

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000
Governor Asa Hutchinson
José R. Romero, MD, Secretary of Health

PROPOSED REVISIONS TO THE RULES PERTAINING TO WATER OPERATOR LICENSING

April 29, 2022

BACKGROUND

Pursuant to Ark. Code Ann. § 17-51-101 et seq., the Department has authority to promulgate the Rules Pertaining to Water Operator Licensing. These Rules are adopted for the purpose of ensuring that all public water systems in the State of Arkansas are operated by personnel who have shown their competence and knowledge of the public health and scientific principles necessary to produce and deliver adequate quantities of water which meets or exceeds the National Primary and Secondary Drinking Water Standards.

KEY POINTS

The proposed rule:

- Revises the Rules to conform with the licensures amendments pursuant to Acts 135, 725, and 811

DISCUSSION

The Rules Pertaining to Water Operator Licensing are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the Laws of the State of Arkansas including, without limitation, Ark. Code Ann. § 17-51-101 et seq.

The following changes are proposed:

1. Updated rule to reflect requirements of Act 811 of the 2021 General Assembly.
 - SECTION VIII
2. Updated rule to reflect changes Act 725 of the 2021 General Assembly.
 - New SECTION XII. H
3. Updated rule to reflect changes related to Act 135 of the 2021 General Assembly
 - New SECTION XiV. F

ARKANSAS STATE BOARD OF HEALTH

DEPARTMENT OF HEALTH
CENTER FOR LOCAL PUBLIC HEALTH
ENVIRONMENTAL HEALTH BRANCH
ENGINEERING SECTION

RULES PERTAINING TO WATER OPERATOR LICENSING

Promulgated under the authority of Act 333 of 1957,
Act 1001 of 1991 and Act 494 of 1997

This Revision Effective
???October 8, 2020
By the Arkansas Board of Health

SECTION I. AUTHORITY

The following Rules Pertaining to Water Operator Licensing are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the Laws of the State of Arkansas including, without limitation, Act 96 of 1913, as amended, Act 333 of 1957 as amended Act 1001 of 1991 as amended and Act 494 of 1997 as amended. (See Arkansas Codes Annotated, Title 17, Chapter 51, Sections 101 - 106, and Sections 201 - 205)

SECTION II. PURPOSE

These Rules are adopted for the purpose of ensuring that all public water systems in the State of Arkansas are operated by personnel who have shown their competence and knowledge of the public health and scientific principles necessary to produce and deliver adequate quantities of water which meets or exceeds the National Primary and Secondary Drinking Water Standards.

SECTION III. DEFINITIONS

- A. **ADVANCED TREATMENT** means the application of physical processes (Some examples are aerators, clarifiers or filters.) to water, for the purposes of improving the quality or condition of the water.
- B. **BOARD** means the Arkansas State Board of Health.
- C. **COMMITTEE** means the Drinking Water Advisory And Operator Licensing Committee.
- D. **DEPARTMENT** means the Arkansas Department of Health.
- E. **LATE RENEWAL** means an application for renewal when the application for renewal or the associated fee is received more than thirty (30) days following the beginning of a renewal period.
- F. **OPERATE** means to make decisions or conduct acts that contribute to the production, treatment, or delivery of potable water by the water system, if such decisions or acts involve process control or system integrity.
- G. **OPERATING SHIFT** means that period of time during which operator decisions that affect public health are necessary for proper operation of the water system.
- H. **OWNER** means any person, firm, corporation, institution, or governmental agency, or their agent, owning, operating, or modifying any public water system, water distribution facility or water treatment facility.
- I. **PUBLIC WATER SYSTEM or PWS** means all sources and their surroundings

from which water is derived for drinking or domestic purposes by the public, and all structures, conduits, and appurtenances in connection therewith by which water for such use is obtained, treated, conditioned, stored or delivered to the public, if such system has at least fifteen service connections or serves an average of twenty-five individuals daily at least 60 days per year.

1. **COMMUNITY PUBLIC WATER SYSTEM** means any public water systems, which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
 2. **NON-COMMUNITY PUBLIC WATER SYSTEM** means a public water system that serves at least 15 service connections or 25 persons per day that is not a community water system.
 - a. **NON-TRANSIENT NON-COMMUNITY PUBLIC WATER SYSTEM** means a Non-Community Water System that serves at least 25 of the same individuals at least 180 days (or portions thereof) per year.
 - b. **TRANSIENT NON-COMMUNITY PUBLIC WATER SYSTEM** is any Non-Community Public Water System that is not a Non-Transient Non-Community Public Water System.
 3. **CONSECUTIVE SYSTEMS** are public water systems that obtain all or part of their water supply, either directly or indirectly, from another public water system.
 4. **SMALL WATER SYSTEM** shall mean a Public Water System serving a total population of less than 500, including the population of any consecutive Public Water Systems that it operates.
- J. **SURFACE WATER** means water that flows over or rests upon the surface of the earth.
- K. **SURFACE WATER INFLUENCED SOURCE** means any source with significant occurrence of insects or other macro-organisms, algae, or large diameter pathogens such as *Giardia lamblia*, or which is subject to significant changes in water quality which are determined to be in direct relationship with the climatological or surface water conditions.
- L. **TREATMENT** means the application of physical processes and/or the addition of chemicals to water which a public water system provides to the public, for the purposes of improving the quality of the water, except that the addition of gaseous chlorine, calcium hypochlorite or sodium hypochlorite alone shall not be defined as treatment.

