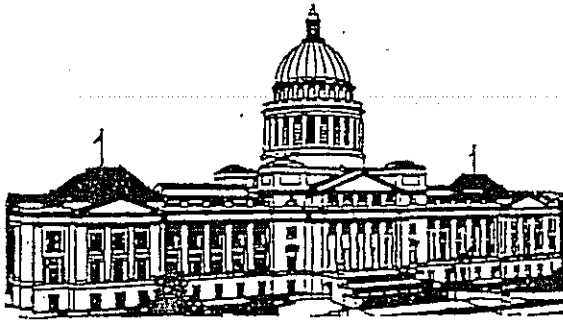


ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 026
Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date 10/4/97 Code Number 007.18.97--001

Name of Agency Arkansas Department of Health

Department Division of Engineering

Contact Person Harold Seifert

Statutory Authority for Promulgating Rules Act 494 of 1997

Date

Intended Effective Date

☐ Emergency

Legal Notice Published

☒ 10 Days After Filing

Final Date for Public Comment July 2, 1997

☐ Other

Reviewed by Legislative Council

Adopted by State Agency

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Harold R. Seifert
Signature

(501) 661-2623

Phone Number

Division Director

Title

September 23, 1997

Date

FILED
AR. REGISTER DIV.
97 SEP 24 AM 9:20
SECRETARY OF STATE
STATE OF ARKANSAS

Rules and Regulations

Pertaining To

Water Operator Licensing



FILED
AP REGISTER DIV.
97 SEP 24 AM 9:20
SHARON FLETCHER
SECRETARY OF STATE
STATE OF ARKANSAS
BY _____

Arkansas Department of Health

Bureau of Environmental Health Services

Division of Engineering

1997

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 494 of 1997. (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. COMMITTEE means the Drinking Water Advisory And Operator Licensing Committee.
- B. BOARD means the Arkansas State Board of Health.
- C. DEPARTMENT means the Arkansas Department of Health.
- D. 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.)

- E. OPERATOR-IN-TRAINING (OIT) means any Water Operator who has successfully completed the formal license examination, but has not met the experience requirement.
- F. PUBLIC WATER SYSTEM 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 and delivered to the public.
- G. 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, with a well or purchase water source, no treatment and a single pressure plane distribution system.
- H. COMMUNITY PUBLIC WATER SYSTEM means any public water systems which serves at least fifteen (15) service connections or twenty-five (25) persons who are year round residents.
- I. NON-COMMUNITY PUBLIC WATER SYSTEM means a public water system that serves fifteen (15) service connections or twenty-five (25) persons, at least sixty (60) days per year, that is not a community public water system.
- J. NON-TRANSIENT NON-COMMUNITY PUBLIC WATER SYSTEM means a public water system that is not a community public water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.
- K. WATER TREATMENT FACILITIES shall mean that portion of the public water system in which water is obtained and treated.
- 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. 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.

- N. 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.
- O. SURFACE WATER means water that flows over or rests upon the surface of the earth.
- P. 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.
- Q. 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.

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. 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.
- B. 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.

- C. 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.
- D. Water Treatment Facilities and Distribution Facilities shall be classified in accordance with Table 1. Water Operators 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.)
- E. 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.
- F. The licensure determinations may be appealed by the public water systems to the Committee for their review and approval or disapproval.

SECTION VI. EXAMINATION AND EXPERIENCE 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.
- B. 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 system operation license.
- C. 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.
- D. An individual desiring to be examined shall file an application and required fees with the certification program not later than 60 days preceding the date of examination. The application will be valid for one year.

