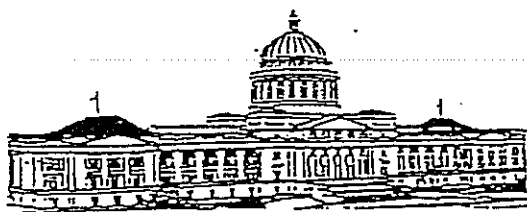


ARKANSAS REGISTER

TRANSMITTAL SHEET



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Ar. 72201-1094

For Office

Use only:

Effective Date

Code Number 007.18.00 - 001

Name of Agency Arkansas Department of Health

Department Division of Engineering

Contact Person Martin Nutt Phone: (501) 661-2623

Statutory Authority for Promulgating Rules AA Codes Annotated Title 17, Chapter 51, Sections 101-106 and Sections 201-205

Intended Effective Date

Legal Notice Published August 16-22, 2000



Emergency

Final Date for Public Comment September 19, 2000



10 Days After Filing

Filed With Legislative Council August 24, 2000



Other _____

Reviewed By Legislative Council October 5, 2000

Adopted By State Agency October 26, 2000

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Rules Were Adopted
In Compliance With Act 434 Of 1967 As Amended.

Fay B. [Signature]

Signature

(501) 661-2000

Phone Number

Director, ADH

Title

December 11, 2000

Date

BY

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

00 DEC 11 PM 3:10

ARK. REGISTER DIV

FILED

ARKANSAS STATE BOARD OF HEALTH

BUREAU OF ENVIRONMENTAL HEALTH SERVICES DIVISION OF ENGINEERING

RULES AND REGULATIONS 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 January 2001
By the Arkansas Board of Health

Arkansas Department of Health
Little Rock, Arkansas

Fay Boozman, M.D., Director

FILED
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SHARON HENEST
SECRETARY OF STATE
STATE OF ARKANSAS

SECTION I. AUTHORITY

The following Rules and Regulations 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, and Act 333 of 1957 as amended. (See Arkansas Codes Annotated, Title 17, Chapter 51, Sections 101 - 106, and Sections 201 - 205)

SECTION II. PURPOSE

These Rules and Regulations 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. VERY 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, with a single pressure plane water distribution facility.
- 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.
- 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.
- 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 which utilizes a surface water 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 (OIT) 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 and Regulations 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 and Regulations.

SECTION V. LICENSE TYPE AND GRADE OF LICENSE REQUIRED

- A. The owner of any community public water system, non-transient non-community public water system, or any other non-community public water system which utilizes a surface water or surface water influenced 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. Community and Non-Transient Non-Community public water systems and any other non-community public water system which utilizes a surface water or surface water influenced 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 6.)
- G. Community and non-transient non-community public water systems and any other non-community public water system which utilizes a surface water 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.
- 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.

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
VERY SMALL SYSTEM	25 TO 499	////////////////	SMALL SYSTEM
SINGLE PRESSURE PLANE - NO PUMP(S) EXCEPT SOURCE/WTP PUMP(S)	500 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
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

(Table 1)

- I. The licensure determinations may be appealed by the public water systems to the Committee for their review and approval or disapproval.

SECTION VI. EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS

- A. Applicants for licensing shall have a high school diploma or General Equivalency Diploma (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 GED. Any training or experience used for such substitution shall not be used to meet the minimum experience requirement.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. Applicants who fail to pass the examination may repeat the examination at subsequent examination sessions. An additional examination fee is required for each examination. An additional application is not required for repeated examinations, if the examination is repeated within one (1) year.

- I. Evaluation of the Experience requirement shall be based on completion of the following periods of approved work:

1. Grade IV - Three (3) years;
2. Grade III - Two (2) years;
3. Grade II - One (1) Year
4. Grade I - Six (6) months.
5. Very Small System - No experience requirement

SECTION VII. 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. The Department may require reexamination if the inactive period exceeds five years.

SECTION VIII. 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 paid 60 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.

SECTION IX. EXAMINATION SESSIONS

A. Arkansas Water Works and Water Environment Ass'n 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 X. 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 XI, Subsection A; or invalidated due to obtaining or renewing the license through fraud; deceit; or the submission of inaccurate qualifications or renewal data.

C. Reciprocity

Any applicant holding a valid License from another State with at least equal requirements of Act 333 of 1957, as amended, and its Rules and Regulations shall be issued a Water System Operator License. Such license shall be issued only after an evaluation has been made by the Department to insure that the applicant's out-of-state License is current and has equal requirements to the License to be issued. To obtain a license by reciprocity a license application and documentation of the License held must be filed with the required fees in Section VIII, Subsection B and E included.

D. Suspension

The Department shall suspend a Water Operator's license or Operator-In-Training certificate, when it is found the license holder has practiced fraud or deception; that reasonable care, judgment, or the application of their knowledge or ability was not used in the performance of their duties; or that the license holder is incompetent or unable to perform their duties properly. The suspension shall remain in effect until the case can be reviewed by the Committee.