- I
- M. WATER DISTRIBUTION FACILITIES shall mean that portion of the public water system in which water is stored and conveyed from the water treatment facilities or other supply point to the premises of a water consumer. This type of facility would also include groundwater sources without treatment.
1. A single pressure plane distribution facility is a distribution network that has only one pressure gradient downstream of the source of supply.
 2. A multiple pressure plane distribution facility is a distribution network that has more than a single pressure gradient downstream of the source of supply. A booster pump station or a pressure reducing valve could create the additional pressure gradient. A booster pump or a pressure reducing valve serving an individual or small group of service connections would not be considered as a separate pressure gradient.
- N. WATER OPERATOR means any person who during the performance of their regular duties, at all community public water system, all non-transient non-community public water system, or any other non-community public water system that utilizes a surface water source or surface water influenced source, exercises individual judgment, whether directly or indirectly, that might affect the safety, quality, or quantity of water delivered from the water system. (The term Operator generally includes, but is not limited to, Managers, Assistant Managers, Superintendents, Assistant Superintendents, Construction and Maintenance Foremen, treatment plant personnel and other persons responsible for the operation and maintenance of wells, reservoirs, water treatment facilities, water distribution facilities, and pumping facilities.)
- O. WATER OPERATOR(S) IN RESPONSIBLE CHARGE is defined as the water operator(s) designated by the owner to be the licensed operator(s) who is in direct supervision of the water system regarding the daily operational activities and protocols that an operator(s) follows when operating a public water system, water treatment facility and/or distribution facility.
- P. WATER OPERATOR-IN-TRAINING means any Water Operator who has successfully completed the formal license examination, but has not met the experience requirement.
- Q. WATER TREATMENT FACILITIES shall mean that portion of the public water system in which water is obtained and treated.

SECTION IV. APPLICABILITY

These Rules apply to Public Water Systems and any individual who seeks certification or licensure to perform the duties of a Water Operator or other activities for which certification or licensure as a Water Operator is available from the Department of Health. All Public Water Systems and any individual performing the duties of a Water Operator must comply with these Rules.

SECTION V. LICENSE TYPE AND GRADE OF LICENSE REQUIRED

- A. The owners of all community public water systems, all non-transient non-community public water systems, and those other non-community public water systems that utilize a surface water source or surface water influenced groundwater source must place the direct supervision of the water system under an available Water Operator(s) in Responsible Charge holding a valid license equal to or greater than the classification of the treatment facility and/or distribution facility.
- B. All Community public water systems, all Non-Transient Non-Community public water systems and those other non-community public water systems that utilize a surface water source or surface water influenced groundwater source must have a licensed operator available for each operating shift.
- C. Water Operators that perform water treatment facility duties must hold a valid active Water Treatment Operator License. Water Operators that perform duties in a water distribution facility must hold a valid active Water Distribution Operator License. Water Operators that perform both water treatment facility and water distribution facility duties must hold a valid active Water Treatment Operator License and a valid active Water Distribution Operator License.
- D. Water Treatment Facilities shall be classified as Grade I, Grade II, Grade III and Grade IV facilities according to the facilities size and complexity of treatment, with Grade IV being the largest most complex.
- E. Water Distribution Facilities shall be classified as Very Small Water System, Grade I, Grade II, Grade III and Grade IV facilities according to the facilities size and complexity of treatment, with Grade IV being the largest most complex.
- F. Water Treatment Facilities and Distribution Facilities shall be classified in accordance with Table 1. Water Operators, Operators In Responsible Charge or Operators-In-Training of these facilities shall be licensed in the appropriate grades and license types in accordance with Table 1. (See page 5 and Attachment 1.)
- G. Community and non-transient non-community public water systems and any other non-community public water system that utilizes a surface water source or surface water influenced source shall be classified based on the highest level of certification required to operate any of the system's treatment facilities and the highest level of certification required to operate any of the system's distribution facilities.

Public Water System and Operator Required Licenses

WATER TREATMENT OPERATOR LICENSE

TYPE OF TREATMENT	POPULATION SERVED (Include consecutive system population.)	IS ORC* OR A SUPERIOR?	LICENSE GRADE REQUIRED
CHEMICAL ADDITION	25 TO 3,299	//////////	I
	3,300 TO 9,999	YES	II
		NO	I
	10,000 TO 49,999	YES	III
		NO	II
	50,000 OR GREATER	YES	IV
NO		III	
ADVANCED TREATMENT	25 TO 3,299	//////////	II
	3,300 TO 9,999	YES	III
		NO	II
	10,000 OR GREATER	YES	IV
NO		III	

