

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

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2006 JUN 28 A 10:46

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DHHR-Bureau for Public Health TITLE NUMBER: 64

RULE TYPE: Legislative CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Public Water Systems Operator Regulations

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 2006 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

John D. Law, WVDHHR

Ann Spaner - BPH

Diamond Bldg. Room 702
350 Capitol Street

Charleston, WV 25301

Phone: (304) 558-2971

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Martha Yeager Walker
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 64CSR4 - PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

Type of Rule: X Legislative Interpretive Procedural

Agency: HEALTH AND HUMAN RESOURCES

Address: OFFICE OF ENVIRONMENTAL HEALTH SERVICES
CAPITOL & WASHINGTON STREETS, 1 DAVIS SQUARE, SUITE 200
CHARLESTON, WV 25301-1798

Phone Number: (304)558-2971 Email: annspaner@wvdhhr.org

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

This rule has no cost to state general revenue.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2006 Increase/Decrease (use "-")	2007 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	82,225	47,628	10,128
Personal Services	23,725	9,628	9,628
Current Expenses	1,000	500	500
Repairs and Alterations	0	0	0
Equipment	0	0	0
Other	57,500	37,500	0
2. Estimated Total Revenues	0	0	0

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

See Attached Sheet. The first two years of implementation will require training to existing water operators. This can be accomplished by contracting for the training.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The cost associated with this rule will be paid from federal funding received by the State to implement the Safe Drinking Water Act. The State currently receives funding from the U.S. EPA and it is anticipated that the cost of implementing these changes can be paid with those funds. No additional state match will be required.

Date

6/28/06

FN64CSR4-FedImpact 6/27/2006

Agency

Department of Health and Human Resources

Authorized Representative

Martha Yeager Walker

Martha Walker
Secretary

First Year:

Personal Services

0.25 FTE for ERS III (review training material, coordinate training, and select contractor)	10,000
0.25 FTE for Office Assistant III (filing, data entry, renewals)	6,250
Personnel Services Fee @ \$250/FTE	125
FICA, Retirement, and Workers' Compensation (19.19%)	3,120
Health Insurance @ \$8,460/FTE	4,230
Personal Services Total	<u>\$23,725</u>

\$23,725

Current Expense

Telephone \$400/FTE	200
Rent	250
Vehicle	500
Office Supplies	50
Current Expense Total	<u>\$1,000</u>

\$1,000

Contracts

Contract to provide Water Distribution Training (4/first year)	20,000
Contract to provide Chief Operator Training (15/first year)	37,500
Contracts Total	<u>\$57,500</u>

\$57,500

Total First Year

\$82,225

Second Year:

Personal Services

0.25 FTE for Office Assistant III (filing, data entry, renewals)	6,250
Personnel Services Fee @ \$250/FTE	63
FICA, Retirement, and Workers' Compensation (19.19%)	1,200
Health Insurance @ \$8,460/FTE	2,115
Total	<u>\$9,628</u>

\$9,628

Current Expense

Telephone @ \$400/FTE	100
Rent	125
Vehicle	250
Office Supplies	25
Total	<u>\$500</u>

\$500

Contracts

Contract to provide Chief Operator Training (15/second year)	37,500
Total	<u>\$37,500</u>

\$37,500

Total Second Year

\$47,628

Subsequent years of new certifications and renewals:

Personal Services

0.25 FTE for Office Assistant III (filing, data entry, renewals)	6,250
Personnel Services Fee @ \$250/FTE	63
FICA, Retirement, and Workers' Compensation (19.19%)	1,200
Health Insurance @ \$8,460/FTE	2,115
Total	<u>\$9,628</u>

\$9,628

Current Expense

Telephone @ \$400/FTE	100
Rent	125
Vehicle	250
Office Supplies	25
Total	<u>\$500</u>

Total Subsequent Years \$500
\$10,128

**Department of Health and Human Resources
Bureau for Public Health
Legislative Rule
Title 64, Series 4**

PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

BRIEF SUMMARY OF PROPOSED RULE

This rule governs the examination and certification of water treatment operators of public water systems. This rule applies to owners, certified operators, and operators-in-training (OITs) of a public water system and to applicants for certification. Experienced, well-trained operators help ensure that the water delivered by public water systems is safe to drink. Environmental Protection Agency (EPA) guidelines require that water systems have at least one certified operator. Without the certification program, one of the barriers to preventing contamination of public water systems has been compromised.

STATEMENT OF CIRCUMSTANCES

These changes are based upon internal review of the existing water operator rules. Many of the changes were initiated by comments made from water operators. The new classification of water distribution operator will allow public water systems that have staff working the distribution system to be trained specifically in distribution systems and reduce the requirement for them to be trained in water treatment. These changes help to increase the knowledge and expertise of water system operators.

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH

FILED

SERIES 4
PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

2006 JUN 28 A 10:46
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-4-1. General.

- 1.1. Scope. -- This legislative rule governs the examination and certification of operators of public water systems. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.
- 1.2. Authority. -- W.Va. Code §16-1-4 and related §16-1-9.
- 1.3. Filing Date. -- ~~April 17, 2002.~~
- 1.4. Effective Date. -- ~~July 1, 2002.~~

§64-4-2. Application and Enforcement.

- 2.1. Application. -- This rule applies to owners, certified operators, and operators-in-training (OITs) of a public water system and to applicants for ~~operator, OIT or fluoride~~ certification.
- 2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health or his or her designee.

§64-4-3. Definitions.

