water Act).

§ 3711. Appeals of Discretionary Decisions Made by the Office of Operator Certification.

(a) ~~Applicants, or certificate holders may appeal~~ The following discretionary decisions made by the Office of Operator Certification ~~or Office of Enforcement regarding~~ are final and conclusive unless the applicant requests the Deputy Director of the Division to review the discretionary decision made by the Office of Operator Certification: 1) denial of an application, for an operator, provisional operator, or operator-in-training certificate or the renewal or reinstatement of an operator or operator-in-training certificate; 2) denial of an application for a contract operator registration or a contract operator credential; 3) denial of an application for an exemption or the renewal of an exemption, or the revocation of an exemption for a Class I wastewater treatment plant; 4) denial of a request for approval to use a lone operator or a provisional operator; or 5) the results of an examination~~, or disciplinary action taken~~.

(b) Appeals ~~must~~ shall be in writing and ~~postmarked within 30 calendar~~ shall be received by the Deputy Director of the Division within 45 days of ~~receipt of the Office of Operator Certification or Office of Enforcement decision. Appellants must include with their requests, all documents and evidence to be considered by division staff in its review of the appeal~~ the date of the decision being appealed.

(c) An appeal shall contain:

(1) the name, address, telephone number, and email address (if available) of the appellant;

(2) a copy of the decision that the appellant is appealing;

(3) a full and complete statement of the reasons why the decision being appealed is erroneous, inappropriate, or improper; and

(4) the specific action that the appellant seeks from the Deputy Director of the Division.

(d) The appeal shall be sent to the Deputy Director of the Division, with a copy sent to the Office of Operator Certification.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ ~~3712~~3711.1. Action by the Deputy Director of the Division.

~~After consideration of an appeal and within 30 calendar days of receipt of the appeal, Office of Operator Certification staff or Office of Enforcement staff shall make a recommendation to the~~

~~division chief. The division chief shall review the evidence and the Office of Operator Certification or Office of Enforcement recommendation and shall make a determination within 30 calendar days of receipt of the recommendation. The determination shall be in writing, labeled as the division chief's determination, and shall inform the appellant that the determination is final and conclusive unless the appellant petitions the board for review in accordance with the provisions of Section 3713.~~

(a) The Office of Operator Certification may file a recommendation regarding an appeal with the Deputy Director of the Division within 30 days of receiving a copy of the appeal. The Deputy Director may allow additional time for the Office of Operator Certification to file a recommendation. The Office of Operator Certification shall provide a copy of its recommendation to the appellant.

(b) The Deputy Director of the Division shall review the evidence and any recommendation filed by the Office of Operator Certification and shall make a Final Division Decision within 90 days of receipt of the appeal. The Final Division Decision shall inform the appellant that the decision is final and conclusive unless the appellant petitions the State Water Board for review in accordance with the provisions of section 3711.2.

(c) The Deputy Director of the Division may at any time, on the Deputy Director's own motion, issue a Final Division Decision.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

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§ ~~3713~~3711.2. Petition for Review of a Final Division Decision by the State Water Board.

(a) An ~~appellant who wishes to appeal the division chief's determination~~ applicant may petition the ~~board~~ State Water Board for ~~a~~ review of a Final Division Decision. The petition ~~must~~ shall be in writing and ~~postmarked~~ shall be received no later than 30 ~~calendar~~ days after the date of ~~receipt of~~ the ~~determination by the appellant~~ Final Division Decision.

(b) A petition for review by the ~~board~~ State Water Board shall contain:

(1) the name, ~~and~~ address, telephone number, and email address (if available) of the ~~appellant~~ petitioner;

(2) ~~the appellant's argument against the Officer of Operator Certification or Office of Enforcement decision and the division chief's determination~~ a copy of the Final Division Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement by the petitioner of the reasons why the Final Division Decision is erroneous, inappropriate, or improper; and

(~~3~~4) the specific action ~~which the appellant~~ that the petitioner seeks from the ~~board~~ State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Deputy Director of the Division.

~~(c) The appellant may make a written request for a hearing for the purpose of presenting evidence not considered by the division or for presenting oral arguments or both. Any request to present evidence not provided to the division must include a statement as to why the evidence was not presented to the division.~~

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Deputy Director of the Division, the request must include a statement that additional evidence is available that was not presented to the Deputy Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Division Decision, except that if the 30th day following the date of the Final Division Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§3712. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) A proposed disciplinary action letter is final and conclusive unless the applicant, operator, provisional operator, or operator-in-training being disciplined requests that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be in writing and shall be received by the Director of the Office of Enforcement within 45 days of the date of the proposed disciplinary action letter.