WATER DISTRIBUTION OPERATOR LICENSE

DISTRIBUTION FACILITY COMPLEXITY	POPULATION SERVED (Include consecutive system population, if operated by this water system.)	IS ORC* OR A SUPERIOR?	LICENSE GRADE REQUIRED
SINGLE PRESSURE PLANE - NO PUMP(S) EXCEPT SOURCE/WTP PUMP(S)	25 TO 499	//////////	SMALL SYSTEM
	500 TO 3,299	//////////	I
		3,300 TO 9,999	YES
	NO		I
	10,000 TO 49,999	YES	III
		NO	II
50,000 OR GREATER	YES	IV	
	NO	III	
MULTIPLE PRESSURE PLANES	25 TO 499	//////////	I
	500 TO 3,299	//////////	II
	3,300 TO 9,999	YES	III
		NO	II
	10,000 OR GREATER	YES	IV
NO		III	

*Operator in Responsible Charge

- H. During routine sanitary surveys of public water systems, Department staff shall examine the organizational structure of each system, and identify all positions or classes of positions for which licensure is required and determine if they are a supervisory position for licensing purposes.
- I. The licensure determinations may be appealed by the public water systems to the Committee for their review and determination.
- J. Licensed operators must notify this office in writing of any changes in their employment, contract operation or volunteer status with a Public Water System.

SECTION VI. CRIMINAL OFFENSES

A. Prohibiting Criminal Offenses

1. An individual is not eligible to receive or hold a license issued by the Board if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the offenses detailed in Ark. Code Ann. §17-3-102 et. seq. by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013 § 16-90-1401 et. seq. or otherwise sealed pardoned or expunged under prior law.
2. The Board may grant a waiver as authorized by Ark. Code Ann. § 17-3-102 in certain circumstances.
3. The Board is not authorized to conduct criminal background checks, but may inquire about criminal convictions upon application or renewal of a license. Any applicant or licensee which provides false information to the Board regarding a criminal conviction may be subject to suspension, revocation or denial of a license.

B. Pre-Licensure Prohibiting Offense Determination

1. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
4. The Board's response will state the reason(s) for the decision.

5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

SECTION VII. EDUCATION REQUIREMENTS

- A. Applicants for licensing shall have a high school diploma or General Equivalency Diploma or GED. On a case by case basis, the Committee may determine that an applicant's experience or relevant training can be substituted for the requisite high school diploma or General Equivalency Diploma. Any training or experience used for such substitution shall not be used to meet the minimum experience requirement.
- B. The mandatory minimum training requirements that must be met for each license grade and license type are contained in Table 2.

TRAINING HOUR REQUIREMENTS FOR LICENSE EXAMS										
Course Name	Length	D-SS	D-1	D-2	D-3	D-4	T-1	T-2	T-3	T-4
PWS Rules and SDWA Compliance	8 hr	X	X	X	X	X	X	X	X	X
Basic Water Works Math	8 hr.	X	X	X	X	X	X	X	X	X
Applied Water Works Math	8 hr.			X	X	X		X	X	X
Distribution Basic	24 hr.	X	X	X	X	X				
Distribution Intermediate	24 hr.			X	X	X				
Distribution Advanced	24 hr.					X				
Treatment Basic	24 hr.						X	X	X	X
Treatment Intermediate	24 hr.							X	X	X
Treatment Advanced	24 hr.								X	X
Tot. hrs.		40	40	72	72	96	40	72	96	96

Table 2

- C. Applicants for licensure must meet the minimum mandatory training requirements prior to sitting for the license exam. It is the responsibility of the applicant to meet the mandatory training prior to sitting for an exam. Failure to

meet the training requirements for the license exam grade and type taken will result in the invalidation of the license exam and forfeiture of the exam fee.

- D. The Licensing Committee, after determining that a required training course is not, and has not been, reasonably available in a geographical area of the State, may waive the mandatory training requirement for that course and area, for a specified period of time.
- E. All operators sitting for an exam after January 1, 2003 must meet the required training. Equivalent training attended prior to this date may be substituted for the required training requirements.
- F. Operators upgrading a license in good standing will be considered to have the training required for the license held.
- G. Education substitution for post secondary degrees will be as follows:
 - 1. Bachelors or Associates of Science or Applied Science Degree in an applicable physical science may be substituted for all the minimum training requirements except the Rules Course and the course required for the specific license examination to be taken.
 - 2. A Bachelors or Associates of Applied Science in Water and Wastewater Technology may be substituted for the entire minimum training requirements except the Rules Course.
 - 3. Post secondary degrees used to meet Education requirements cannot also be used to meet Experience requirement.

SECTION VIII. EARN AND LEARN

Pursuant to Act 811 of 2021, an applicant shall receive a water operator license if they meet the criteria set forth below.

As used in this Rule, "apprenticeship" means a program that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and approved by the United States Office of Apprenticeship as meeting the requirements of an apprenticeship.

- A. An applicant for licensure under this Rule shall provide satisfactory proof of completion of apprenticeship via official documentation from the apprenticeship program. This documentation may be in the form of a certificate, diploma, or similar official credential, or letter on official program letterhead.
- B. An applicant for licensure under this Rule shall provide satisfactory documentation that the completed apprenticeship program meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and that the program has been approved by the United States Office of Apprenticeship or the Arkansas Department of Workforce Services.

- C. An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including sections V., VI., IX., X., XII., and XV.
- D. If an applicant is denied a license for failing to meet the criteria in A-C, the applicant shall be provided the reason for denial in writing.

