

CHAPTER 52
WATER AND WASTE WATER OPERATOR'S MANDATORY
CERTIFICATION ACT

NOTE: This Chapter is derived from Chapter X of Title LXI of the Government Code, added by P.L. 14-31.

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§ 52101. Title.

This Chapter shall be known as the *Water and Waste Water Operator's Mandatory Certification Act*.

SOURCE: GC § 57230.

§ 52102. Statement of Policy.

It is hereby declared to be the public policy of the territory of Guam, in order to conserve and protect our water resources and to prevent pollution of waters of the Territory, to classify all public and private potable water supply systems and public and private waste water facilities and to require examination of operating personnel and certification of their competency to supervise the operation of such systems and facilities.

SOURCE: GC § 57231.

§ 52103. Definitions.

(a) Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of this Territory, any interstate body or any other legal entity.

(b) Operator means the person in direct responsible charge of the operation of a potable water supply system or waste water facility, or a major segment of a system or facility.

(c) Direct responsible charge shall mean, in smaller facilities where shift operation is not required, active daily on-site charge and performance of operation. In larger facilities where shift operation is required, "direct responsible charge" shall mean both:

- active daily on-site technical direction and supervision, and
- active daily on-site charge of an operating shift or a major segment of a system or facility.

(d) Potable water supply system means the system of pipes, structures and facilities through which water is obtained, treated and sold, distributed or otherwise offered to the public for household use or any use by humans.

(e) Water treatment plant means that portion of the potable water supply system which in some way alters the physical, chemical or bacteriological quality of the water being treated.

(f) Water distribution system means that portion of the potable water supply system in which water is stored and conveyed from the water treatment plant or other supply points to the premises of a consumer.

(g) Waste water facility(ies) means the system of pipes, structures, equipment and processes required to collect, carry away and treat domestic and/or industrial waste water and dispose of the effluent.

(h) Waste water treatment plant means that portion of the waste water facility used in the treatment of domestic and/or industrial waste water, including solids handling.

(i) Waste water collection system means that portion of the waste water facilities in which waste water is received from the premises of the discharger and conveyed to the point of treatment.

(j) Administrator means the Administrator of the Guam Environmental Protection Agency or his delegated representative.

(k) Board of Certification means the Board of Directors of the Guam Environmental Protection Agency.

(l) Association of Boards of Certification for Operating Personnel in Water and Waste Water Utilities (ABC) means the existing nationally recognized Advisory Association.

SOURCE: GC § 57232.

§ 52104. Classification.

The Administrator, as per the standards and guidelines approved by the Board of Certification shall classify all potable water systems used or intended for use by the public or private individuals and all waste water facilities whether public or private. The classification shall be made taking due regard to size and type of system or facility, character of water or waste water to be treated and other physical conditions affecting such systems and facilities, and according to the skill, knowledge and experience required of an operator.

SOURCE: GC § 57233.

§ 52105. Certification.

The Administrator, as per the standards and guidelines approved by the Board of Certification shall issue certification entitling qualified persons to supervise the operation of potable water supply systems and waste water facilities.

SOURCE: GC § 57234.

§ 52106. Board of Certification.

The Board of Certification shall develop minimum standards and guidelines for classification of potable water supply systems and waste water facilities and for certification of operators, facilitate reciprocity between certification programs, supervise the Administrator in the administration of the certification program and hear the appeals of any person aggrieved by the decisions of the Administrator, regarding certification and classification.

SOURCE: GC § 57235.

§ 52107. Association of Certification Authorities.

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The Administrator is authorized when taking action pursuant to §§ 52104, 52105 and 52109 of this Act to consider generally applicable criteria and guidelines developed by the Association of Boards of Certification for Operating Personnel in Water and Waste Water Utilities.

SOURCE: GC § 57236.

§ 52108. Certification Requirements.

All potable water supply systems and waste water facilities whether publicly or privately owned, used or intended for use by the public or private persons, must at all times be under the direct supervision of an operator whose competency is certified to by the Administrator in a classification corresponding to the classification of the system or facilities to be supervised.

SOURCE: GC § 57237.

§ 52109. Regulations.