(c) A request for reconsideration shall contain:

(1) the name, address, telephone number, and email address (if available) of the requestor;

(2) a copy of the proposed disciplinary action letter;

(3) a full and complete statement of the reasons why the proposed disciplinary action letter is erroneous, inappropriate, or improper; and

(4) the specific action that the requestor seeks from the Director of the Office of Enforcement.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.1. Action by the Director of the Office of Enforcement.

(a) The Director of the Office of Enforcement shall review the evidence and make a Final Office of Enforcement Decision within 90 days of receipt of the request for reconsideration. The Final Office of Enforcement Decision shall inform the requestor that the decision is final and conclusive unless the requestor petitions the State Water Board for review in accordance with the provisions of section 3712.2.

(b) The Director of the Office of Enforcement may at any time, on the Director's own motion, issue a Final Office of Enforcement Decision.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3712.2. Petition for Review of a Final Office of Enforcement Decision by the State Water Board.

(a) The applicant, operator, provisional operator, or operator-in-training being disciplined may petition the State Water Board for a review of the Final Office of Enforcement Decision. The petition shall be in writing and shall be received no later than 30 days after the date of the Final Office of Enforcement Decision.

(b) A petition for review by the State Water Board shall contain:

(1) the name, address, telephone number, and email address (if available) of the petitioner;
(2) a copy of the Final Office of Enforcement Decision that the petitioner is requesting the State Water Board to review;

(3) a full and complete statement of the reasons why the Final Office of Enforcement Decision is erroneous, inappropriate, or improper; and

(4) the specific action the petitioner seeks from the State Water Board.

(c) The petition shall be sent to the State Water Board Chair, with copies sent to the Chief Counsel of the State Water Board, and the Director of the Office of Enforcement.

(d) If the petitioner requests that the State Water Board consider evidence not previously provided to the Director of the Office of Enforcement, the request must include a statement that additional evidence is available that was not presented to the Director. The request to present additional evidence shall include a copy of the evidence and a detailed statement of the nature of the evidence and of the facts to be proved. The request also shall provide a detailed explanation of the reasons why the evidence could not have been submitted

previously. A request to consider additional evidence shall be submitted at the time the petition is filed or as soon as the evidence becomes available.

(e) The petitioner may request that the State Water Board conduct a hearing to consider testimony, other evidence, and argument. The request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

(f) Service of a petition may be made by U.S. mail, hand delivery, facsimile with hard copy to follow, or by e-mail by prior arrangement with hard copy to follow. [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition shall be received by the State Water Board no later than 5:00 p.m., 30 days following the date of the Final Office of Enforcement Decision, except that if the 30th day following the date of the Final Office of Enforcement Decision falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board no later than 5:00 p.m. on the first business day following.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ ~~3714~~3713. Defective Petitions.

~~Within 30 calendar days of receipt by the board of a petition which does not comply with the provisions of Section 3713, the board shall notify the appellant in writing in what respect the petition is defective and that an amended petition must be postmarked within 30 calendar days of receipt of notice of the deficiency. If a properly amended petition is not postmarked within 30 calendar days, the petition shall be dismissed unless the appellant can show good cause for an extension of time.~~

(a) Upon receipt of a petition that does not comply with section 3711.2 or 3712.2 of this chapter, the State Water Board shall notify the petitioner of the manner in which the petition is defective and the time within which an amended petition may be filed.

(b) If a properly amended petition is not received by the State Water Board within the time allowed, the petition shall be dismissed unless good cause is shown for an extension of time.

Authority: Section 1058, Water Code.
Reference: Sections 13627 ~~and 13628~~, Water Code.

§ ~~3715~~3714. Action by the State Water Board on a Petition.

(a) ~~After consideration of the appellant's petition and the division chief's determination, the board shall~~ The State Water Board may:

(1) at any time, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the ~~consider the~~ petition ~~if it does not meet the requirements of Sections 3713 and 3714~~ fails to raise substantial issues that are appropriate for review; ~~or,~~

(2) deny the ~~appellant's~~ petition upon a finding that the ~~division chief's determination~~ Final Division Decision or Final Office of Enforcement Decision was appropriate and proper; ~~or,~~

(3) set aside or modify the ~~division chief's determination~~ Final Division Decision or Final Office of Enforcement Decision; or~~,~~

(4) ~~direct the division to take other appropriate action~~ take any other action the State Water Board deems appropriate.