- 3.1. 1D Operator. -- An individual holding a valid West Virginia public water system certification issued by the Commissioner, who has met the education and experience requirements outlined in Table 64-Ba of this rule. Personnel employed in a Class WD or higher public water system that collect samples or collect water quality data from the distribution system shall hold a Class 1D or higher operator certification.
- 3.2. Adequate. -- A sufficient amount the Commissioner determines, considering hours of operation of the treatment plant, treatment complexity, distribution extent, source of water, and other factors.
- 3.1-3. Certified Operator. -- An individual holding a valid West Virginia public water system ~~operator~~ certification in accordance with Section 4-6 of this rule.
- 3.2-4. Chief Operator. -- A The certified operator whom the owner designates by the owner to supervise is responsible to manage the daily operational activities of an entire public water system, or a water treatment facility, or a distribution system in a manner that ensures meeting state and federal safe drinking water regulations.
- 3.5. Class I Operator. -- An individual holding a valid Class I West Virginia public water system certification issued by the Commissioner in accordance with Section 4-6 of this rule.
- 3.6. Class II Operator. -- An individual holding a valid Class II West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

3.7. Class III Operator. -- An individual holding a valid Class III West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

3.8. Class IV Operator. -- An individual holding a valid Class IV West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

~~3.3.~~ 9. Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

3.4. 10. Community Water System. -- A public water system that serves at least fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (25) year round residents.

3.11. Consecutive System. -- A public water system that receives some or all of its finished water from one or more other public water systems.

~~3.5.~~ 12. Continuing Education Hour (CEH). -- ~~Sixty minute~~ One (1) hour of participation in an organized continuing education experience under responsible sponsorship approved by the Commissioner for renewal of a public water system operator certification.

~~3.6.~~ 13. Continuing Education Unit. -- Ten (10) CEHs.

3.14. Course of Study. -- A series of continuing education courses the Commissioner approves that is taken in order to qualify for a higher certification level.

3.15. Day. -- Standard work day of the Bureau for Public Health, unless specified otherwise.

3.16. Distribution System. -- Facilities downstream of the water treatment plant used to convey water for human consumption and which may include storage tanks, disinfection mechanisms, pumps, valves, hydrants, meters, and other appurtenances.

~~3.7.~~ 17. Drinking Water. -- Water produced by a public water system that conforms to the requirements of the Division of Health rule, "Public Water Systems," 64CSR3.

~~3.8.~~ 18. Experience. -- Hands-on work performing certified operator or OIT duties at a public water system, ~~but not including hours worked that are limited to waste water treatment, water plant maintenance, labor, and other non-operating or non-distribution duties.~~

~~3.9.~~ Fluoride Certification. -- ~~A document issued by the Commissioner granting an individual permission to operate fluoride treatment in a public water system.~~

~~3.10.~~ Full time. -- ~~Thirty five (35) or more hours per week, but if the public water system is in operation less than thirty five (35) hours per week, the maximum number of hours of operation per week.~~

~~3.11.~~ MGD. -- Million gallons per day.

3.19. Ground Water. -- A source of water not considered a surface or a ground water under the direct influence of surface water source.

~~3.12.~~ 20. Non-Transient Non-Community Water System. -- A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

3.21. Operating Shift. -- That period of time during which operator decisions that affect public health are necessary for proper operation of the public water system.

~~3.13.~~ 22. Operate. -- To perform the practical work and apply the technical knowledge and operational skills in the treatment, testing, and distribution of drinking water.

~~3.14.~~ 23. Operator-in-Training (OIT). -- An individual who holds a valid operator-in-training certificate issued by the Commissioner, and who is training under the supervision responsibility of the chief operator at a public water system while completing the educational or experience requirements to become a ~~certified~~ Class I or WD operator.

~~3.15.~~ 24. Owner. -- The person that governs is legally responsible for the operation of a public water system.

~~3.16.~~ 25. Person. -- An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any other entity recognized by law.

3.26. Present. -- To be readily available to perform tasks at the water treatment plant.

3.27. Primary Contaminant. -- Any contaminant (other than microbiological) that has a maximum contaminant level in accordance with the Division of Health rule, "Public Water Systems," 64CSR3.

~~3.17.~~ 28. Public Water System. -- ~~3.17.a. A public water system is a~~ Any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, 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, and distribution facilities under the control of the owner or operator of the system and which are used primarily in connection with the system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system. A public water system does not include a system which meets all of the following conditions: (1) Which e Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) Which e Obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition; (3) Which d Does not sell water to any person; and (4) Which i Is not a carrier conveying passengers in interstate commerce.

~~3.18.~~ 29. Public Water System Operator Certification. -- A document issued by Authority the Commissioner issues granting an individual permission to operate a public water system: in accordance with this rule.

3.30. Radial Water Collector Well. -- A well that has radial well screens installed to increase the potential amount of water produced.

3.31. Surface and Ground Water Under the Direct Influence of Surface Water. -- A source that has been determined to be open to the atmosphere or subject to surface water runoff.

3.32. Transient Non-Community Water System. -- A public water system that is not a community water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

3.33. WD Operator. -- A water operator certified at the WD level that may only operate within the water distribution system or conduct distribution system related functions at a Class I or higher public

water system.

~~3.19. 34. Water Treatment Plant. -- A facility used to process and treat water for the production of drinking water, distribution to consumers in accordance with the Division of Health rule, "Public Water Systems," 64CSR3.~~

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

4.1. A public water system is classified on the basis of the complexity of water treatment processes, ~~according to:~~

~~4.1.a. A point rating in Table 64-4A of this rule;~~ Class 1D: All transient non-community water systems that have ground water only as a source, and do not use gaseous chlorine or chlorine dioxide as a means of disinfection, and do not treat for the removal of nitrate or nitrite, or both. Ground water sources that use gaseous chlorine, chlorine dioxide as a means of disinfection or have treatment for removal of nitrate or nitrite, or both, are considered a Class I public water system.