SECTION ~~VIII~~X. EXAMINATION REQUIREMENTS

- A. Applicants for licensing shall be examined to determine their skills, knowledge, ability, and judgment in the safe and proper operation of a public water system. The examination must consist of validated questions and be developed utilizing proper exam development procedures and validation protocols.
- B. An individual desiring to obtain a Water Operator License by examination shall file a license application, including the required license and exam fees, with the certification program not later than 60 days preceding the date of examination. The application will be valid for one year.
- C. An individual desiring to be examined shall be required to provide adequate photographic identification prior to receiving and when returning an examination. All exams and related materials must be returned, prior to leaving the exam session. Failure to return the exam and related materials will result in administrative actions, penalties or criminal charges.
- D. Separate examinations shall be prepared for each certification classification. For grades I-IV a separate examination shall be prepared for the water treatment plant operation license and the distribution facility operation license.
- E. Grade I-IV examinations shall be written and consist of at least 100 questions. The very small system examination shall be written and consist of at least 50 questions. All examinations will be closed book, with math formulas provided.
- F. All examinations shall be scored by the Committee, or by others designated by the Committee, and the applicant shall be notified of the outcome. The test booklet shall not be returned to the applicant.
- G. Applicants who fail to pass the examination may repeat the examination at subsequent examination sessions. An additional examination fee is required for each examination. This fee must be received 15 days prior to sitting for the exam. An additional application is not required for repeated examinations, if the examination is repeated within one (1) year.

SECTION ~~IX~~X. EXPERIENCE REQUIREMENTS

- A. Evaluation of the Experience requirement shall be based on completion of the

following periods of approved work:

- | | | |
|----|---|------------------------------------|
| 1. | Grade IV Treatment License
Grade IV Distribution License | Three (3) years
Three (3) years |
| 2. | Grade III Treatment License
Grade III Distribution License | Two (2) years
Two (2) years |
| 3. | Grade II Treatment License
Grade II Distribution License | One (1) Year
One (1) year |
| 4. | Grade I Treatment License
Grade I Distribution License | Six (6) months
Six (6) Months |
| 5. | Small System Distribution License | No experience requirement |

- B. In order for work to meet the Experience requirement it must be from work or the supervision of work that is directly related to the license being obtained.
- C. Certain post-secondary degrees may be substituted for experience credit towards meeting the experience requirement. The degree must be shown on the license application to be considered for credit. Experience credit will be allowed as shown in Table 3 at the end of this section.
- D. Post secondary degree used to meet Experience requirement cannot be used to meet Education requirements.

POST SECONDARY DEGREE EXPERIENCE CREDIT			
Post Secondary Degree	License	Experience Allowed	License Appropriate Water System Experience Required
Bachelor of Science degrees in Engineering, Chemistry, Biology, or other applicable physical sciences	Grade I	6 Months	Not Applicable
	Grade II	9 Months	3 Months
	Grade III	18 Months	6 Months
	Grade IV	24 Months	12 Months
Associate of Applied Science Degrees in Water and Wastewater Technology	Grade I	6 Months	Not Applicable
	Grade II	9 Months	3 Months
	Grade III	18 Months	6 Months
	Grade IV	24 Months	12 Months
Associate of Applied Science Degrees in Engineering, Electronics, Environmental Science, or other applicable physical sciences	Grade I	6 Months	Not Applicable
	Grade II	6 Months	3 Months
	Grade III	9 Months	6 Months
	Grade IV	12 Months	12 Months

Table 3

SECTION ~~XXI~~. ISSUANCE OF LICENSES AND PERMITS

- A. A license shall not be issued to any applicant until the education, examination and experience requirements have been successfully completed, or until the applicant has been successfully evaluated for reciprocity.
- B. An Operator-In-Training certificate shall be issued to a license applicant when the experience requirement has not been completed and the license examination has been successfully completed.
- C. Temporary permits will not be issued. To issue a Temporary Permit to an unlicensed operator of a public water system the Department must assure that its issuance will not jeopardize public health and safety. The Department cannot provide this assurance due to improved knowledge of water borne disease outbreaks and because Public Water Systems have an increased risk of microbial contamination.
- D. Inactive Licenses are no longer allowed. Licenses placed in the inactive status, when it was allowed, may be reinstated at any time, after approval by the Department, by paying the required reinstatement fees and passing an examination on current Public Water System Rules, policies, and Safe Drinking Water Act compliance requirements. The Department shall require license examination be passed to reinstate the license if the inactive period exceeds ten (10) years. Examinations may be waived provided the operator can prove

through closely related work that the operator has kept current with present Public Water System requirements.

SECTION ~~XI~~XII. FEES ESTABLISHED

A. Examination

The fee shall be \$25.00 per examination, the initial exam fee shall be paid at the time of License Application and all subsequent exam fees must be received 15 days in advance of the examination.

B. License

The fee shall be \$10.00, paid at the time of License Application.

C. License Renewal

The fee shall be \$10.00 for each two (2) year renewal period for each license or Operator-In-Training certificate renewed.

D. Penalty for Late Renewal

The fee for penalty for late renewal shall be \$5.00.