(b) The Executive Director may, on behalf of the State Water Board, refuse to review the Final Division Decision or Final Office of Enforcement Decision if the petition fails to raise substantial issues that are appropriate for review or deny the petition upon a finding that the Final Division Decision or Final Office of Enforcement Decision was appropriate and proper.

(b~~c~~) ~~Before taking final action, the board may, in its discretion,~~ Except where an evidentiary hearing is required by law, the State Water Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both before taking final action on the petition.~~, or the board may provide for an informal meeting between the appellant, division staff, and one or more members of the board and other persons as the board deems suitable for the purpose of attempting to resolve the dispute between the appellant and the division.~~

(d) If a hearing is ~~scheduled~~ held, ~~the board shall mail a notice to the appellant indicating the date, time, and place of the hearing and of the issues to be considered. The hearing shall be conducted in a manner deemed most suitable for securing all relevant evidence without~~

~~unnecessary delay~~ it shall be conducted in accordance with California Code of Regulations, title 23, chapter 1.5, article 2.

Authority: Section 1058, Water Code.
Reference: Sections 13627~~ and 13628~~, Water Code.

§ 3715. Workshop Meeting.

The State Water Board may discuss a proposed order in response to a petition for review of a Final Division Decision or Final Office of Enforcement Decision in a public workshop meeting prior to formal action at a board meeting. Comments may be submitted in writing before the workshop meeting. At the workshop meeting, the State Water Board may invite comments on the proposed order from interested persons. All comments shall be based solely upon evidence contained in the record or upon legal argument.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

§ 3716. Formal Disposition.

(a)(1) Except as provided in subdivision (b), unless denied by the Executive Director pursuant to section 3714(b), formal disposition by the State Water Board of any pending petition will be taken at a regularly or specially scheduled State Water Board meeting. At the meeting the State Water Board may invite comments on the matter from interested persons. These comments shall be based solely upon evidence contained in the record or legal argument.

(2) No new evidence shall be submitted at the State Water Board meeting. Written arguments submitted after the workshop meeting shall be limited to revisions to the proposed order that was considered by the State Water Board at the workshop meeting. Such written arguments shall be filed at least two working days prior to the State Water Board meeting, unless otherwise specified by the State Water Board.

(b) This section does not limit the authority of the Executive Director to issue an order by settlement to resolve a petition on behalf of the State Water Board.

Authority: Section 1058, Water Code.
Reference: Section 13627, Water Code.

~~§ 3716. Appeal of Division Processing Times.~~

~~(a) The Office of Operator Certification shall process applications for examination and certification within the time limits prescribed by this chapter. Persons whose applications for examination or certification have not been processed within the time limits prescribed by these regulations, may appeal to the board for a refund of fees in accordance with the provisions of Section 3711. If the board finds that the time limits have not been met, and the Office of Operator Certification has not shown good cause why the time limits have not been met, the board shall direct the Office of Operator Certification to reimburse all fees paid by the appellant in connection with the pending application for examination or certification.~~

~~(b) The Office of Operator Certification shall have good cause for exceeding the time limits when:~~
~~(1) the number of applications to be processed exceeds by 15 percent the number processed in the same calendar quarter of the preceding year.~~

~~(2) the Office of Operator Certification must rely on another public or private entity for all or part of the processing and delay is caused by the other entity.~~

~~(3) the delay is caused by a delay or omission of the applicant.~~

~~Authority: Section 1058, Water Code.~~
~~Reference: Sections 13627 and 13628, Water Code; and Sections 15374-15378, Government Code.~~

Article ~~8~~10. Fees

§ 3717. Operator, Provisional Operator, and Operator-In-Training Fees.

(a) Except ~~as provided by Section 3716, application~~ for examination fees that are refundable pursuant to section 3700(e), all fees are nonrefundable.