~~4.1.b. The application of the public water system's point rating to classifications in Table 64-4B of this rule; and Class WD: A public water system that obtains all of its water from another public water system, and is not owned or operated by the supplying public water system. The system does not have any other source of water other than water from the supplying public water system. A WD system may apply chlorine for supplemental disinfection.~~

4.1.c. Class I: Community and non-transient non-community public water systems that use ground water only, serve a population of less than 10,000 (including consecutive connection population), and do not treat for a primary contaminant.

4.1.d. Class II: All public water systems that use a surface source or a ground water under the direct influence of surface water source, serve a population of less than 10,000 (including consecutive connection population), and do not have any additional treatment units within the treatment plant for identified primary contaminants in the source water. Treatment installed for removal of Cryptosporidium is considered an additional treatment unit. Also, all public water systems that use ground water only, serve less than 10,000 population, use at least one radial water collector well as a source, or treat for at least one primary contaminant identified in the source water, or both.

4.1.e. Class III: All public water systems that use surface or a ground water under the direct influence of surface water source, serve a population of at least 10,000 (including consecutive connection population), and do not have any additional treatment plant for identified primary contaminants in the source water. Also, all public water systems that use ground water only, serve a population of at least 10,000 and use at least one radial water collector well as a source.

4.1.f. Class IV: A public water system that uses a surface or a ground water under the direct influence of surface water source and serves a population of at least 20,000 (including consecutive connection population).

~~4.2. Community and nontransient noncommunity public water systems classified as 1D systems on or before the effective date of this rule will remain classified as 1D systems until July 1, 2004, unless treatment modifications do not require a higher classification.~~

§64-4-5. Required Personnel and Conditions of Employment.

5.1. The owners of public water systems shall employ:

5.1.a. Employ a Chief Operator with a certification equal to or higher than the system classification and an adequate number of certified operators to effectively operate the system; and .

5.1.b. The chief operator shall be employed full time unless he or she receives a written exemption from full time employment from the Commissioner; Not employ more OITs than the number of employed certified operators, unless written permission is granted by the Commissioner.

5.1.c. Apply for OIT Certification, on behalf of OIT applicants, to the Commissioner, within thirty (30) days of hire at the public water system. Experience gained for certification starts only upon the issued date of the OIT certificate.

5.1.d. Notify the Commissioner within ten (10) days, in a manner and form approved by the Commissioner, of any employment status changes, except termination, of the system's certified operators, OITs, and intended certified operators and OITs, including their reassignment.

5.1.e. Notify the Commissioner within twenty-four (24) hours if a certified operator or OIT terminates employment for any reason.

5.1.f. Renew the OIT Certification every two (2) years or until all requirements for Class I certification are met. The renewal application shall be submitted at least thirty (30) days prior to expiration date, in a manner and form approved by the Commissioner. The OIT shall attempt to pass the Class I or WD examination at least once during each two (2) year renewal.

5.1.g. In Class II, III, and IV public water systems, a certified operator with certification equal to or greater than the system classification, is to be present at all times when the plant is operational, unless the Commissioner grants a written exception to this requirement in response to a written request by the owner of the public water system.

5.1.h. In Class III and IV public water systems, a certified operator with certification no lower than one (1) class below the system classification, is to be present at all times when the plant is operational.

5.1.i. Submit a personnel status report by July 15 every year. The report is to be in a manner and form approved by the Commissioner and required information shall include at a minimum: a list of all certified operators, the operator in charge of each shift (if applicable), the Chief Operator, and any OIT's currently employed.

5.1.j. Post a copy of the current certification of all certified operators employed at the public water system and a copy of the certified operators' renewal card, if applicable, in a conspicuous location in the water treatment plant, or, if there is not water treatment plant, the office of the public water system.

5.2. Conditions of Employing Operators: A certified operator shall:

5.2.a. Public water systems employing OITs may not exceed a one (1) to one (1) ratio with certified operators unless written permission to do otherwise is issued by the Commissioner. Notify the Commissioner at least thirty (30) days prior to voluntarily terminating employment with a public water system in a manner and form approved by the Commissioner.

5.2.b. Certified operators employed by a public water system that uses fluoride treatment shall hold fluoride certifications. Obtain the necessary amount of CEHs and retain documentation of attendance required for the renewal application.

5.2.c. Ensure that the renewal applications are submitted at least thirty (30) days before the required date and no earlier than sixty (60) days prior to expiration, in a manner and form approved by the Commissioner.

5.2.d. Have the original personal certification card issued by the Commissioner upon their person at all times the operator is operating the public water system.

5.2.e. e. A person shall not work in a public water system under the certification of another; only the person whose name appears on the operator certification is certified by that document.

5.3. Required Certification Levels.

5.3.a. Chief Operator. The chief operator's certification level shall be equal to or higher than the class of the employing public water system.

5.3.b. Water Treatment Plants During Water Treatment.

5.3.b.1. In Classes II, III and IV public water systems, a certified operator, with certification equal to or greater than the plant classification, shall be on duty at all times when the plant is operational, unless the Commissioner grants a written exception to this requirement in response to a written request.

5.3.b.2. In Classes III and IV public water systems, the certified operators on duty shall hold certifications no lower than one (1) class below the system class.