WATER TREATMENT OPERATOR LICENSE

TYPE OF TREATMENT	POPULATION SERVED (Include consecutive system * population.)	SUPERVISORY STAFF **	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 SYSTEM COMPLEXITY	POPULATION SERVED (Include consecutive system * population, if operated by this water system.)	SUPERVISORY STAFF **	LICENSE GRADE REQUIRED
VERY SMALL SYSTEM	25 TO 499	//////////	SMALL SYSTEM
SINGLE PRESSURE PLANE - NO PUMP(S) EXCEPT SOURCE/WTP PUMP(S)	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
MULTIPLE PRESSURE PLANES	25 TO 3,299	//////////	II
	3,300 TO 9,999	YES	III
		NO	II
	10,000 OR GREATER	YES	IV
		NO	III

* Consecutive systems are public water systems that obtain all or part of their water supply, either directly or indirectly, from another system.

** Supervisory staff is meant to include mid-level management, but not job site crew leaders or plant shift crew leaders.

(Table 1)

- E. 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. 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.
- F. 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.
- 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. 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 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. When a public water system does not have a licensed Water Operator, due to circumstances such as death, illness, resignation, or other emergency situation, the Department may issue a Temporary Permit to an applicant, provided that public health and safety are not jeopardized.
- D. Each Temporary Permit shall be valid for a period of not more than one (1) calendar year, and may be renewed only once, with the approval of the Department.

SECTION VIII. EXISTING WATER OPERATORS

A. Active License Holders

Holders of completed licenses in accordance with the Rules and Regulations Pertaining To Water Operator Licensing as adopted by the Arkansas Board of Health on July 25, 1991 will be awarded new licenses as follows:

Grade A, Surface Operator	Grade IV Water Treatment License Grade IV Water Distribution Operator License
Grade A, Well Operator	Grade IV Water Treatment License Grade IV Water Distribution Operator License
Grade B, Surface	Grade III Water Treatment Operator License Grade III Water Distribution Operator License
Grade B, Well	Grade III Water Treatment Operator License Grade III Water Distribution Operator License
Grade C	Grade II Water Distribution Operator License

B. Operator-In-Training Certificate Holders

Holders of Operator-In-Training Certificates will be allowed to complete their licenses. The licenses must be completed in accordance with the Rules and Regulations Pertaining To Water Operator Licensing as adopted by the Arkansas Board of Health on July 25, 1991.

The Certificate holder will have up to three (3) years to complete their exams and up to five (5) years to complete their experience requirement, from December 31, 1997. The completed license will then be eligible for conversion under Section VIII, Subsection A.

Grade A and B Operator-In-Training Certificate holders will also be allowed to convert partially completed licenses to the appropriate license grade and type if the following conditions are met: a Treatment License may be issued if the Water Source and Pumping, Water Treatment and Filtration, and General Practice and Finance Exams have been passed and the experience requirement has been met; or a Distribution License may be issued if the Water Source and Pumping, Distribution and Metering, and General Practice and Finance Exams have been passed and the experience requirement has been met. License Grade will be in accordance with Section VIII, Subsection A.

Operator-In-Training Certificate holders that have not passed sufficient license exams to comply with the above paragraphs, by December 31, 2000, shall be converted to the license exams described in Section VI, without credit for previously completed exams.

C. Applicants for License

New and present applicants will be allowed to complete their license in accordance with the Rules and Regulations Pertaining To Water Operator Licensing as adopted by the Arkansas Board of Health on July 25, 1991, provided at least one license exam has been passed by December 31, 1997. Applicants for license may choose to take the exams as described in Section V and VI, before December 31, 1997 and will be required to take the Section V exams after December 31, 1997.

D. Inactive Licenses

Licenses previously placed on Inactive status may be reinstated at any time, after approval by the Department, by paying reinstatement fees. The Department may require reexamination if the inactive period exceeds five years. Requests to reinstate licenses will be required to meet Section IX, Subsection H; and Section VIII, Subsections A or B, respectively.

SECTION IX. FEES ESTABLISHED

A. Examination

The fee shall be \$25.00 per examination, submitted 60 days in advance of the examination.

B. License

The fee shall be \$10.00, paid prior to issuance of said license or Operator-In-Training certificate.