~~(a) Application fee for certification as an operator-in-training:~~
~~Grade I: $ 95~~
~~Grade II: 130~~
~~Grade III: 170~~
~~Grade IV: 190~~
~~Grade V: 190~~

(b) Application fees for an examination are:

Grade I:	~~$40~~ $70
Grade II:	~~50~~ $90
Grade III:	~~70~~ $130
Grade IV:	~~80~~ $140
Grade V:	~~80~~ $140

(c) Examination fees are:

Grade I:	~~$40~~ $70
Grade II:	~~50~~ $90
Grade III:	~~125~~ $220
Grade IV:	~~170~~ $300
Grade V:	~~170~~ $300

(d) The provisional operator certification fee is $170. Operator and operator-in-training certification fees are:

Grade I:	~~$95~~ $170
Grade II:	~~130~~ $230
Grade III:	~~170~~ $300
Grade IV:	~~190~~ $340
Grade V:	~~190~~ $340

(e) Operator and operator-in-training certification renewal fees are:

Grade I:	~~$95~~ $170
Grade II:	~~130~~ $230
Grade III:	~~170~~ $300
Grade IV:	~~190~~ $340
Grade V:	~~190~~ $340

(f) ~~Reinstatement fee~~ The reinstatement fee for all grades levels is ~~$50~~ $100.

(g) ~~Replacement fee~~ The fee for replacing a lost, stolen, damaged, or destroyed certificate is ~~$20~~ $50.

(h) ~~Reciprocal fee. In addition to the application and certification fees, applicants for reciprocal certification shall pay a fee of $50 to cover the cost of verifying and evaluating out-of-state experience and reviewing out-of-state examinations.~~ Applicants for an examination waiver shall pay an examination waiver fee of $100 in addition to the certification fee.

Authority: Sections 1058 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

Article ~~9~~11. Advisory Committee

§ 3718. Advisory Committee Membership and Responsibilities.

~~(a) The advisory committee appointed pursuant to Section 13631 of the Water Code shall consist of nine members. The members of the committee in office on January 1, 1992 shall continue as members of the advisory committee, and their terms shall expire as follows:~~

~~1) On June 30, 1992, one representative from a statewide organization representing local sanitation agencies; one representative from a statewide organization representing wastewater treatment plant operators and supervisors; one representative from a university or state college; and, one representative from an organized labor union which represents wastewater treatment plant operators.~~

~~2) On June 30, 1994, the remaining five members whose terms are scheduled to expire on June 30, 1993.~~

(a) The State Water Board shall appoint an advisory committee of nine members to assist it in carrying out its responsibilities under this chapter. The committee shall consist of:

(1) two operators who are employed at a wastewater treatment plant and who are members of a statewide organization representing operators;

(2) two individuals from statewide organizations representing municipalities, including counties or private utility wastewater treatment plants;

(3) two individuals from statewide organizations representing local sanitation agencies, other than agencies specified in (2) above;

(4) one professional engineer specializing in sanitary engineering;

(5) one individual from a university or a state university school or division of engineering; and

(6) one member of an organized labor union that represents operators.

(b) ~~Thereafter, all members~~ Members of the advisory committee shall serve for ~~a period of~~ four years at which time they shall be eligible for reappointment.

(c) The committee shall meet when necessary to review ~~all proposed regulations~~ and make recommendations to the ~~board~~ State Water Board ~~prior to adoption of any regulations or changes therein and approve any course for operator training~~ regarding all proposed

regulations and to assist the State Water Board in carrying out its responsibilities under this chapter.

Authority: Sections 1058 and 13631, Water Code.
Reference: Sections 13631, 13632, and 13633, Water Code.

Article ~~10~~12. Wastewater Treatment Plant Contract Operators

§ 3719. Contract Operator Registration Requirement.

~~No person or entity shall enter a contract to operate a wastewater treatment plant unless that person or entity has been registered by the division as a contract operator. The registration authorizes the contract operator to operate one or more wastewater treatment plants. All wastewater treatment plant operators employed by the contract operator must be certified according to the provisions of this chapter.~~

Within 30 days after entering into a contract to operate a wastewater treatment plant, a contract operator must submit an application for contract operator registration to the Office of Operator Certification. The contract operator must obtain a contract operator credential for each wastewater treatment plant under contract. All operators employed by the contract operator shall be certified according to the provisions of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.10~~3719.1. Term of Contract Operator Registration.

~~Contract~~ A contract operator registrations shall be valid for one year from the ~~date of~~ issue date.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.11~~3719.2. Application for Contract Operator Registration.