5.3.c. Class 1D Public Water Systems and Operators.

5.3.c.1. A Class 1D public water system shall be operated by a certified operator holding a Class 1D or higher certification.

5.3.c.2. Class 1D certified operators may operate only Class 1D public water systems, but may perform Class 1D associated duties of sampling in higher class public water systems.

5.3.d. Distribution System Sampling. Personnel employed by a community or nontransient noncommunity public water system to collect samples from the distribution system shall hold a Class 1D or higher operator certification.

5.4. Display of Certificates.

A public water system shall prominently display in its water treatment plant or office the certifications of its certified operators and certified OITs.

5.5. Requirements Regarding Personnel Changes.

5.5.a. Notice by the Public Water System. The owner of a public water system shall notify the Commissioner of employment status changes of the system's certified operators, OITs and intended certified operators and OITs, including their hiring, discharge, resignation, lay-off, retirement or reassignment. When possible, notification shall be made to the Commissioner in advance but shall in no case be made later than five (5) working days following the change.

5.5.b. Notice by Certified Operators. At least thirty (30) days prior to voluntarily terminating employment with a public water system, a certified operator shall notify the Commissioner in writing of the following:

5.5.b.1. The last date of the certified operator's employment; and

~~5.5.b.2. The public water system where the certified operator will be employed, if known, and if not known, whether the certified operator intends to continue working in a public water system.~~

~~5.5.c. Retesting. The Commissioner may require that a Class II certified operator be retested and pass the Class II certification examination when changing employment from a Class II groundwater source system to a surface source system.~~

~~§64-4-6. Certified Operator In Training (OIT).~~

~~6.1. The OIT certification applies only to persons training to become certified operators.~~

~~6.2. The chief operator shall verify and submit to the Commissioner an application for an OIT certification within thirty (30) working days after a person's initial employment as an intended OIT or upon intended change in an employee's duties to include water treatment operations. Experience toward certification as a public water system certified operator may begin on the date the Commissioner issues the OIT certification.~~

~~6.3. The chief operator is responsible for the supervision and training of all OITs at the public water system.~~

~~6.4. The OIT certification is valid for one (1) year. The Commissioner shall consider a person for one (1) additional year of OIT certification if he or she submits an application to the Commissioner thirty (30) days prior to the certification's expiration. OIT re-certification is limited to OITs who have taken the Class I certified operator examination.~~

~~§64-4-7. 6. Qualifications for Certification.~~

~~7.1. Persons applying for certified operator or OIT certification shall be eighteen (18) years of age or older.~~

~~7.2. 6.1. Certification of a public water system operator is based on education, a passing grade on the applicable certification examination, and experience as a certified operator or OIT at a public water system. An applicant shall obtain certification for each Class level in sequence, except for Class 1D certification. Persons with a 1D certification must begin with an application for an OIT, if the persons wishes to operate in a higher classification system.~~

~~6.1.a Operators with a current 1D certification upon the effective date of this rule, currently employed in a WD system or employed in a higher classification system performing work only in the distribution system, may apply to the commissioner to be reclassified as a WD certified operator by passing the WD certification examination and meeting the minimum educational and experience requirements. This provision expires two (2) years from the effective date of this rule. Applicants shall meet all requirements for WD certification two (2) years after the effective date of this rule. A WD certified operator may operate in a WD system or make operating decisions in the distribution system of a higher classification system. Personnel employed in a Class WD or higher public water system to collect samples from the distribution system shall hold a Class 1D or higher operator certification.~~

~~7.3. Any operator holding Class 1D certification employed on or before the effective date of this rule by a community or nontransient noncommunity public water system who meets the minimum education requirements or substitutes applicable experience on a year-for-year basis to meet the minimum educational requirements may upgrade to a Class I certification by passing the certification examination on or before July 1, 2004.~~

6.2. The education and experience requirements are listed as follows:

6.2.a. Various certifications, the requirements are in Table 64-4A of this rule.

6.2.b. The number of CEUs credited for courses and operating experience, are in Table 64-4B of this rule.

6.3. Experience substitution for education is as follows:

6.3.a. An applicant for certification in Classes III and IV may substitute a maximum of two (2) years prior experience as a certified operator for the educational requirements on a year for year basis; and

6.3.b. An applicant using experience as a substitute for the educational requirement cannot simultaneously use that same experience to satisfy the experience requirement.

6.4. Education substitution for experience is as follows:

6.4.a. An applicant for certification in Classes II, III, and IV may substitute a maximum of three (3) years of education beyond high school on a year for year basis for required experience, not to exceed fifty percent (50%) of the total required experience; and

6.4.b. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.

6.4.c. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.

6.5. An applicant for operator certification shall submit an application for examination in a form and manner approved by the Commissioner with proof of education and, if required, separate proof of work experience.

6.6. The Commissioner shall schedule examinations for the applicants and notify them before the examination date. The applicant is required to demonstrate a passing grade of 70% on the applicable certification examination. An applicant who fails an examination shall wait a minimum of sixty (60) days before applying for re-examination. The results of certification examinations are valid for two (2) years. If the applicant has not met the requirements for education, or experience, or both within those two (2) years, the applicant must reapply for examination.

6.7. Persons newly designated by the owner as the Chief Operator, or is the only certified operator, shall attend a course approved by the Bureau for Public Health for training as a Chief Operator at the next available class, unless waived in writing by the Commissioner. Current Chief Operators shall attend a course approved by the Bureau for Public Health for training as a Chief Operator within two (2) years of the effective date of this rule. A system with one (1) certified operator is automatically designated as the Chief Operator. Attendance of the designated course is also applicable for CEH credit for the renewal cycle. Class 1D systems are exempt from the requirements of this subsection.