The Administrator, with the approval of the Board of Certification, shall promulgate such rules and regulations as may be necessary for the administration of this Act, and which shall include at least the following provisions:

(a) The basis for classification of potable water supply systems and waste water facilities (including the type and size of lessor systems and facilities, if any, to which the provisions of the Act shall not apply) as required by § 52104 of this Act;

(b) Criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in Subsection (a) of this Section;

(c) Procedures for examination of candidates and renewal of Certificates;

(d) Procedures for the revocation of certificates;

(e) Determination as to which additional personnel shall be certified where certification is required for more than the operator in direct responsible charge.

SOURCE: GC § 57238.

§ 52110. Prohibited Acts.

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On or after two (2) years following the effective date of this Act, it shall be unlawful:

(a) For any potable water supply system or waste water facility to be operated unless the operator is duly certified under the provisions of this Act;

(b) For any person to perform the duties of an operator without being duly certified under the provisions of this Act.

SOURCE: GC § 57239.

§ 52111. Injunctions and Civil Penalty.

Any person who violates or is about to violate any provision of this Act, or any rule, regulation, criterion, procedure or certificate issued hereunder may, in a legal action commenced by the Administrator, with the approval of the Board of Certification:

(a) be enjoined from continuing or commencing such violation; and

(b) be subject to a civil penalty not to exceed One Thousand Dollars (\$1,000) per day of continuing violation.

SOURCE: GC § 57240.

§ 52112. Criminal Penalties.

(a) Except as provided in Subsection (b) of this Section, any person who knowingly and willfully violates § 52110 of this Act shall upon conviction be punished by a fine of not more than One Thousand Dollars (\$1,000) per day of violation or imprisonment for not more than six (6) months, or by both.

(b) Any person who knowingly makes any false statements, representations or certification in any application, record report, plan or other document filed or required to be maintained under this Act, or by any rule or regulation promulgated under this Act, shall upon conviction, be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment for not more than six (6) months, or by both.

SOURCE: GC § 57241.

§ 52113. Administration.

To carry out the provisions and purposes of this Act, the Administrator is authorized and empowered to:

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(a) Perform any and all acts and adopt, revise, promulgate and rescind such rules and regulations as he may find necessary or appropriate, with the consent of the Board of Certification and in conformance with the Administrative Adjudication Act;

(b) Enter into agreements, contracts or cooperative arrangements, under such terms and conditions as he deems appropriate with other States, Federal or interstate agencies, municipalities, educational institutions or other organizations or individuals;

(c) Receive financial and technical assistance from the Federal government and other public or private agencies;

(d) Participate in related programs of the Federal government, other states, interstate agencies or other public or private agencies or organizations;

(e) Upon request, furnish Federal, territorial or interstate agencies, municipalities, educational institutions and other organizations and individuals, reports, information and materials relating to the certification program authorized by this Act;

(f) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this Act;

(g) The Administrator may delegate those duties and responsibilities as deemed appropriate for the purpose of administering requirements of this Act;

(h) The Administrator may establish and collect such fees for conducting examinations and issuing or renewing certificates as are necessary for the support of this Act.

SOURCE: GC § 57242.

§ 52114. Reciprocity.

(a) On or after the effective date of this Act, certification of operators by any State which, as determined by the Administrator, accepts certification made or certification requirement, deemed satisfied pursuant to the provisions of this Act, shall be accorded reciprocal treatment and shall be recognized as valid and sufficient within the purview of this Act, if in the judgment of the Administrator the certification requirements of such state

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are substantially equivalent to the requirements of this Act or any rules and regulations promulgated hereunder.

(b) In making determinations pursuant to Subsection (a) of this Section, the Administrator shall consult with the Board of Certification and may consider any generally applicable criteria and guidelines developed by the Association of Boards of Certification for Operating Personnel in Water and Waste Water Utilities.

SOURCE: GC § 57243.

§ 52115. Repealer.

The provisions of this Act are intended to supersede existing laws of this Territory insofar as they relate to the matters included in this Act.

SOURCE: GC § 57244.

§ 52116. Severability.

The provisions of this Act are severable. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not effect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application.

SOURCE: GC § 57245.

§ 52117. Transitional Provision.

On the effective date of this Act, all employees engaged in the operation of public and private water and waste water facilities shall be certified by the Administrator to perform the level of plant operations, as established by this Act, that they are performing on such effective date; provided the certification is valid for two (2) years from the effective date of this Act; provided, that no certification requirements pursuant to § 52108 shall be required for a period of two (2) years following the effective date of this Act.

SOURCE: Section 2, P.L. 14-31.