(a) ~~Application Content~~ An application for a contract operator registration ~~as a contract operator~~ shall include ~~but not be limited to~~:

(1) the applicant's name, ~~street addess~~ mailing and business addresses, and telephone number ~~of the person or entity contracting to operate the wastewater treatment plant(s)~~;

(2) the name, address, and telephone number~~, if known, of the wastewater treatment plant(s) to be operated and the duration of each contract~~ of the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant to be operated, the name, ~~and grade of each wastewater treatment plant operator employed at the plant(s)~~ business address, and telephone number of the wastewater treatment plant; the name of the chief plant

operator(s); the name of the Regional Water Board overseeing the wastewater treatment plant; and the duration of each contract;

(4) the name and grade level of ~~the chief plant operator for each wastewater treatment plant to be operated~~ each wastewater treatment plant operator employed at the wastewater treatment plant(s);

(5) the original signature of the person authorized by the contract operator to ~~enter~~ sign the contract(s);

(6) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and

(~~6~~7) the registration fee as prescribed ~~by~~ in section ~~3719.19~~ 3719.16.

~~(b) Application submittal - For persons operating wastewater treatment plants on or before the effective date of these regulations, applications for registration shall be postmarked within 60 calendar days after the effective date of the regulations. If a contract to operate a wastewater treatment plant is entered into after the effective date of these regulations and the contract operator is not already registered, the application for registration shall be submitted and the registration issued before contract operations begin.~~

(c~~b~~) ~~Division review of application and notice to applicant - The division shall review applications for registration and~~ Within 30 days of receipt of the application, the Office of Operator Certification shall notify the applicants in writing ~~within 30 calendar days of receipt~~ whether the application is complete or deficient. If there is a deficiency, the ~~division~~ Office of Operator Certification shall inform the applicant ~~by telephone or letter~~ in writing of the specific ~~information required~~ requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.12~~3719.3. ~~Issuance/Content of Certificate of Registration~~ Issuance of Contract Operator Registration and Contract Operator Credential.

(a) ~~Content of certificate of registration~~ – The ~~certificate of~~ contract operator registration issued by the ~~division~~ Office of Operator Certification shall ~~be in the form of a wall certificate and shall contain but not be limited to~~ include:

(1) the applicant's name, business address, and registration number;

(2) the issue and expiration dates of the registration;

(3) the State Water Board seal; ~~AND,~~

(4) the name, "State Water Resources Control Board," and

(45) the signature of a State Water Board member or ~~member~~ designee.

(b) ~~Issuance of certificate of registration.~~ ~~Unless otherwise specified~~ Except as provided in ~~subsection~~ subdivision (c), within 30 ~~calendar~~ days of receipt of a complete ~~and approved~~ application for registration, the ~~division~~ Office of Operator Certification shall issue a contract operator ~~certificate of~~ registration to the contract operator or inform the applicant of the reason the registration will not be issued. The ~~division~~ Office of Operator Certification also shall ~~also~~ issue one ~~wall certificate to the~~ contract operator credential to the contract operator for each wastewater treatment plant operated. The ~~certificate~~ contract operator credential shall include the name of the wastewater treatment plant to be operated in addition to the ~~items in subsection~~ information required in subdivision (a)~~(1) through (4) above~~. ~~Certificates~~ Contract operator registrations and contract operator credentials are ~~not transferrable~~ nontransferable.

(c) ~~Refusal to issue a certificate of registration.~~ The ~~division~~ Office of Operator Certification may refuse to issue a ~~certificate of~~ contract operator registration if it ~~has determined~~ determines that the applicant has committed ~~any act which is grounds for disciplinary action as specified in section 3710 of Article 7 or section 3719.17 of this article~~ any act in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.13~~3719.4. Renewal of Contract Operator Registration.

(a) ~~Division notice of renewal date.~~ At least 60 ~~calendar~~ days ~~prior to~~ before the expiration of a contract operator registration, the ~~division~~ Office of Operator Certification shall ~~provide~~ send a written notification of the expiration date to the ~~registration holder~~ contract operator ~~at his or her address of record~~. Failure to receive a notice of ~~renewal~~ the expiration date does not relieve the ~~registration holder~~ contract operator from the responsibility of renewing a registration on or before the expiration date.

(b) ~~Content of renewal application.~~ An application for renewal of a contract operator registration shall include~~, but not be limited to~~:

(1) the contract operator's name, mailing and business ~~address~~ addresses, telephone number, and registration number ~~of the person or entity contracting to operate the wastewater treatment plant(s)~~;

(2) the name, address, and telephone number of ~~all wastewater treatment plants operated and the duration of each contract~~ the owner of each wastewater treatment plant under contract;

(3) for each wastewater treatment plant operated, the name, business address, and telephone number of the wastewater treatment plant, the name of the chief plant

operator, the name of the Regional Water Board overseeing the wastewater treatment plant, and the duration of each contract;

(~~3~~4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant(s);

~~(4) the name and grade of the chief plant operator for each wastewater treatment plant to be operated;~~

(5) the original signature of the person authorized by the contract operator to ~~enter~~ sign the contract(s); ~~AND~~ and

(6) the renewal fee as prescribed in section ~~3719.19~~ 3719.16.