§64-4-8. Education and Experience Requirements; Substitution.

8.1. The education and experience requirements are listed as follows:

8.1.a. Various certifications, the requirements are in Table 64-4C of this rule.

~~8.1.b. The number of CEUs credited for courses and operating experience, are in Table 64-4D of this rule.~~

~~8.2. Experience substitution for education is as follows:~~

~~8.2.a. An applicant for certification in Classes III and IV may substitute a maximum of two (2) years prior experience as a certified operator for the educational requirements on a year for year basis; and~~

~~8.2.b. An applicant using experience as a substitute for the educational requirement cannot simultaneously use that same experience to satisfy the experience requirement.~~

~~8.3. Education substitution for experience is as follows:~~

~~8.3.a. An applicant for certification in Classes II, III, and IV may substitute a maximum of three (3) years of education beyond high school on a year for year basis for required experience, not to exceed fifty percent (50%) of the total required experience; and~~

~~8.3.b. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.~~

~~§64-4-9. Certification Application and Examination.~~

~~9.1. Application.~~

~~An applicant for certification as a public water treatment operator shall submit an application (Form 102C) to the Commissioner with proof of education and, if requested by the Commissioner, separate proof of work experience.~~

~~9.2. Examination.~~

~~9.2.a. Schedule and Notice. The Commissioner shall schedule examinations for those applicants who meet the requirements of Table 64-4C of this rule and notify them at least fourteen (14) days before the examination date.~~

~~9.2.b. Passing Grade and Re-examination. Seventy percent (70%) is the passing grade for the examination. 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.~~

~~9.2.c. Longevity of Examination Results. The results of certification examinations are valid for two (2) years. If the applicant has not met the requirements for certification within those two (2) years, the applicant may reapply for the examination.~~

~~§64-4-10. 7. Certification Expiration, Renewal, Re-certification, Suspension and Revocation.~~

~~10. 7.1. Expiration. Certified operator and OIT certifications expire two (2) years from the date of issuance.~~

~~10. 7.2. Renewal. Applicants for renewal shall submit documentation that they are employed by a public water system and have successfully completed the minimum number of CEHs. No CEHs are required for Class 1D renewal. CEHs cannot be repeated in two (2) concurrent renewal periods.~~

Operators may not carry over additional CEHs completed during the two (2) year period to satisfy the CEH requirements for the next certification renewal period. The Commissioner may grant extensions upon written request by the applicant.

~~10. 7.2.a. Application. At least thirty (30) days before a certification expires, the chief operator shall submit to the Commissioner the applications for the certification renewals of the operators under his or her supervision. If the chief operator fails to do so, the operator shall submit his or her certification applications. OIT: minimum of six (6) CEHs required for renewal.~~

~~10. 7.2.b. CEH. Before the Commissioner grants certification renewal, certified operators, other than Class 1D certified operators, shall complete required CEH during each two (2) year certification period. Class 1 operators are required to complete twelve (12) continuing education hours and Class II and higher classifications must complete twenty-four (24) continuing education hours. The CEH may include classroom, seminar, or workshop training that has been approved by the Commissioner and is directly related to the treatment, monitoring, or distribution of drinking water. Operators may not carry over additional CEH completed during the two (2) year period to satisfy the CEH requirement for the next certification renewal period. WD: minimum of six (6) CEHs required for renewal.~~

7.2.c. Class I: minimum of twelve (12) CEHs required for renewal.

7.2.d. Class II, III, and IV: minimum of twenty-four (24) CEHs required for renewal.

~~10. 7.3. Re-certification. A formerly certified operator seeking re-certification at his or her last certification level shall, if one or more of the following conditions exist, shall be retested and pass a certification examination at his or her last certification level if he or she: The Commissioner reserves the right to specify certain courses to be attended in order to qualify for renewal.~~

~~10.3.a. Has not obtained re-certification within one (1) year after the certification expiration date;~~

~~10.3.b. Has not been actively engaged in public water system operations for a two (2) year period;~~
or

~~10.3.c. Has inadequately performed his or her certified operator's duties.~~

7.4. Formerly certified applicants seeking re-certification at his or her last certification level shall pass a certification examination at his or her last certification level if he or she has not been actively engaged in public water system operations for a one (1) year period.

~~10.4. 7.5. Certification Suspension and Revocation. Suspension and Revocation of Certification.~~

~~10.4.a. 7.5.a. The Commissioner may suspend or revoke the certification of an operator if the operator:~~

~~10.4.a.1. 7.5.a.1. The certified operator obtains certification fraudulently or assists or encourages another to do so; Fraudulently obtained certification;~~

~~10.4.a.2. 7.5.a.2. The certified operator is shown to be guilty of neglect of duties, incompetency, misconduct or non-compliance with this rule or the Division of Health rule "Public Water Systems," 64CSR3; Performed the duties of an operator in a grossly negligent or incompetent manner;~~

~~10.4.a.3. 7.5.a.3. The certified operator fails to notify the Commissioner of voluntary termination of employment in accordance with Subdivision 5.5.b of this rule, even though the failure shall~~

~~not subject the certified operator to the penalties of Section 12 of this rule; or~~ Knowingly or negligently submitted misleading, inaccurate, or false reports to the Commissioner;

~~10.4.a.4. 7.5.a.4. The certified operator is involuntarily terminated by a public water system. The reason for the termination may also subject the certified operator to the penalties of Section 12 of this rule. Violated, or caused to be violated, any portion of the Division of Health rule, "Public Water Systems," 64CSR3 or the Division of Health rule, "Cross-Connection Control and Backflow Prevention," 64CSR15; or~~

7.5.a.5. Fails to notify the Commissioner of voluntary termination of employment in accordance with subdivision 5.2.a. of this rule, even though the failure shall not subject the certified operator to the penalties of Section 4-10 of this rule.

