

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Board of Health TITLE NUMBER: 64

CITE AUTHORITY §16-1-7(2)

AMENDMENT TO AN EXISTING RULE: YES NO

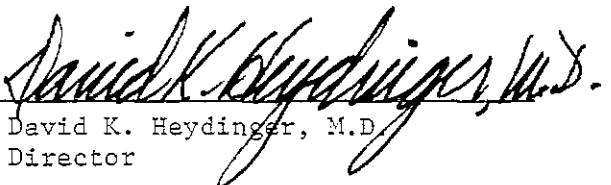
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Public Water Supply Operator
Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


David K. Heydinger, M.D.
Director

SECRETARY OF STATE
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Modifications to Proposed Public Water Supply Operators
Regulations
Approved by the Legislative Rule-Making Review Committee
August 29, 1988

4.6. Full-time - Thirty-five (35) or more hours per week or the maximum number of hours of system operation per week if the system is in operation less than thirty-five (35) hours per week.

5.1.2. The point system for classification of public water systems shall be based on Table 64-4A at the end of this rule.

6.5. Class ID certified operators shall be restricted to operating the specific Class ~~ID~~ ID public water system or systems designated on their certificates and shall not be employed as operators of Class I or higher systems.

9.2. Education beyond high school shall be expressed as continuing education units. See Definition Section 4.3 of this rule. The continuing education units substitution values are found in Table 64-4E at the end of this rule.

10.2. Examinations for certification shall be scheduled by the director for those applicants who meet the requirements of § Section 9 of this rule. The time and place for the examination will be designated by the director, who shall notify the applicants at least fourteen (14) days before the scheduled examination date.

10.3. An applicant's certification status shall be determined by examination grade, and educational and experience background. To pass the examination, an applicant must make a minimum grade of seventy percent (70%). An applicant who fails an examination shall wait a minimum of sixty (60) days before applying for re-examination. Applicants who fail an examination three (3) times shall wait a minimum of one (1) year between subsequent re-examinations.

11.2. A certified operator employed by a public water system shall notify the director at least thirty (30) days prior to terminating his employment. Failure to notify the director shall be cause for automatic certificate revocation. The penalties as stipulated by § Section 14 of this rule shall not apply to an operator who fails to submit said notice, and automatic revocation shall not occur if the operator has been discharged by his employer.

11.3. Delete hyphens in "date of issue."

TABLE 64-4D

<u>CLASS</u>	<u>EDUCATION REQUIRED</u>	<u>EXPERIENCE REQUIRED</u>
ID	Eighth Grade	3 months at a Class ID water treatment plant or higher
I	High School	1 year at a Class ID water treatment plant or higher
II	High School	3 years at a Class ID water treatment plant or higher with-a-minimum of <u>which at least 1 year must be at a Class I water treatment plant or higher</u>
III	High School and 90 Continuing Education Units	5 years at a Class I water treatment plant or higher higher-with-a-minimum of <u>which at least 1 year must be at a Class II water treatment plant or higher</u>
IV	High School and 180 Continuing Education Units	6 years at a Class I water treatment plant or higher with a-minimum of <u>which at least 1 year must be at a Class III water treatment or higher</u>

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[PROPOSED]

TITLE 64
LEGISLATIVE RULES
DEPARTMENT OF HEALTH

PUBLIC WATER SUPPLY OPERATOR REGULATIONS

SERIES 4

198__

Modifications Requested by the Legislative
Rule-Making Review Committee
August 29, 1988

CLERK OF THE HOUSE
SECRETARY OF STATE

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physical and radiological contaminants which cause disease or harmful physiological effects. Minimum quality of the water shall conform to ~~these--applicable--regulations~~ this rule and standards of the board of health.

4.5. Director - Director of the West Virginia department of health or his designee.

4.6. Full-time - Thirty-five (35) or more hours per week or the maximum number of hours of system operation per week if the system is in operation less than thirty-five (35) hours per week.

4.7. Fluoride Certification - A separate certification required of certified operators employed in public water systems utilizing fluoride treatment.

~~4-6-~~ 4.8. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

~~4-7-~~ 4.9. Public Water Supply Operator Certificate - A written document issued by the director giving a designated individual permission to operate a public water supply.

~~4-8-~~ 4.10. Public Water Supply/System - Any water supply/system which regularly supplies or offers to supply, piped water to the public for human consumption, if serving at least an average of twenty-five (25) individuals per day for at least sixty (60) days per year, or which has at least fifteen (15) service connections, and shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the owner of such system and used primarily in connection with such system, and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

~~4-9-~~ 4.11. Operate - To perform the practical work and the application of the technical knowledge and skill to treat, test and distribute drinking water. Construction or repair of water treatment or distribution systems shall not be subject to the licensing requirements of this rule.

