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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]** ( Division 104 added by Stats. 1995, Ch. 415, Sec. 6. )

**PART 1. ENVIRONMENTAL HEALTH PERSONNEL [106500 - 107175]** ( Part 1 added by Stats. 1995, Ch. 415, Sec. 6. )

**CHAPTER 4. Professional Certification [106600 - 107175]** ( Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6. )

**ARTICLE 3. Operator Certification Program: Water Treatment Plants and Water Distribution Systems [106875 - 106910]** (

Heading of Article 3 amended by Stats. 1999, Ch. 755, Sec. 1. )

**106875.** (a) The state board shall examine and certify persons as to their qualifications to operate water treatment plants. The certification shall indicate the classification of water treatment plant that the person is qualified to operate.

(b) The state board shall examine and certify persons as to their qualifications to operate a water distribution system. The certification shall indicate the classification of distribution system that the person is qualified to operate.

(Amended by Stats. 2016, Ch. 305, Sec. 1. (AB 2890) Effective January 1, 2017.)

**106876.** As used in this article, unless the context otherwise requires, the following definitions apply:

(a) "Community water system" has the same meaning as defined in Section 116275.

(b) "Local primacy agency" has the same meaning as defined in Section 116275.

(c) "Nontransient noncommunity water system" has the same meaning as defined in Section 116275.

(d) "Operates a water distribution system" means actions or decisions to control the quality or quantity of drinking water in a water distribution system and includes both of the following:

(1) Supervision of other persons operating a water distribution system.

(2) Any activity designated by the state board, in its regulations to implement this article, as an activity that may only be performed by a person with a water distribution operator certificate.

(e) "Operates a water treatment plant" means actions or decisions to control the performance of one or more drinking water treatment processes and includes both of the following:

(1) Supervision of other persons operating a water treatment plant.

(2) Any activity designated by the state board, in its regulations to implement this article, as an activity that may only be performed by a person with a water treatment operator certificate.

(f) "Wastewater certificate" has the same meaning as defined in Section 13625 of the Water Code.

(g) "Wastewater treatment plant" has the same meaning as defined in Section 13625 of the Water Code.

(h) "Water distribution operator certificate" means a certificate of competency issued by the state board stating that a person has met the requirements to be certified to operate a water distribution system for a specified grade level.

(i) "Water distribution system" has the same meaning as defined in Section 116275.

(j) "Water recycling treatment plant" has the same meaning as defined in Section 13625 of the Water Code.

(k) "Water treatment operator certificate" means a certificate of competency issued by the state board stating that a person has met the requirements to be certified to operate a water treatment plant for a specific classification and grade level.

(l) "Water treatment plant" has the same meaning as defined in Section 116275.

(m) "Water treatment process" means a process that improves the physical, chemical, biological, or radiological quality of water in order to render the water acceptable for use as drinking water and includes all of the following:

- (1) Aeration.
- (2) Blending.
- (3) Chemical addition.
- (4) Contaminant removal.
- (5) Conventional treatment.
- (6) Demineralization.
- (7) Disinfection.
- (8) Filtration.
- (9) Fluoridation.
- (10) Ion exchange.
- (11) pH adjustment.
- (12) Pre- and post-treatment.
- (13) Reverse osmosis.

*(Added by Stats. 2016, Ch. 305, Sec. 3. (AB 2890) Effective January 1, 2017.)*

**106877.** (a) The state board may suspend, revoke, or refuse to grant or renew any water treatment operator certificate to operate a water treatment plant or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

- (1) The submission of false or misleading information on an application for a water treatment operator certificate or an examination for a water treatment operator certificate.
- (2) The use of fraud or deception in the course of operating a water treatment plant or a water recycling treatment plant.
- (3) The failure to use reasonable care or judgment in the operation of a water treatment plant or a water recycling treatment plant.
- (4) The inability to perform operating duties properly in a water treatment plant or a water recycling treatment plant.
- (5) Engaging in dishonest conduct during an examination for a water treatment operator certificate.
- (6) The conduct of willful or negligent acts that cause or allow the violation of the federal Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code), the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12), or the regulations and standards adopted pursuant to either act.
- (7) Willfully or negligently violating or causing or allowing the violation of waste discharge requirements or permits issued pursuant to the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) or the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) while operating a water recycling treatment plant.

(b) The state board may suspend, revoke, or refuse to grant or renew any water distribution operator certificate to operate a water distribution system or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

- (1) The submission of false or misleading information on an application for a water distribution operator certificate or an examination for a water distribution operator certificate.
- (2) The use of fraud or deception in the course of operating a water distribution system.
- (3) The failure to use reasonable care of judgment in the operation of a water distribution system.
- (4) The inability to perform operating duties properly in a water distribution system.
- (5) Engaging in dishonest conduct during an examination for a water distribution operator certificate.