~~10.4.b. 7.5.b. Upon review of written documentation, the Commissioner may reinstate a suspended or revoked certification when justice would be served and public water system operation or public health would not be jeopardized. The Commissioner shall notify the certified operator and the employer via certified mail of a proposed suspension or revocation. The notification shall set forth the action proposed, the effective date, the reason, and the length of time of the proposed action.~~

7.5.c. The suspension of an operator's certification is effective for an initial period of not more than one (1) year, during which time for the certification is not valid. Revocation of an operator's certification is for a period of not less than one (1) year. After the period of ineligibility (caused by the revocation) has expired, the formerly certified operator may apply for examination for certification at the former certification classification held by the operator, and shall obtain the CEHs required for that certification level, s if the revocation had not occurred.

§64-4-11. 8. Certification from Another Jurisdiction.

~~11. 8.1.~~ 8.1. The Commissioner may grant certification to a public water system operator certified by another jurisdiction, if:

8.1.a. The applicant submits a completed application in a manner and form approved by the Commissioner;

~~11.1.a. 8.1.b.~~ 8.1.b. The applicant meets the educational and work experience requirements of this rule;
and

~~11.1.b. 8.1.c.~~ 8.1.c. The applicant passes a West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner.

~~11.2. For information to be evaluated, the applicant shall provide to the Commissioner written verification of previous educational and work experience including program training, classroom contact hours, and certificates of completion before the Commissioner will consider the information.~~

§64-4-9. Advisory Board.

9.1. The Commissioner may establish an advisory board and designate the chairman of the board.

9.2. The advisory board membership shall consist of, but not necessarily be limited to, the following members: five (5) certified public water system operators [one (1) from each classification, except 1D], and a person designated by the Commissioner.

9.3. The duties of the advisory board are assigned by the Commissioner.

~~§64-4-12.~~ 10. Compliance and Penalties.

~~12.~~ 10.1. A person subject to the provisions of this rule shall comply fully with them and shall not direct or assist another person to violate this rule.

~~12.~~ 10.2. A person who violates any provision of this rule or any rules or orders of the Division of Health is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500), as provided under W.Va. Code §16-1-18. Each day's there is a failure to comply with a provision of this rule may be a separate offense.

~~§64-4-13.~~ 11. Administrative Due Process.

11.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with the Division of Health rule, "Rules ~~and~~ of Procedures for Contested Case Hearings and Declaratory Rulings," 64CSR1.

TABLE 64-4A

POINT RATING SYSTEM FOR CLASSIFICATION OF PUBLIC WATER SYSTEMS

NOTE: If a process is used for more than one function, the points count only once according to the primary function.

	Points
Population	1 point per 1000 (or part)
Design Flow	1 point/MGD (or part)
Source	
Groundwater	3
Groundwater Under the Direct Influence of Surface Water	5
Surface Water	8
Purchased	1
Treatment	
A. Fe/Mn Removal	
Greensand with $KMnO_4$	6
Oxidation/Filtration	5
Oxidation/Sedimentation	2
Sequestration	2
pH Adjustment	2
Flocculation/Sedimentation	4
B. Softening	
Ion Exchange	3
Lime Soda	
Presedimentation	2
Chemical Coagulant/Add	5
Mixing/Sedimentation/ Flocculation	4
Filtration	4

C. Surface Water Treatment	
Presedimentation	2
Chemical Addition	5
Mixing/Flocculation/Sedimentation	4
with Upflow Clarification (sludge blanket)	6
Filtration	5
Diatomaceous Earth Filtration	6
Potassium Permanganate	3
Powdered Activated Carbon	2
Disinfection Process	
Gaseous Chlorination	5
Hypochlorination	3
Ozonation	5
Chlorine Dioxide	5
Chloramine	3
Corrosion Control	
pH Adjustment	2
Inhibitor Addition	2
Aeration	2
Fluoridation	
Hydrofluorosilicic Acid	6
Sodium Fluoride or Sodium Fluorosilicate	4
Sludge/Backwash Water	
Lagoon	2
Flocculent Addition/Filter press	
Recirculation of Backwash Water	2
Advanced Treatment Technique	
Reverse Osmosis	5
Ultrafiltration	5
Ion Exchange	5
Other (air stripping, carbon contactor, etc.)	5
Lab Control	
Groundwater Disinfection	2
Groundwater Fe Removal	3
Surface Water Under Direct Influence	3
Surface Water ≤ 3.0 MGD (design)	4
Surface Water $> 3.0 \leq 10$ MGD (design)	6
Surface Water > 10 MGD (design)	8
Bacteriological Laboratory	4

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH

SERIES 4
PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

§64-4-1. General.

1.1. Scope. -- This legislative rule governs the examination and certification of operators of public water systems. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. -- W.Va. Code §16-1-4 and related §16-1-9.

1.3. Filing Date. -- ~~April 17, 2002.~~

1.4. Effective Date. -- ~~July 1, 2002.~~

§64-4-2. Application and Enforcement.

2.1. Application. -- This rule applies to owners, certified operators, and operators-in-training (OITs) of a public water system and to applicants for ~~operator, OIT or fluoride~~ certification.

2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health or his or her designee.