E. Reciprocity Evaluation

The fee for evaluating an applicant for reciprocity shall be \$25.00 per license evaluated.

F. Reinstatement of Inactive License

The fee for reinstating an Inactive License shall be \$10.00 for each renewal period during which the license has not been active, provided that the total fee shall not exceed \$35.00.

G. Reinstatement of Revoked License

The fee due to revocation shall be \$10.00 for each two (2) year renewal period and \$10.00 for a re-issuance of License.

H. Initial Licensure Fee Waiver

1. Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:

a. Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental

Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);

b. Were approved for unemployment within the last twelve (12) months; or

c. Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

2. Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.

a. For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;

b. For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or

c. 3) For proof of income, copies of all United States Internal Revenue Service Forms indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.

3. Applicants shall attest that the documentation provided under (b) is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

SECTION ~~XIII~~III. EXAMINATION SESSIONS

A. Arkansas Water Works and Water Environment Association District Meeting

The Arkansas Department of Health shall assign personnel to conduct examinations for applicants for Licenses in each Arkansas Water Works and Water Environment Association District, upon request, during the months of July and November, at a predetermined and publicized location and time.

B. Annual Industry Association Conferences

The Arkansas Department of Health shall assign personnel to conduct examinations for applicants for Licenses in conjunction with the annual conferences of all major industry associations, upon request, with time and place to be publicized.

C. Other scheduled examination sessions.

The Arkansas Department of Health shall assign personnel to conduct

examinations for applicants for Licenses at other examination sessions set by the Committee, at a predetermined and publicized location.

D. Special examinations

Any applicant for License may request a special examination to be given at a date other than the normally scheduled exam session. This request must be in writing to the Executive Secretary of the Licensing Committee and should detail the reasons the special examination is needed.

SECTION ~~XIII~~XIV. LICENSES

A. Issued

On satisfactory fulfillment of the certification requirements the Executive Secretary of the Committee shall issue a suitable license to the applicant designating their competency. The license shall state the licensed individual's name, the license grade and the license number.

B. Permanent

The license shall be permanent unless revoked for cause; replaced by a higher grade license; invalidated due to Section XIV, Subsection A; or invalidated due to obtaining or renewing the license through fraud; deceit; or the submission of inaccurate qualifications or renewal data.

C. Endorsement

1. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:

a. The applicant shall hold a substantially similar license in another United States jurisdiction.

1) A license from another state is substantially similar to an Arkansas Water Operator license if the other state's licensure qualifications require:

- a) High School Diploma or GED
- b) Drinking Water training similar to Table 2
- c) Passing of proficiency test meeting SECTION VIII.A
- d) Require Training instruction for License maintenance similar to SECTION XIV. A

2) The applicant shall hold his or her occupational licensure in good standing;

3) The applicant shall not have had a license revoked for:

- a) An act of bad faith; or

- b) A violation of law, rule, or ethics;
 - 4) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
 - b. The applicant shall be sufficiently competent in drinking water treatment for treatment license or water distribution for distribution license; and
 - c. Applicant should have knowledge and necessary skills to:
 - 1) Operate and maintain water treatment plants for treatment license
 - 2) Operate and maintain water distribution for distribution license
 - 3) These skills will include
 - a) Basic algebra, chemistry and biology knowledge
 - b) Mechanical and laboratory aptitude
2. Required documentation an applicant shall submit are a fully-executed application, the required fee, and the documentation described below:
 - a. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas', the applicant shall submit the following information:
 - 1) Evidence of current and active licensure in that state. The Committee may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other's state's licensing board; and
 - 2) Evidence that the other state's licensure requirements match those listed in 1.a. The Board may verify this information online or by telephone to the other's state's licensing board.
 - b. To demonstrate that the applicant meets the requirements in 1.a. 1). through 4)., the applicant shall provide the Board with:
 - 1) The names of all states in which the applicant is currently licensed or has been previously licensed;
 - 2) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in 1.a.3) and does not hold a license on suspended or probationary status as described in 1.a.4). The Board may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other's state's licensing board.
 - c. As evidence that the applicant is sufficiently competent in the

field of drinking water treatment for treatment license or water distribution for distribution license, an applicant shall:

- 1) Pass an appropriate grade water treatment or water distribution license exam
- d. The following documentation must be provided:
 - 1) Proof License is current
 - 2) List of all state licenses as called for in C.2.b.1)
 - 3) Letters and other documents called for in C.2.b.2)
3. Temporary and Provisional License
 - a. Board shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under C.2.a. and b.
 - b. The temporary and provisional license shall be effective for [at least 90 days] [or] [until the Board makes a decision on the application], unless the Board determines that the applicant does not meet the requirements in sections C.1.a. & b. & c., in which case the provisional and temporary license shall be immediately revoked.
 - c. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

D. Reciprocity from State not Offering Reciprocity to Arkansas Water Operators

1. The Board shall require an applicant to take the mandatory license training as shown in Table 2 or document substantially equivalent training to Table 2 requirements if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity provided to out-of-state applicants in A.C.A. § 17-1-108.
2. Reciprocity in another state will be considered similar to reciprocity under A.C.A. § 17-1-108 if the reciprocity provisions in the other state:
 - a. Provide the least restrictive path to licensure for Arkansas applicants;
 - b. Do not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a new professional in that state, except that the state may require Arkansas applicants to participate in continuing education or training that is required for all professionals in that state to maintain the licensure.
 - c. Do not require Arkansas applicants to take a state-specific education unless required to do so under the same conditions described in A.C.A. § 17-1-108.