(c) ~~Renewal application submittal.~~ A ~~registration holder~~ contract operator who wishes to renew a contract operator registration shall submit to the ~~division~~ Office of Operator Certification a completed application as specified in ~~subsection~~ subdivision (b). The application for renewal shall be ~~postmarked~~ received no later than 30 ~~calendar~~ days before the expiration of the registration. If the application for renewal is ~~postmarked later~~ received less than 30 ~~calendar~~ days before the expiration date, the ~~registration holder~~ contract operator shall pay a late fee ~~in an amount~~ as prescribed ~~by~~ in section ~~3719.19~~ 3719.16.

(d) ~~Division review of renewal application and notice to applicant. The division shall review the renewal application and shall notify the registration holder within~~ Within 30 ~~calendar~~ days of receipt of the application for renewal, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the ~~division~~ Office of Operator Certification shall inform the ~~registration holder~~ contract operator ~~by telephone or letter~~ in writing of the specific ~~information~~ requirements necessary to complete the application for renewal. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.14~~3719.5. ~~Issuance/Content of Renewed Certification of Registration~~ Issuance of Renewed Contract Operator Registration and Contract Operator Credential.

(a) ~~Content of renewed certificate of registration.~~ A renewed contract operator registration shall ~~be in the form of a wall certificate and shall contain, but not be limited to~~ include:

(1) the ~~registration holder's~~ contract operator's name, business address, and registration number;

(2) the ~~original~~ issue date of the initial registration and ~~next~~ expiration date of the renewal registration;

(3) the State Water Board seal;

(4) the name, "State Water Resources Control Board;" and

(45) the signature of a State Water Board member or ~~member~~ designee.

(b) ~~Issuance of renewed certificate of registration.~~ ~~Within~~ Except as provided in subdivision (c), within 30 ~~calendar~~ days of the receipt of a complete ~~and approved renewal~~ application for renewal, the ~~division~~ Office of Operator Certification shall issue a ~~certificate of~~ renewed contract operator registration or inform the applicant of the reason the ~~certificate~~ registration will not be issued. The ~~division~~ Office of Operator Certification shall ~~also~~ issue one ~~wall certificate to the~~ contract operator credential to the contract operator for each wastewater treatment plant operated. The ~~certificate~~ credential shall include the name of the wastewater treatment plant operated in addition to the requirements in ~~subsection~~ subdivision (a)~~(1) through (4) above~~ for a renewed contract operator registration. Contract operator registrations and contract operator credentials are nontransferable.

(c) ~~Refusal to renew registration. The registration shall not be renewed until any unpaid fees or fines have been paid.~~ The ~~division~~ Office of Operator Certification may refuse to renew a contract operator registration if it ~~has determined~~ determines that the applicant has operated a wastewater treatment plant ~~while the~~ with an expired contract operator registration ~~was expired~~ or has committed any other act ~~which is grounds for disciplinary action pursuant to section 3710 of Article 7 or section 3719.17 of this article~~ in violation of this chapter.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.6. Application for Additional Contract Operator Credential.

(a) Within 30 days after entering into a contract to operate a wastewater treatment plant not included in the original application, a contract operator shall submit an application to the Office of Operator Certification requesting an additional contract operator credential. The application shall include the following:

(1) the contract operator's name, mailing and business addresses, telephone number, and registration number;

(2) the name, address, telephone number, and registration number of the owner of the wastewater treatment plant;

(3) the name, address, telephone number, and chief plant operator of the wastewater treatment plant, the Regional Water Board overseeing the wastewater treatment plant, and the duration of the contract;

(4) the name and grade level of each wastewater treatment plant operator employed at the wastewater treatment plant;

(5) the original signature of the person authorized by the contract operator to enter the contract; and

(6) the fee for issuing a new contract operator credential as prescribed in section 3719.16.

(b) Within 30 days of receipt of an application for an additional contract operator credential, the Office of Operator Certification shall issue a contract operator credential in accordance with section 3719.3.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.15~~3719.7. Replacement of ~~Certificate of~~ Contract Operator Registration or Contract Operator Credential.