§64-4-3. Definitions.

3.1. 1D Operator. -- An individual holding a valid West Virginia public water system certification issued by the Commissioner, who has met the education and experience requirements outlined in Table 64-Ba of this rule. Personnel employed in a Class WD or higher public water system that collect samples or collect water quality data from the distribution system shall hold a Class 1D or higher operator certification.

3.2. Adequate. -- A sufficient amount the Commissioner determines, considering hours of operation of the treatment plant, treatment complexity, distribution extent, source of water, and other factors.

~~3.1. 3. Certified Operator. -- An individual holding a valid West Virginia public water system operator certification; in accordance with Section 4-6 of this rule.~~

~~3.2. 4. Chief Operator. -- A The certified operator whom the owner designates by the owner to supervise is responsible to manage the daily operational activities of an entire public water system-, or a water treatment facility, or a distribution system in a manner that ensures meeting state and federal safe drinking water regulations.~~

3.5. Class I Operator. -- An individual holding a valid Class I West Virginia public water system certification issued by the Commissioner in accordance with Section 4-6 of this rule.

3.6. Class II Operator. -- An individual holding a valid Class II West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

3.7. Class III Operator. -- An individual holding a valid Class III West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

3.8. Class IV Operator. -- An individual holding a valid Class IV West Virginia public water system certification issued by the commissioner in accordance with Section 4-6 of this rule.

~~3.3. 9.~~ Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

~~3.4. 10.~~ Community Water System. -- A public water system that serves at least fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (25) year round residents.

3.11. Consecutive System. -- A public water system that receives some or all of its finished water from one or more other public water systems.

~~3.5. 12.~~ Continuing Education Hour (CEH). -- ~~Sixty-minute~~ One (1) hour of participation in an organized continuing education experience under responsible sponsorship approved by the Commissioner for renewal of a public water system operator certification.

~~3.6. 13.~~ Continuing Education Unit. -- Ten (10) CEHs.

3.14. Course of Study. -- A series of continuing education courses the Commissioner approves that is taken in order to qualify for a higher certification level.

3.15. Day. -- Standard work day of the Bureau for Public Health, unless specified otherwise.

3.16. Distribution System. -- Facilities downstream of the water treatment plant used to convey water for human consumption and which may include storage tanks, disinfection mechanisms, pumps, valves, hydrants, meters, and other appurtenances.

~~3.7. 17.~~ Drinking Water. -- Water produced by a public water system that conforms to the requirements of the Division of Health rule, "Public Water Systems," 64CSR3.

~~3.8. 18.~~ Experience. -- Hands-on work performing certified operator ~~or OIF~~ duties at a public water system, ~~but not including hours worked that are limited to waste water treatment, water plant maintenance, labor, and other non operating or non distribution duties.~~

~~3.9. Fluoride Certification. -- A document issued by the Commissioner granting an individual permission to operate fluoride treatment in a public water system.~~

~~3.10. Full time. -- Thirty five (35) or more hours per week, but if the public water system is in operation less than thirty five (35) hours per week, the maximum number of hours of operation per week.~~

~~3.11. MGD. -- Million gallons per day.~~

3.19. Ground Water. -- A source of water not considered a surface or a ground water under the direct influence of surface water source.

~~3.12. 20.~~ Non-Transient Non-Community Water System. -- A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

3.21. Operating Shift. -- That period of time during which operator decisions that affect public health are necessary for proper operation of the public water system.

~~3.13.~~ 22. Operate. -- To perform the practical work and apply the technical knowledge and operational skills in the treatment, testing, and distribution of drinking water.

~~3.14.~~ 23. Operator-in-Training (OIT). -- An individual who holds a valid operator-in-training certificate issued by the Commissioner, and who is training under the ~~supervision~~ responsibility of the chief operator at a public water system while completing the educational or experience requirements to become a ~~certified~~ Class I or WD operator.

~~3.15.~~ 24. Owner. -- The person that ~~governs~~ is legally responsible for the operation of a public water system.

~~3.16.~~ 25. Person. -- An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any other entity recognized by law.

3.26. Present. -- To be readily available to perform tasks at the water treatment plant.

3.27. Primary Contaminant. -- Any contaminant (other than microbiological) that has a maximum contaminant level in accordance with the Division of Health rule, "Public Water Systems," 64CSR3.

~~3.17.~~ 28. Public Water System. -- ~~3.17.a. A public water system is a~~ Any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, 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, and distribution facilities under the control of the owner or operator of the system and which are used primarily in connection with the system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system. A public water system does not include a system which meets all of the following conditions: (1) ~~Which e~~ Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) ~~Which e~~ Obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition; (3) ~~Which d~~ Does not sell water to any person; and (4) ~~Which i~~ Is not a carrier conveying passengers in interstate commerce.

~~3.18.~~ 29. Public Water System Operator Certification. -- A ~~document issued by Authority~~ the Commissioner issues granting an individual permission to operate a public water system: in accordance with this rule.

3.30. Radial Water Collector Well. -- A well that has radial well screens installed to increase the potential amount of water produced.

3.31. Surface and Ground Water Under the Direct Influence of Surface Water. -- A source that has been determined to be open to the atmosphere or subject to surface water runoff.

3.32. Transient Non-Community Water System. -- A public water system that is not a community water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

3.33. WD Operator. -- A water operator certified at the WD level that may only operate within the water distribution system or conduct distribution system related functions at a Class I or higher public

water system.

~~3.19- 34. Water Treatment Plant. -- A facility used to process and treat water for the production of drinking water; distribution to consumers in accordance with the Division of Health rule, "Public Water Systems," 64CSR3.~~

§64-4.4. Classification of Public Water Systems.