E. License for Person from State that doesn't License Water Operators

1. Required Qualifications. An applicant from a state that does not license Drinking Water Treatment or Distribution Operators shall meet the following requirements:
 - a. The applicant shall be sufficiently competent in drinking water treatment for treatment license or water distribution for distribution license; and
 - b. The applicant must:
 - 1) Meet the mandatory license training as shown in Table 2
 - 2) Pass an appropriate grade water treatment or water distribution license exam
 - 3) Fulfill the Experience requirements listed in Section IX
2. Required documentation an applicant shall submit are fully-executed application, the required fee, and the documentation described below:
 - a. As evidence that the applicant is sufficiently competent in the field of drinking water treatment for treatment license or water distribution for distribution license, an applicant shall:
 - 1) Pass an appropriate grade water treatment or water distribution license exam
 - 2) The applicant must:
 - a) Document attendance completion of the mandatory license training as shown in Table 2
 - b) Document passing the appropriate grade water treatment or water distribution license exam
 - c) Document fulfillment of the experience requirements listed in Section IX for the license

F. Automatic Licensure

1. Definitions

- a. “Automatic licensure” means granting the occupational licensure without an individual having met occupational licensure requirements provided under the Arkansas Code or by other provisions in these Rules. As used in this subsection “automatic licensure” means granting the occupational licensure without an individual’s having met occupational licensure requirements provided under this title or by the rules of the occupational licensing entity.
- b. “Uniformed service member” means an active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard; an active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or an active or reserve component member of the United States

Commissioned Corps of the Public Health Service. As used in this subsection, "returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

b.c. "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

2. Applicability

a. This Rule applies to a:

1) (1) —uniformed service member stationed in the State of Arkansas;

2) (2) —uniformed service veteran who resides in or establishes residency in the State of Arkansas;

3) (3) —The spouse of (1) or (2) including a:

uniformed service member who is assigned a tour of duty that excludes the spouse from accompanying the uniformed service member and the spouse relocates to Arkansas;

uniformed service member who is killed or succumb to his or her injuries or illness in the line of duty if the spouse establishes residency in Arkansas.

3. Automatic Licensure

a. Automatic Licensure shall be granted to persons listed in Section 2 (a) if:

The person is a holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States and;

The person pays the licensure fee in Section XI.A

4. Credit toward initial licensure

Relevant and applicable uniformed service education, training, or service-issued credential shall be accepted toward initial licensure for a uniformed service member or a uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service.

5. Expiration Dates and Continuing Education

a. A license expiration date shall be extended for a deployed uniformed service member or spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

b. A uniformed service member or spouse shall be exempt from

continuing education requirements in Section XIV.A for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

c. Any uniformed service member or spouse exercising the exemption shall provide evidence of completion of continuing education evidence of before renewal or grant of a subsequent license.

~~e. The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:~~

~~d. An active duty military service member stationed in the State of Arkansas;~~

~~e. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or~~

~~f. The spouse of a person under F.3.a or F.3.b~~

~~2. The Board shall grant such automatic licensure upon receipt of all of the below:~~

~~a. Payment of the initial licensure fee;~~

~~b. Evidence that the individual holds a substantially equivalent license in another state; and~~

~~c. Evidence that the applicant is a qualified applicant under Section XIII.C.1.a~~

G. Suspension

The Department with the knowledge and approval of the Director of the Arkansas Department of Health shall suspend a Water Operator's license, Operator-In-Training certificate or deny issuance of a license or certificate for cause, including but not limited to when it is found the license holder, operator in training or applicant:

1. Has practiced fraud or deception;
2. That reasonable care, judgment, or the application of their knowledge or ability was not used in the performance of their duties that resulted in water quality being compromised or any non-compliance with any state or federal requirement;
3. That the license holder, operator in training or applicant is incompetent, unable or not willing to perform their duties properly.

The suspension or denial shall remain in effect until the Committee reviews the case.

H. Revocation

The Committee shall hold a public hearing into the suspension. The

Department will present their case and the Water Operator will have the opportunity to present his or her defense. The Committee shall then uphold or deny the suspension. If the suspension is upheld, the Committee shall report the findings of the Public Hearing to the Board and recommend the license remain suspended for a recommended time period or be revoked. The Board shall then reinstate, suspend or revoke the license.

I. Reinstatement

Any Licensed Water System Operator or Operator-In-Training who for any reason, other than revocation, desires to have a license reinstated may request, in a hearing before the Committee; that the Committee re-instate the license, with or without conditions. If the license is re-instated, payment of the applicable fees under Section XI, Subsection C and F must be remitted.