C. Renewal of License

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

D. 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 reissuance of License.

E. Evaluation for Reciprocity

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

F. Penalty for Late Renewal

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

G. Temporary Permit and Renewal of Temporary Permit

The fee for issuance of a Temporary Permit, or renewal of a Temporary Permit shall be \$10.00.

H. 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.

SECTION X. EXAMINATION SESSIONS

A. District meetings

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 XI. 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 XII, 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 494 of 1997 and its Rules and Regulations shall be issued a Water System Operator License on payment of the fees stated in Section IX, FEES ESTABLISHED, Item B and E. Such license shall be issued only after an evaluation 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.

D. Suspension

The Department shall suspend a Water Operator's license, Operator-In-Training certificate or temporary permit, 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 IX, FEES ESTABLISHED, Item C and F, must be remitted.

SECTION XII. 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 lapsed can request, within two (2) years 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 IX, FEES ESTABLISHED, Item C and F.
- E. A Water Operator license or Operator-In-Training certificate that has been expired for more than two (2) years cannot be reinstated. It is necessary for such a license or certificate to reapply and be reexamined according the requirements for new applicants.

SECTION XIII. 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 XIV. 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 XV. ADMINISTRATIVE PENALTY AUTHORITY

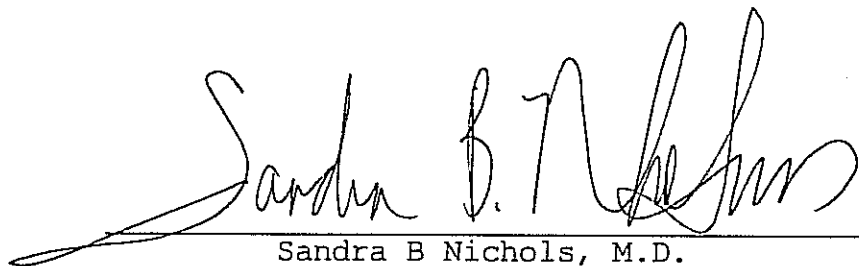
The Arkansas Department of Health shall have the authority to assess administrative penalties against any individual or any public water system for failure to comply with any portion of these regulations, provided that such penalties and procedures are in accordance with Arkansas statutes.

SECTION XVI. 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 Heber Springs, Arkansas, on the twenty-fourth day of July, A.D. nineteen hundred and ninety-seven.



Sandra B Nichols, M.D.
Secretary of the Arkansas Board of Health
Director, Arkansas Department of Health

Dated at Little Rock, Arkansas, this twenty-first day of August, A.D. nineteen hundred and ninety-seven.

The preceding Rules & Regulations have been filed in my office and are hereby adopted on the twenty-second day of September, A.D. nineteen hundred and ninety-seven .



Mike Huckabee
GOVERNOR

ARKANSAS LEGISLATIVE COUNCIL SUBCOMMITTEE FOR
ADMINISTRATIVE RULES & REGULATIONS
FINANCIAL IMPACT STATEMENT

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

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

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 X No .
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. No.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Not Applicable.
4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulations?

Each examinee will pay \$25.00 per exam taken. Total estimated cost to the regulated community is shown under item 5.

BY _____
SHARON L. TRIST
SECRETARY OF STATE
STATE OF ARKANSAS

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5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

	1998--99 Fiscal Year	1999--00 Fiscal Year
General Revenue	_____	_____
Federal Funds	_____	_____
Cash Funds	_____	_____
Special Revenue	<u>\$8550 -- 13,300 *</u>	<u>\$8550 -- 13,300 *</u>
Other	_____	_____
Total	<u>\$8550 -- 13,300 *</u>	<u>\$8550 -- 13,300</u>

- * The only cost are due to the use of proprietary exams. These costs will be fully offset by the exam fees paid by the examinees.

In addition, the use of machine gradeable exams, graded by the vendor as part of the costs above, will free up an estimated 1.5 full time equivalent technical personnel, an estimated savings in excess of 75,000 dollars, annually. The personnel savings will be used to fulfill new drinking water program requirements under the 1996 Safe Drinking Water Act Amendments.