~~A certificate of registration which has been lost, stolen, or destroyed may be replaced by the division. The replacement fee as prescribed by section 3719.19 must be submitted with a request for replacement.~~

A lost, stolen, damaged, or destroyed contract operator registration or contract operator credential may be replaced by the Office of Operator Certification if the registration or credential holder signs and submits a statement explaining the circumstances of the loss, theft, damage, or destruction of the registration or credential and submits the replacement fee prescribed in section 3719.16.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.8. Unpaid Fees and Administrative Civil Liability.

The Office of Operator Certification shall not issue, renew, or replace a contract operator registration or contract operator credential if the contract operator has not paid all fees and administrative civil liability owed to the State Water Board.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.16~~3719.9. Posting ~~the Certificate of Registration~~ Contract Operator Credentials.

A valid, unexpired ~~certificate of registration~~ contract operator credential shall be displayed ~~and clearly visible~~ in an area accessible to the public at each wastewater treatment plant where the ~~registration holder~~ contract operator has a contract to provide services. If no area is accessible to the public, the contract operator credential shall be posted in an accessible area at the wastewater treatment plant owner's headquarters.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.10. Reporting Requirements for Contract Operators.

(a) A contract operator shall notify the Office of Operator Certification in writing within 30 days of any final disciplinary action by the contract operator against an operator, provisional

operator, or operator-in-training. Disciplinary action includes reprimanding or placing on probation an operator, provisional operator, or operator-in-training, or suspending, demoting, or discharging an operator, provisional operator, or operator-in-training for performing, or allowing or causing another to perform, any act in violation of this chapter. The notice shall include the name and certificate number of the operator, provisional operator, or operator-in-training, the specific violations, and the disciplinary action taken by the contract operator.

(1) Except as provided in (2) below, a notice regarding final disciplinary action received from a contract operator shall be retained in State Water Board files for three years.

(2) If the State Water Board imposes administrative civil liability as set forth in section 3709 or takes disciplinary action pursuant to section 3710 in response to the conduct which is the basis for the notice, then the notice shall remain in State Water Board files for 10 years.

(b) A contract operator shall notify the Office of Operator Certification within 30 days of the date a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes final action: to discipline the contract operator; to impose administrative civil liability; or to impose civil or criminal liability.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code

§ 3719.11. Imposition of Administrative Civil Liability.

(a) The civil liability described in subdivision (b) or (c) may be imposed administratively in accordance with article 2.5 (commencing with section 13323) of chapter 5 of division 7 of the Water Code.

(b) The State Water Board may impose administrative civil liability in an amount not to exceed $5,000 for each violation upon any person for any of the following acts:

(1) failing to use reasonable care in the management or operation of the wastewater treatment plant;

(2) willfully or negligently causing or allowing a violation of waste discharge requirements; or

(3) submitting false or misleading information to the State Water Board on an application for a registration.

(c) The State Water Board may impose administrative civil liability in an amount not to exceed $1,000 for each day of the violation upon any person for failure to comply with section 3719.

Authority: Section 13627.3, Water Code
Reference: Sections 13323, 13627.1, 13627.2, 13627.3, and 13627.4, Water Code

§ ~~3719.17~~3719.12. ~~Prohibited Acts and~~ Grounds for Disciplinary Action.

~~Grounds for discipline.~~ The State Water Board may refuse to grant, or may suspend or revoke, ~~any~~ a registration for good cause, including~~, but not limited to~~ any of the following reasons:

(a) willfully or negligently violating, causing, or allowing ~~the~~ a violation of ~~Articles 1 through 10 of Chapter 26~~ this chapter;

(b) without regard to intent or negligence, ~~operating or~~ allowing the operation of a wastewater treatment plant by a person who is not certified at ~~the~~ a grade level necessary for the position or whose certificate has expired;

(c) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, ~~and current~~ unexpired registration;

(1) It has been no more than 30 days after the contract operator entered a contract to operate a wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration to the Office of Operator Certification within 30 days of entering into a contract to operate a wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(d) except as provided in (1) or (2) below, operating a wastewater treatment plant without a valid, unexpired contract operator credential;

(1) It has been no more than 30 days after the contract operator entered a contract to operate the wastewater treatment plant; or

(2) The contract operator submitted an application for contract operator registration or an application for an additional contract operator credential to the Office of Operator Certification within 30 days of entering into a contract to operate the wastewater treatment plant and the Office of Operator Certification has not yet taken action on that application.