SECTION ~~XIV~~XV. MAINTENANCE OF LICENSE

- A. In order to renew a Water Operator License or Operator-In-Training Certificate, the operator must certify to the Committee the attendance, at a minimum, of twenty-four (24) hours per two year renewal period of approved training instruction. No additional training instruction will be required to renew additional licenses each renewal period. At least twelve (12) of the approved hours must be in subjects directly applicable to the field of water supply, treatment, distribution, pumping, metering, or management; or the study of approved materials on the same subjects. The remaining twelve (12) hours of approved training may be indirectly applicable subject matter, such as personal operator safety, wastewater, plumbing inspection or cross-connection control certification courses. The various water operator associations' annual and monthly district meetings will be considered as directly applicable training. This subsection is effective with the start of the July 1, 2003 to June 30, 2005 renewal period.
- B. The Water Operator is responsible for submitting adequate documentation of the completion of the required training, at the time of license renewal. This documentation must include the date, subject, sponsor, and number of approved training hours for each training session completed and submitted for training credit.
- C. A License that has not been renewed in accordance with this section, within ninety days after the license has expired, shall be lapsed and invalid.
- D. Any licensee whose License has expired can request, within one (1) year of the date of expiration, the license be reinstated by the Department upon documentation of past renewal training requirements and the payment of the fees as stated in Section XI, Subsection C and D.
- E. A Water Operator license or Operator-In-Training certificate that has been expired for more than one (1) year cannot be reinstated. It is necessary for such a license or certificate holder to reapply and be reexamined according to the requirements for new applicants.

SECTION ~~XV~~XVI. SPECIAL PURPOSE LICENSE

A special purpose license is authorized for Transient Non-Community Public Water Systems that utilize groundwater sources that are Surface Water Influenced Sources. The license shall be restricted to these systems that utilize cartridge/bag filtration technology. The License exam will be a modified Small Water System License with specific questions added related to the very specialized simple to operate water treatment equipment (cartridge filtration) and microbial inactivation processes, being utilized by these systems to meet the Safe Drinking Water Act. The Act requires these systems to be operated by qualified personnel and this license will be used to demonstrate the operators of these systems meet that requirement.

The license exam shall have a minimum of 50 questions related to the topics of cartridge/bag filtration technology, microbial inactivation processes, surface water treatment rules, water distribution questions, and groundwater sources. Holders of this license shall be required to meet the same maintenance of license requirements as a Small System Distribution License holder or attend an Arkansas Department of Health renewal training course, each renewal period, designed specifically to address this type of system and the technology to which this license applies.

Operators of these specific systems may also utilize the Treatment and Distribution Licenses required of Surface Source Transient Non-Community Public Water System's.

SECTION ~~XVI~~XVII. DRINKING WATER ADVISORY AND OPERATOR LICENSING COMMITTEE

- A. The Committee shall elect a Chair who shall serve for a term of one year. The election shall occur at the first meeting of the state fiscal year.
- B. The Committee shall utilize "Robert's Rules of Order" as a guide for procedures for conducting business.
- C. In the event that more than one person is appointed to the Committee at a particular Board meeting, the new appointees shall draw lots to determine which of the vacant terms that each shall fill.

SECTION ~~XVII~~XVIII. MEETINGS

The Licensing Committee shall meet at least once a year and in special meetings called by the Chair or requested by the Arkansas Department of Health.

SECTION ~~XVIII~~XIX. ADMINISTRATIVE PENALTY AUTHORITY

The Arkansas Department of Health shall have the authority to assess administrative

penalties against any individual or any public water system for failure to comply with any portion of these rules, in accordance with the requirements of A.C.A §§ 20-7-101, et seq, and A.C.A §§ 14-262-101, et seq.

SECTION ~~XIXXXI~~. SEVERABILITY

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect other provisions or applications of these Rules which can be given effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable.