(6) The conduct of willful or negligent acts that cause or allow the violation of the federal Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code), the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12), or the regulations and standards adopted pursuant to either act.

(c) Prior to suspension or revocation of a valid operator certificate, the state board shall provide the certificate holder with an opportunity for a hearing before the state board, in accordance with rules adopted pursuant to Section 185 of the Water Code.

*(Added by renumbering Section 106876 by Stats. 2016, Ch. 305, Sec. 2. (AB 2890) Effective January 1, 2017.)*

**106878.** (a) Any person who commits either of the following violations 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:

(1) Operates a water treatment plant but does not hold a valid, unexpired water treatment operator certificate of the appropriate grade in accordance with regulations adopted pursuant to Section 106910.

(2) Operates a water distribution system but does not hold a valid, unexpired water distribution operator certificate of the appropriate grade in accordance with the regulations adopted pursuant to Section 106910.

(b) (1) Any person or entity who is in responsible charge of a water treatment plant and allows the employment of any person as a water treatment operator who does not hold a valid, unexpired water treatment operator certificate of the appropriate grade in accordance with the regulations adopted pursuant to Section 106910 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.

(2) Any person or entity who is in responsible charge of a water distribution system and allows the employment of any person as a water distribution operator who does not hold a valid, unexpired water distribution operator certificate of the appropriate grade in accordance with the regulations adopted pursuant to Section 106910 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 or entity that commits an act described in paragraph (2), (3), (5), or (6) of subdivision (a) of, or paragraph (2), (3), (5), or (6) of subdivision (b) of, Section 106877, may be liable civilly in an amount not to exceed five thousand dollars (\$5,000) for each violation.

(d) Any person that commits an act described in paragraph (1) of subdivision (a) of, or paragraph (1) of subdivision (b) of, Section 106877 may be liable civilly in an amount not to exceed five thousand dollars (\$5,000) for each violation.

*(Added by Stats. 2016, Ch. 305, Sec. 4. (AB 2890) Effective January 1, 2017.)*

**106879.** (a) The state board may administratively impose civil liability pursuant to this article or, upon the request of the state board, the Attorney General may impose civil liability pursuant to this article in an action in superior court. The state board may impose civil liability administratively in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code.

(b) A remedy described in this article is in addition to, and does not supersede or limit, any other remedy, civil or criminal, except that civil liability may not be imposed both administratively and by the superior court for the same violation.

*(Added by Stats. 2016, Ch. 305, Sec. 5. (AB 2890) Effective January 1, 2017.)*

**106880.** The state board shall hold at least one examination each year for the purpose of examining candidates for water treatment operator certificates and water distribution operator certificates.

*(Amended by Stats. 2016, Ch. 305, Sec. 6. (AB 2890) Effective January 1, 2017.)*

**106885.** (a) (1) A person who operates a water treatment plant shall possess a valid, unexpired water treatment operator certificate of appropriate grade in accordance with the regulations adopted pursuant to Section 106910.

(2) A person who is in responsible charge of the water treatment plant shall possess a valid, unexpired water treatment operator certificate equal to or greater than the classification of the water treatment plant.

(b) (1) A person who operates a water distribution system shall possess a valid, unexpired water distribution operator certificate of the appropriate grade in accordance with the regulations adopted pursuant to Section 106910.

(2) A person who is in responsible charge of the water distribution system shall possess a valid, unexpired water distribution operator certificate equal to or greater than the classification of the water distribution system.

*(Amended by Stats. 2016, Ch. 305, Sec. 7. (AB 2890) Effective January 1, 2017.)*

**106890.** (a) It is the intent of the Legislature that the program authorized pursuant to this article be entirely self-supporting, and for this purpose the state board is authorized to establish fee schedules for the issuance, replacement, reinstatement, continuing education, and renewal of certificates that shall provide revenues that shall not exceed the amount necessary, but shall be sufficient, to recover all costs incurred in the administration of this article.

(b) The state board may establish reduced fees for the issuance of, and renewal of, a water treatment operator certificate for applicants who hold a valid, unexpired water distribution operator certificate or a valid, unexpired wastewater certificate.

(c) The state board may establish reduced fees for the issuance of, and renewal of, a water distribution operator certificate for applicants who hold a valid, unexpired water treatment operator certificate or a valid, unexpired wastewater certificate.

(d) (1) The state board shall set the amount of total revenue collected each year through the fee schedules at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Drinking Water Operator Certification Special Account for expenditure for the administration of this article, taking into account the reserves in the account. The state board shall review the fees each fiscal year and revise the fees as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the overcollection or undercollection of revenue.

(2) The state board may adopt regulations pursuant to this section, including any subsequent adjustments to the fees or subsequent amendments to the regulations, as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these emergency regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or any adjustment to the fees made by the state board pursuant to this section, shall remain in effect until revised by the state board.

