

**Drinking Water and Wastewater Systems Operator's Certification Act
"Strict Liability Issue"**

Issue: When this statute was compiled, an error was made in reference to the powers and duties of the Department of Environmental Protection in Section 4(b) as follows:

- 1.1– Issue written orders as necessary to owners or operators to comply with Sections 5, 6 or 13 or to correct violations of the act.
2. – Determine the number and class of water and wastewater systems which may be supervised by a single certified operator and issues orders requiring owners to employ the services of additional certified operators and such orders shall be made in accordance with this act and with the rules and regulation promulgated under it.

In the original draft, section 1.1 was actually labeled 2.0. Therefore, In Section 14, when enforcement fines and penalties are established there is a reference made to Section 4(b)(2). The original intent is to have this reference be 1.1, not the section now labeled 2. The State Board for Certification of Water and Wastewater Systems Operators and the Department of Environmental Protection still reads Section 14 to mean that before the Department can assess a fine or penalty against either an operator (certified or not) or an owner for any violation of the Act as identified in Sections 5, 6 and 13, the Department must issue a written order. Because the reference in Section 14 now refers back to the wrong section in Section 4, confusion amongst the regulated community has caused concern.

Proposed Solution: The Department of Environmental Protection feels this problem can be clarified in the draft regulations by adding the following two definitions:

Act - the Act of Nov.18,1968 (P.L.1052, No.322 Sec.1; amended Feb. 21, 2002 ((P.L. 134, No.11, Sec. 2), known as the "Water and Wastewater Systems Operators' Certification Act".(63 P.S. §§1001 - 1015.1).

Order of the department - an order of the department issued pursuant to 4(b) (2) of the Act shall also include orders of the department issued pursuant to 4(b) (1.1).