E. 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.

F. 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 VIII, Subsection C and F must be remitted.

SECTION XI. MAINTENANCE OF LICENSE

- A. In order to have his or her license renewed, a Water Operator or Operator-In-Training 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. The instruction must be in subjects applicable to the field of water supply, treatment, distribution, pumping, metering, or management; or the study of approved material on the same subjects.
- 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 VIII, 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 XII. 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 XIII. 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 XIV. ADMINISTRATIVE PENALTY AUTHORITY

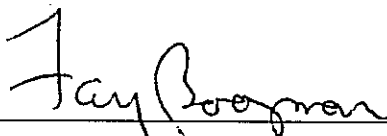
The Arkansas Department of Health shall have the authority to assess administrative penalties against any individual or any public water system for failure to comply with any portion of these regulations, in accordance with the requirements of ACA §§ 20-7-101, et seq, and ACA §§ 14-262-101, et seq.

SECTION XV. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect other provisions or applications of these Rules and Regulations 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 and Regulations Pertaining to Water Operator Licensing were adopted by the Arkansas Board of Health at a regular session of said Board held in Eureka Springs, Arkansas, on the twenty-third day of October, A.D. two thousand.

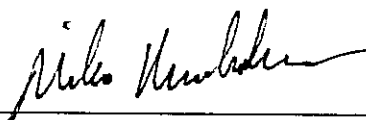


Fay Boozman, M.D.

Secretary of the Arkansas Board of Health
Director, Arkansas Department of Health

Dated at Little Rock, Arkansas, this Twenty-second day of November, A.D two thousand.

The preceding Rules & Regulations have been filed in my office and are hereby adopted on the Dec. 1 day of 2000, A.D. two thousand.



Mike Huckabee
GOVERNOR

FINANCIAL IMPACT STATEMENT

DEPARTMENT Arkansas Department of Health
DIVISION Division of Engineering
PERSON COMPLETING THIS STATEMENT Martin Nutt
PHONE NUMBER (501) 661-2623 FAX (501) 661-2032

SHORT TITLE OF THIS PROPOSED RULE R & R PERTAINING TO WATER OPERATOR LICENSING

1. Does this proposed, amended or repealed rule or regulation have a financial impact? Yes _____ No X .
2. Please estimate the cost of compliance (to regulated entities & others outside the department). Identify any financial impact on municipalities or counties. Not Applicable- No Additional Cost will be incurred to implement the revisions.
3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. Not Applicable.
4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.
5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulations? Not Applicable - No Additional Cost will be incurred to implement the revisions.
6. What is the total estimated cost by fiscal year to the agency to implement this regulation? Not Applicable-No Additional Cost will be incurred to implement the revisions.
7. Does the Proposed Rule impose a cost on state or local school districts? If yes then file a fiscal impact statement. Not Applicable- No Additional Cost will be incurred to implement the revisions.

Arkansas Department of Health

Cover Summary of Proposed Administrative Rules/Regulations

DIVISION	Engineering
ADDRESS	4815 West Markham, slot 37 Little Rock, Arkansas 72205
Contact Person	Martin Nutt (501) 661-2623

SHORT TITLE OF THIS RULE: R & R's Pertaining to Water Operator Licensing

1. What is the subject of the proposed rule? Rules outlining which water system operator's must be licensed; the type of license required; what examinations must be passed; the type of examination taken and the required experience requirements.
2. Will this be a new rule or repeal or amend an existing rule? This rule will amend portions of the old rule. It requires all new license applicants to have a High School Diploma or GED, eliminates the issuance of Temporary Permits to operate a water system, requires the water system to have available an Operator In Responsible Charge of the water system during each operating period, requires all examinations and exam questions to be validated, and has several administrative procedure revisions.
3. What State or Federal law or regulation grants the authority for this proposed rule? Act 333 of 1957, as amended (ACA, Title 17, Chapter 51, Sections 101-106, and Sections 201-205).
4. What is the purpose of this proposed rule? Why is it necessary? The purpose is to help assure that qualified individuals operate water systems. The Federal Safe Drinking Water Act has implemented Water Operator Certification Program Guidelines which must be met or risk have 20% (approximately \$2,000,000) of our Water State Revolving Loan capitalization grant withheld. The revision are to meet the Guideline requirements
5. Will this proposed rule be controversial? Is not expected to be controversial. The proposed changes have been provided to the present licensed operators throughout the state and we have received primarily positive support, with little negative response.
6. What is the financial impact of this proposed rule? The financial cost to the regulated system will not increase. There may be some salary cost increase to retain competent staff.
7. Was a public hearing held on this proposed rule? Yes. A public hearing will be held on September 19, 2000, at 1:30 p.m., in the Arkansas Department of Health Board Room (room 906), Freeway Medical Building, 5800 West Tenth Street, Little Rock, Arkansas.
8. What is the proposed effective date of this proposed rule? Twenty days after being filed with the Secretary of the State's office. Propose filing by November 6, 2000.