(~~d~~e) submitting false or misleading information on any document provided to ~~the division~~ State Water Board staff including applications for registration or registration renewal, or providing false or misleading information to State Water Board staff during an investigation of a possible violation of this chapter;

(~~e~~f) using fraud or deception in the course of contracting to operate a wastewater treatment plant, including~~, but not limited to,~~ submitting false or misleading documents to the owner~~(s)~~ of ~~the~~ any wastewater treatment plant under contract;

(~~f~~g) failing to use reasonable care or good judgment while operating a wastewater treatment plant;

(~~g~~h) willfully or negligently causing or ~~violating or~~ allowing ~~the~~ a violation of ~~appropriate~~ waste discharge requirements ~~as prescribed by Article 4 of Chapter 4 of Division 7 of the Water Code, or the violation of Section 402 of the Clean Water Act which contains the provisions of the National Pollutant Discharge Elimination System permit.~~;

(i) failing to notify, as required by section 3719.10(b), the Office of Operator Certification within 30 days of the date that a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, takes one of the following final actions: discipline by a certifying body; imposition of administrative civil liability; or imposition of civil or criminal liability;

(j) without regard to intent or negligence, allowing the operation of a wastewater treatment plant by a person who has not posted an operator or operator-in-training certificate as required by section 3703 or failing to post the contract operator credential as required by section 3719.9; or

(k) committing any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant and the act would be good cause for a disciplinary action pursuant to this chapter if associated with performing duties at a wastewater treatment plant.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ ~~3719.18~~3719.13. Appeals of Discretionary Decisions made by the Office of Operator Certification.

(a) ~~Applicants~~ An applicant or contract operator ~~registration holders~~ may appeal discretionary decisions made by the Office of Operator Certification ~~or Office of Enforcement~~ regarding denial of an application for registration~~,~~ or registration renewal~~, or disciplinary action taken~~.

(b) Appeals shall be processed in accordance with the provisions of sections 3711 and ~~3712~~ 3711.1 ~~through 3716~~ of ~~Article~~ article ~~7~~ 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.

§ 3719.14. Requests for Reconsideration of Proposed Disciplinary Action Letters.

(a) An applicant or contract operator may request that the Director of the Office of Enforcement reconsider a proposed disciplinary action letter issued by the Office of Enforcement.

(b) Requests for reconsideration shall be processed in accordance with the provisions of sections 3712 and 3712.1 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ 3719.15. Petitions.

(a) An applicant or contract operator may petition the State Water Board for review of a Final Division Decision or a Final Office of Enforcement Decision.

(b) Petitions shall be processed in accordance with the provisions of sections 3711.2, 3712.2, and 3713 through 3716 of article 9.

Authority: Sections 1058 and 13627.3, Water Code.
Reference: Section 13627.3, Water Code.

§ ~~3719.19~~3719.16. Wastewater Treatment Plant Contract Operator Registration Fees.

~~Contract operator fees are as follows:~~

(a) ~~Initial Registration Fee -~~The initial contract operator registration fee is ~~$100~~ $350. For each operator employed in California by the contract operator, ~~in California, the contract operator~~ shall pay a fee of ~~$25 shall also be paid by the contract operator~~ $75 up to a maximum of ~~$500~~ $1,500 in combined contract operator registration fees and employee registration fees.

(b) ~~Renewal Fee -~~The annual renewal fee is ~~$100~~ $350 plus ~~$25~~ $75 for each ~~person~~ operator employed in California by the contract operator ~~in California~~ up to a maximum of ~~$500~~ $1,500 in combined contract operator registration renewal fees and employee registration fees.

(c) ~~Late fee - Each contract operator who fails to have a renewal application postmarked at least 30 days before expiration shall pay a late fee of $50 in addition to the renewal fee.~~ If the renewal application is not received by the Office of Operator Certification at least 30 days before the expiration of the contract operator registration, the contract operator shall pay a late fee of $100 in addition to the renewal fee.

(d) ~~Replacement Fee -~~The fee for replacing a lost, stolen, damaged, or destroyed ~~certificates~~ contract operator registration or contract operator credential or for issuing an additional contract operator credential pursuant to section 3719.6 is ~~$30~~ $50.

Authority: Sections 1058 and ~~13627.2~~13627.3, Water Code.
Reference: Section ~~13627.2~~13627.3, Water Code.