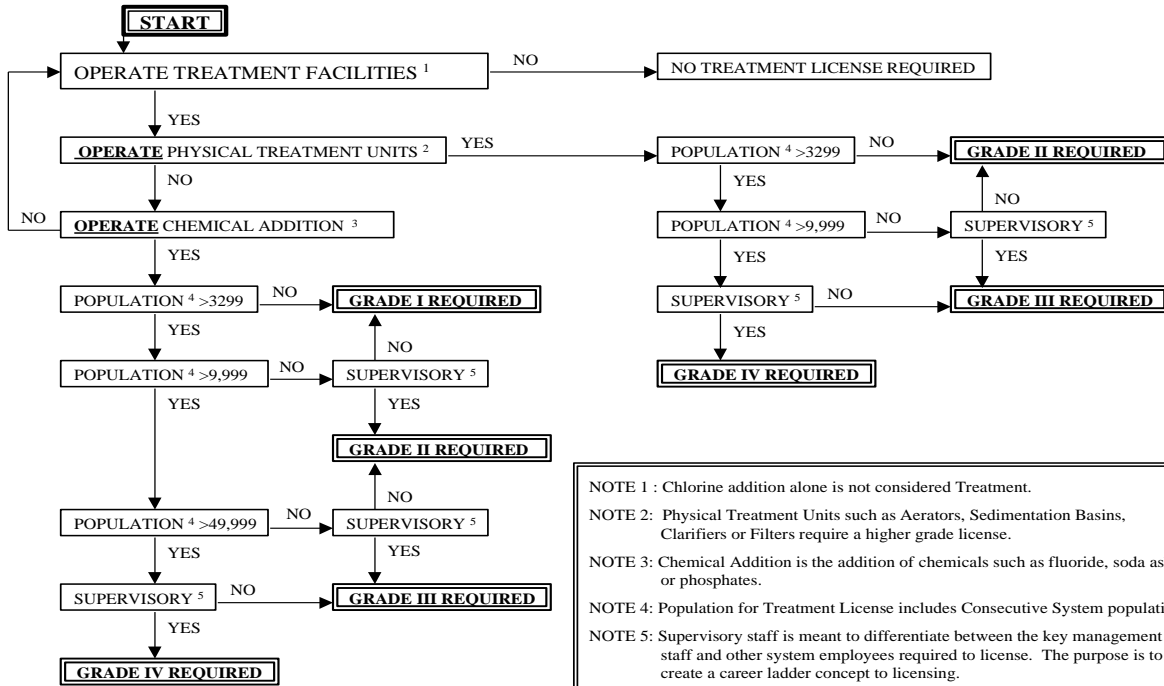
CERTIFICATION

This will certify that the foregoing Rules Pertaining to Water Operator Licensing were adopted by the Arkansas Board of Health at a regular session of said Board held in Little Rock, Arkansas, on the 1st day of August, 2019.

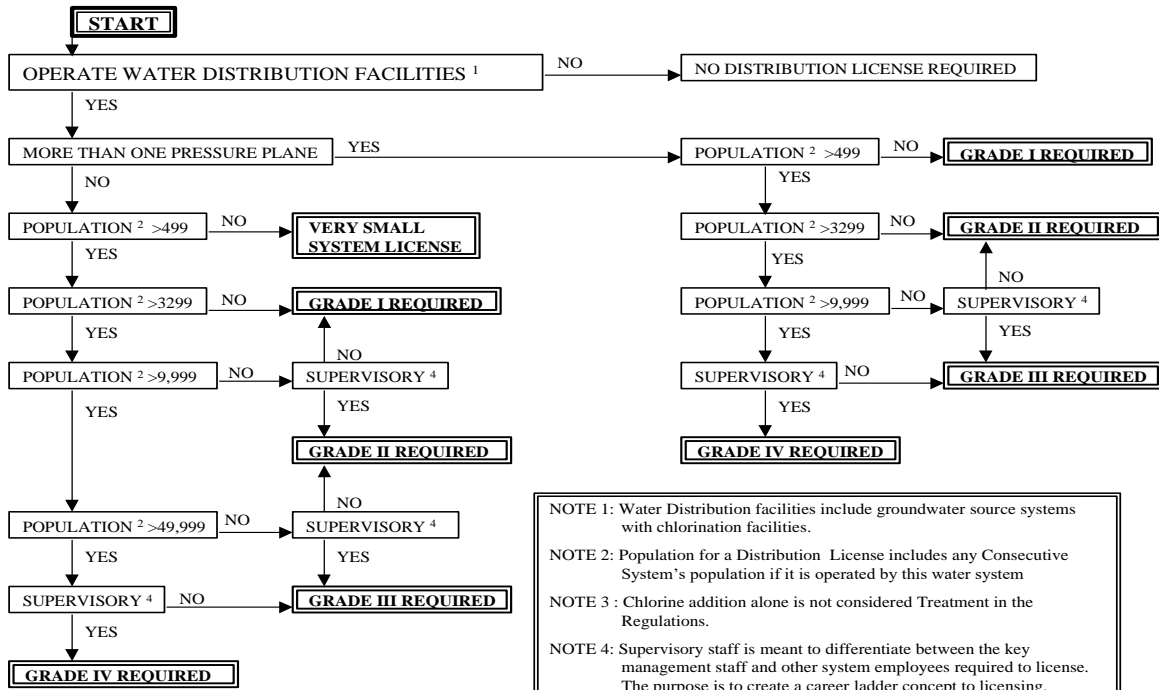
José Romero, MD
Secretary of Health
Arkansas State Board of Health

(Attachment 1)

TREATMENT LICENSE GRADE REQUIRED



DISTRIBUTION LICENSE GRADE REQUIRED



QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY _____
DIVISION _____
DIVISION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ FAX NO. _____ E-MAIL _____
NAME OF PRESENTER AT COMMITTEE MEETING _____
PRESENTER E-MAIL _____

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule?

- 2. What is the subject of the proposed rule?

- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

7. What is the purpose of this proposed rule? Why is it necessary?

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTICE OF PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH) is accepting public comments on the Rules Pertaining to Water Operator Licensing from May 9, 2022 to June 7, 2022. The comment period is provided to allow interested parties and the public to provide any comments. The proposed changes update the rule to current licensing law and revise deadlines for licensing renewals. The proposed rule revision with a summary of changes can be viewed online at <https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules> or you may request a copy from our office at 501-661-2623.

Comments on the proposed changes can also be mailed to Arkansas Department of Health, Engineering Section/Slot 37, 4815 West Markham, Little Rock Arkansas, 72205, or emailed to safewater@arkansas.gov.