*(Amended by Stats. 2016, Ch. 305, Sec. 8. (AB 2890) Effective January 1, 2017.)*

**106892.** (a) There is in the State Treasury the Drinking Water Operator Certification Special Account. Moneys in the special account are available to the state board, upon appropriation by the Legislature, for the purposes of administering this article.

(b) All of the following moneys shall be deposited in the Drinking Water Operator Certification Special Account:

(1) Any moneys made available by the Legislature for the purposes of the account.

(2) Fees collected pursuant to Section 106890.

(3) Notwithstanding Section 16305.7 of the Government Code, all interest earned upon moneys that are deposited in the account.

*(Amended by Stats. 2016, Ch. 305, Sec. 9. (AB 2890) Effective January 1, 2017.)*

**106897.** (a) The state board shall issue a water treatment operator certificate and water distribution operator certificate by reciprocity to any person holding a valid, unexpired, comparable certification issued by another state, the United States, a territory or tribal government that has been designated as the primacy agency by the United States Environmental Protection Agency, or a unit of any of these. The state board may, by regulations, prescribe the procedures and requirements for issuing a water treatment operator certificate and water distribution operator certificate by reciprocity.

(b) The state board shall evaluate opportunities for the following:

(1) Issuing a water treatment operator certificate and water distribution operator certificate by reciprocity to persons who performed duties comparable to the duties of an operator at a water treatment facility or water distribution system while serving in the United States military.

(2) Awarding experience and education credits to persons who performed duties comparable to the duties of an operator at a water treatment facility or water distribution system while serving in the United States military.

(c) The state board shall seek consultation with the United States Department of Defense in carrying out subdivision (b).

(d) If the state board identifies opportunities pursuant to subdivision (b), the state board shall, where appropriate, issue a water treatment operator certificate or water distribution operator certificate by reciprocity to, or award experience or education credits to, persons who performed duties comparable to the duties of an operator at a water treatment facility or water distribution system while serving in the United States military.

*(Amended by Stats. 2019, Ch. 760, Sec. 1. (AB 1588) Effective January 1, 2020.)*

**106898.** (a) The state board shall appoint an advisory committee to assist it in carrying out its responsibilities pursuant to this article. The advisory committee shall review all proposed regulations and make recommendations to the state board before the adoption of a regulation or an amendment to a regulation.

(b) The advisory committee shall consist of the following members:

- (1) Two persons from a statewide organization representing medium to large water systems.
- (2) Two persons from a statewide organization representing small water systems.
- (3) One person from a local primacy agency.
- (4) One person who is employed as an operator at a water recycling treatment plant.
- (5) One person from an educational institution's school or division of engineering.
- (6) One person who is a member of an organized labor union that represents water treatment operators and water distribution operators.
- (7) One person who is employed by an educational institution, professional association, public agency, or private agency to provide water treatment or water distribution courses of instruction.
- (8) One person who is a professional engineer specializing in sanitary engineering.
- (9) One person who is an active or former member of the United States military who is working, supervising, or managing or who has previously worked, supervised, or managed in water treatment or distribution within their military service.

*(Amended by Stats. 2019, Ch. 760, Sec. 2. (AB 1588) Effective January 1, 2020.)*

**106900.** The state board may approve courses of instruction provided by educational institutions, professional associations, public agencies, or private agencies for purposes of qualifying persons for issuance of and renewal of a water treatment operator certificate or water distribution operator certificate.

*(Amended by Stats. 2016, Ch. 305, Sec. 15. (AB 2890) Effective January 1, 2017.)*

**106910.** The state board may adopt rules, regulations, and certification standards necessary to carry out the provisions of this article, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The rules, regulations, and standards shall include, but not be limited to, the following:

- (a) The classification of water treatment plants taking into consideration the plant size, character of the water being treated, type and degree of treatment, complexity of operation, and other physical conditions affecting the operation of the water treatment plant.
- (b) The classification of distribution systems of community water systems and nontransient noncommunity water systems taking into consideration the complexity and size of the system.
- (c) Criteria and standards establishing the level of skill, knowledge, education, and experience necessary to operate successfully specific classes of water treatment plants so as to protect public health.
- (d) Criteria and standards establishing the level of skill, knowledge, and experience necessary to operate successfully specific classes of water distribution systems so as to protect the public health.
- (e) (1) Criteria and standards for water treatment operator certificate and water distribution operator certificate renewal, including continuing education requirements.  
  
(2) The state board shall not renew any person's water treatment operator certificate or water distribution operator certificate if that person does not meet all requirements for certificate renewal.
- (f) Criteria and standards for reinstatement of a water treatment operator certificate or water distribution operator certificate when the certificate has lapsed.
- (g) Criteria and standards for the availability of designated water treatment operator certificate holders for each operating shift.

*(Amended by Stats. 2016, Ch. 305, Sec. 16. (AB 2890) Effective January 1, 2017.)*