~~4-10-~~ 4.12. Operator-in-Training (OIT) - An individual undergoing on-the-job training at a public water system and in the process of completing the educational or experience requirements to become a certified operator.

~~4-11-~~ 4.13. Owner - The person responsible for providing drinking water to the public.

~~4-12-~~ 4.14. Water Treatment Plant - Facilities provided for the treatment of water by any one (1) or any combination of the controlled processes of coagulation, sedimentation, absorption, filtration, disinfection or other processes which produce

drinking water consistently meeting the requirements of the board of health.

§64-4-5. Classification of Public Water Systems

5.1. A public water system shall be classified on the basis of complexity of water treatment processes and the total population served.

5.1.1. The system of classification for public water systems shall be based on a total point rating as computed by the point system classification shown in subsection 5.1.2 and subsequently applied to subsection 5.1.3 of these ~~regulations~~ this rule.

5.1.2. The point system for classification of public water systems shall be based on Table 64-4A at the end of this regulation rule.

5.1.3. Classification of public water systems shall be based on Table 64-4B found at the end of this ~~regulation~~ rule.

§64-4-6. Requirements for Certified Public Water Systems Operators

6.1. Any person operating a public water system in the state of West Virginia shall be a certified operator or an operator-in-training ~~(OIT)~~; under the supervision of a certified operator.

6.2. The owner of a public water system shall obtain the full-time services of a chief operator and an adequate number of other certified operators to effectively operate the system. The use of operators-in-training to assist in the operation of the system is permitted by ~~these regulations~~, this rule, but, only with written permission of the director may the ratio of ~~OIT's~~ operators-in-training to certified operators exceed one (1) to one (1) or may the chief operator be employed less than full-time.

6.3. The required certification level for any chief operator shall be determined by use of Table 64-4C found at the end of this ~~regulation~~ rule.

6.4. Classes I, II, III, and IV water systems shall have a certified operator present at the treatment facilities anytime water is undergoing treatment. In Class III and IV systems, this operator shall not be more than one classification lower than the system classification. Exceptions to this requirement may be granted to Classes Class I and II groundwater systems based on the director's evaluation of the system's source-of-raw-water size and the required treatment processes. All exceptions granted shall be issued in writing to the owner by the director.

6.5. Class ID certified operators shall be restricted to

operating the specific Class ID public water system or systems designated on their certificates and shall not be employed as operators of Class I or higher systems.

6.6. Operators of public water systems that add fluoride or adjust the level of fluoride in their finished water shall obtain a fluoride certification.

~~6.6-~~ 6.7. The certificates of all certified operators and operators-in-training shall be prominently displayed at that system's water treatment plant.

\$64-4-7. Operator-In-Training (OIT)

7.1. The operator-in-training ~~class~~ classification shall be limited to persons undergoing on-the-job training to become a certified operator.

7.2. A written application for an operator-in-training certificate shall be made in writing to the director, within thirty (30) days after employment as an operator-in-training at a public water system.

7.3. The chief operator shall be responsible for the supervision and training of all operators-in-training utilized by the public water system.

7.4. Operator-in-training certification shall be valid for one (1) year. Persons will be considered for one (1) additional year of certification if a written application for same is submitted to the director, thirty (30) days prior to current certificate expiration. Recertification shall be limited to those persons who can document to the director an effort to obtain certified operator status.

\$64-4-8. Qualifications for Certification

8.1. Applicants applying for certified operator or ~~OIT~~ operator-in-training status shall be a minimum of eighteen (18) years of age.

8.2. Certification of public water system operators shall be based upon education, experience and satisfactory completion of an examination given by the director. Certification at Class I, II, III, and IV levels shall be attained in sequence. Minimum education and experience requirements are found in Table 64-4D found at the end of this regulation rule.

8.2.1. Operating experience for Class ID operators may be waived for those individuals who attend a specialized training course approved by the director.

\$64-4-9. Education/Experience Credits and Substitution

9.1. High school education means the successful completion

of high school documented by a diploma issued by the high school attended. A general education diploma (GED) shall be accepted as equivalent to a high school education.

9.2. Education beyond high school shall be expressed as continuing education units (CEU's). See Definition Section 4.3 of this regulation rule. The CEU continuing education units substitution values are found in Table 64-4E at the end of this regulation rule.

9.3. Certified operator experience, at the next certification level below that being applied for, may be substituted on a year for year basis for education requirement beyond the high school level through a maximum of ninety (90) CEU's continuing education units. However, any experience used as a substitute for the educational requirement cannot also be used to satisfy the experience requirement.

9.4. Education, above the high school level, may be substituted on a year for year basis for experience requirements in Class II, III and IV only. A maximum of three (3) years of education may be substituted for experience requirements.

§64-4-10. Application for Certification

10.1. Those persons who desire to be certified shall make a written request for certification to the director. Proof of education shall be submitted along with an application for examination. Written proof of work experience may be required by the director.

10.2. Examinations for certification shall be scheduled by the director for those applicants who meet the requirements of § Section 9 of these regulations-this rule. The time and place for the examination will be designated by the director, who shall notify the applicants at least fourteen (14) days before the scheduled examination date.

10.3. An applicant's certification status shall be determined by examination grade, and educational and experience background. To pass the examination, an applicant must make a minimum grade of seventy percent (70%). An applicant who fails an examination shall wait a minimum of sixty (60) days before applying for re-examination. Applicants who fail an examination three (3) times shall wait a minimum of one (1) year between subsequent re-examinations.

§64-4-11. Revocation or Expiration of Certificates

11.1. The director may require former certificate holders to take another examination at their last certification classification if they have not been actively engaged in water supply treatment operations for a two (2) year period.

11.2. A certified operator employed by a public water

system shall notify the director at least thirty (30) days prior to terminating his employment. Failure to notify the director shall be cause for automatic certificate revocation. The penalties as stipulated by § Section 14 of these regulations this rule shall not apply to an operator who fails to submit said notice, and automatic revocation shall not occur if the operator has been discharged by his employer.

~~11.3. Public water supply operator certificates issued under the provisions of these regulations shall expire on the date indicated therein. The period of validity for these certificates shall be not less than two (2) years nor greater than three (3) years. Certificates held prior to the effective date of these regulations reflect a date of issue. Persons holding these certificates have two (2) years after the effective date of these regulations to apply for recertification.~~

11.3. Public water supply operator certificates issued under the provisions of this rule reflect a date of issue. These certificates are valid for a period of two (2) years from the date of issue. Persons holding these certificates and still employed as the operator of a public water system may apply for recertification.

11.4. Operators who desire to be recertified, shall make a written request for recertification to the director. shall do so in writing to the director on a Form EW-102B.

11.5. The director may revoke the certificate of any person who fraudulently obtains a certificate or for neglect, incompetency or misconduct in the performance of his duties as an operator of a public water system, including non-compliance with Public Water Supply Regulations, West Virginia Department of Health Legislative Rules, 64 CSR 3 Series 37, 1983, which relates to public water supply control tests, microbiological monitoring and operating records. The director may reinstate any person whose certificate certification has been revoked upon presentation of satisfactory evidence to the director that all deficiencies leading to the revocation have been corrected.

§64-4-12. Reciprocity - The director shall consider for West Virginia certification, the holder of a certificate issued by a proper authority of another state upon presentation to the director satisfactory written evidence of the following:

12.1. The applicant has been offered and has agreed to accept full time employment as a public water system operator in the state of West Virginia.

12.2. The applicant has successfully passed a certification examination at least equivalent to that which is required under these regulations, this rule.

12.3. The applicant meets the educational and work experience requirements of these regulations this rule for

certification.

§64-4-13. Severability - If any provisions of these regulations this rule or the application thereof to any person or circumstance shall be held invalid, such invalidity thereof shall not affect the provisions or application of these regulations this rule which can be given effect without the invalid provisions or application and, to this end, the provisions of these regulations this rule are declared to be severable.

§64-4-14. Penalties - Any person who violates any provision of these regulations this rule or any regulations or rules adopted by the West Virginia State board of health pursuant to the authority granted by these regulations this rule shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than thirty (30) days, or both, as provided under Chapter 16, Article 1, Section 18 of the Public-Health--Laws-of West-Virginia, West Virginia Code. Each day's failure to comply with any applicable provision of these--regulations this rule shall constitute a separate offense.

§64-4-15. Administrative Due Process - Those persons adversely affected by the enforcement of these--legislative this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Department of Health Procedural Rules, Series--17-1983 64 CSR 1. The aforementioned procedural rules are incorporated herein by reference.

TABLE 64-4A

POINT SYSTEM FOR CLASSIFICATION OF PUBLIC WATER SYSTEMS

Assign points for every item that applies:

<u>Size</u>	<u>Item</u>	<u>Points</u>	
	Maximum population served, peak day	1 pt. per 10,000 or part	(Max 10)
	Design flow (avg. day) or peak month's production (avg. day), whichever is larger	1 pt. per MGD or part	(Max 10)
	<u>Water Supply Source</u>	1 pt. per source	_____
	Groundwater	3	_____
	Surface water	10	_____
	Average raw water quality (good to poor). .	0-10	_____
	<u>Treatment</u> (Note: Most plants will fit into only one of the four treatment categories below)		
	<u>Iron or Iron/Mn Removal</u> (nominal 10)		
	Chemical oxidation by $KMnO_4$	6	_____
	Chemical oxidation by Cl.	5	_____
	Aeration.	4	_____
	Filtration.	6	_____
	<u>Ion Exchange Softening</u> (nominal 10)		
	Ion exchange softening.	5-10	_____
	<u>Coag., Sed., Filtr'n.</u> (w/o softening) (nominal 15)		
	Presetting	2	_____
	Addition of coagulants.	4	_____
	Mixing, flocculation, setting,	5	_____
	or upflow solids contact	8	_____
	Filtration.	6	_____

TABLE 64-4A (Cont'd)

Coag., Sed., Filtr'n with Softening (nominal 20)

Presettling	2	_____
Addition of chemicals/coagulants.	6	_____
Mixing, flocculation, settling,	5	_____
or upflow solids contact.	8	_____
Recarbonation	3	_____
Filtration.	6	_____

Adjustment (Note: Assign points here only for treatment in addition to those listed above, or where it is the only treatment provided.)

Chemical addition for stabilization (polyphosphate, soda, lime, pH adjustment, etc.)	4	_____
Taste and odor or color control (KMnO ₄ , activated carbon, etc.)	8	_____

In-Plant Treatment of Plant Sludge. 6 _____

Advanced Treatment (Demineralization) 15 _____

Fluoridation. 5 _____

Disinfection. 5 _____

Chlorination or comparable.	5	_____
On-site generation of disinfectant.	5	_____

Laboratory Control by Plant Personnel

Bacteriological (complexity).	0-10	_____
Chemical/physical (complexity).	0-10	_____

TOTAL _____

TABLE 64-4B

CLASSIFICATION OF PUBLIC WATER SYSTEMS

BASIS OF CLASSIFICATION	CLASSES ⁽¹⁾				
	ID	I	II	III	IV
WATER SYSTEM TOTAL POINT RATING	1 - 20	21 - 30	31 - 55	56 - 75	76 - GREATER
POPULATION SERVED	500 and LESS	501 - 1500	1501 - 15,000	15,000 - 50,000	50,001 and GREATER

(1) In cases where the total point rating and population served differ, the higher classification shall be used.

TABLE 64-4C

PUBLIC WATER SYSTEM CHIEF OPERATOR CLASSIFICATION TABLE

PUBLIC WATER SYSTEM CLASSIFICATION	MINIMUM CERTIFICATION REQUIREMENTS FOR CHIEF OPERATORS
CLASS ID	CLASS ID or HIGHER
CLASS I	CLASS I or HIGHER
CLASS II	CLASS II or HIGHER
CLASS III	CLASS III or HIGHER
CLASS IV	CLASS IV

TABLE 64-4D

<u>CLASS</u>	<u>EDUCATION REQUIRED</u>	<u>EXPERIENCE REQUIRED</u>
ID	Eighth Grade	3 months at a Class ID water treatment plant or higher
I	High School	1 year at a Class ID water treatment plant or higher
II	High School	3 years at a Class ID water treatment plant or higher with a-minimum of <u>which at least 1 year must be</u> at a Class I water treatment plant or higher
III	High School and <u>90 CEU's Continuing Education Units</u>	5 years at a Class I water treatment plant or higher with-a-minimum of <u>which at least 1 year must be</u> at a Class II water treatment plant or higher
IV	High School and <u>180 CEU's Continuing Education Units</u>	6 years at a Class I water treatment plant or higher with-a-minimum of <u>which at least 1 year must be</u> at a Class III water treatment plant or higher

TABLE 64-4E

<u>EDUCATION</u>	<u>CEU's Continuing Education Units</u>
1 Public Water Supply Operators Short Course (sponsored by the director - credit not allowed for repeating same course)	4.0
1 Public Water Supply Operators Seminar (sponsored by the director)	1.0
1 Quarter Hour College Credit	1.0
1 Semester Hour College Credit	1.5
1 Month Operating Experience (acceptable to the director)	3.75



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

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OFFICE OF THE SECRETARY OF STATE

Senator Larry A. Tucker, Co-Chairman
Delegate Thomas A. Knight, Co-Chairman

August 31, 1988

M. E. Mowery, Counsel
Debra A. Graham, Associate Counsel
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: David K. Heydinger, M.D., Director
Department of Health
1800 Washington Street, E.
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Public Water Supply Operator Regulations

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Kay Howard
Regulatory Development Section
Robert Paul
Div. Environmental Engr.