4.1. A public water system is classified on the basis of the complexity of water treatment processes, according to:

~~4.1.a. A point rating in Table 64-4A of this rule; Class 1D: All transient non-community water systems that have ground water only as a source, and do not use gaseous chlorine or chlorine dioxide as a means of disinfection, and do not treat for the removal of nitrate or nitrite, or both. Ground water sources that use gaseous chlorine, chlorine dioxide as a means of disinfection or have treatment for removal of nitrate or nitrite, or both, are considered a Class I public water system.~~

~~4.1.b. The application of the public water system's point rating to classifications in Table 64-4B of this rule; and Class WD: A public water system that obtains all of its water from another public water system, and is not owned or operated by the supplying public water system. The system does not have any other source of water other than water from the supplying public water system. A WD system may apply chlorine for supplemental disinfection.~~

~~4.1.c. Class I: Community and non-transient non-community public water systems that use ground water only, serve a population of less than 10,000 (including consecutive connection population), and do not treat for a primary contaminant.~~

~~4.1.d. Class II: All public water systems that use a surface source or a ground water under the direct influence of surface water source, serve a population of less than 10,000 (including consecutive connection population), and do not have any additional treatment units within the treatment plant for identified primary contaminants in the source water. Treatment installed for removal of Cryptosporidium is considered an additional treatment unit. Also, all public water systems that use ground water only, serve less than 10,000 population, use at least one radial water collector well as a source, or treat for at least one primary contaminant identified in the source water, or both.~~

~~4.1.e. Class III: All public water systems that use surface or a ground water under the direct influence of surface water source, serve a population of at least 10,000 (including consecutive connection population), and do not have any additional treatment plant for identified primary contaminants in the source water. Also, all public water systems that use ground water only, serve a population of at least 10,000 and use at least one radial water collector well as a source.~~

~~4.1.f. Class IV: A public water system that uses a surface or a ground water under the direct influence of surface water source and serves a population of at least 20,000 (including consecutive connection population).~~

~~4.2. Community and nontransient noncommunity public water systems classified as 1D systems on or before the effective date of this rule will remain classified as 1D systems until July 1, 2004, unless treatment modifications do not require a higher classification.~~

§64-4.5. Required Personnel and Conditions of Employment.

5.1. The owners of public water systems shall employ:

5.1.a. Employ a Chief Operator with a certification equal to or higher than the system classification and an adequate number of certified operators to effectively operate the system; and

5.1.b. The chief operator shall be employed full time unless he or she receives a written exemption from full-time employment from the Commissioner; Not employ more OITs than the number of employed certified operators, unless written permission is granted by the Commissioner.

5.1.c. Apply for OIT Certification, on behalf of OIT applicants, to the Commissioner, within thirty (30) days of hire at the public water system. Experience gained for certification starts only upon the issued date of the OIT certificate.

5.1.d. Notify the Commissioner within ten (10) days, in a manner and form approved by the Commissioner, of any employment status changes, except termination, of the system's certified operators, OITs, and intended certified operators and OITs, including their reassignment.

5.1.e. Notify the Commissioner within twenty-four (24) hours if a certified operator or OIT terminates employment for any reason.

5.1.f. Renew the OIT Certification every two (2) years or until all requirements for Class I certification are met. The renewal application shall be submitted at least thirty (30) days prior to expiration date, in a manner and form approved by the Commissioner. The OIT shall attempt to pass the Class I or WD examination at least once during each two (2) year renewal.

5.1.g. In Class II, III, and IV public water systems, a certified operator with certification equal to or greater than the system classification, is to be present at all times when the plant is operational, unless the Commissioner grants a written exception to this requirement in response to a written request by the owner of the public water system.

5.1.h. In Class III and IV public water systems, a certified operator with certification no lower than one (1) class below the system classification, is to be present at all times when the plant is operational.

5.1.i. Submit a personnel status report by July 15 every year. The report is to be in a manner and form approved by the Commissioner and required information shall include at a minimum: a list of all certified operators, the operator in charge of each shift (if applicable), the Chief Operator, and any OIT's currently employed.

5.1.j. Post a copy of the current certification of all certified operators employed at the public water system and a copy of the certified operators' renewal card, if applicable, in a conspicuous location in the water treatment plant, or, if there is not water treatment plant, the office of the public water system.

5.2. Conditions of Employing Operators. A certified operator shall:

5.2.a. Public water systems employing OITs may not exceed a one (1) to one (1) ratio with certified operators unless written permission to do otherwise is issued by the Commissioner. Notify the Commissioner at least thirty (30) days prior to voluntarily terminating employment with a public water system in a manner and form approved by the Commissioner.

5.2.b. Certified operators employed by a public water system that uses fluoride treatment shall hold fluoride certifications. Obtain the necessary amount of CEHs and retain documentation of attendance required for the renewal application.

5.2.c. Ensure that the renewal applications are submitted at least thirty (30) days before the required date and no earlier than sixty (60) days prior to expiration, in a manner and form approved by the Commissioner.

5.2.d. Have the original personal certification card issued by the Commissioner upon their person at all times the operator is operating the public water system.

5.2.e. e. A person shall not work in a public water system under the certification of another; only the person whose name appears on the operator certification is certified by that document.

~~5.3. Required Certification Levels.~~

~~5.3.a. Chief Operator. The chief operator's certification level shall be equal to or higher than the class of the employing public water system.~~

~~5.3.b. Water Treatment Plants During Water Treatment.~~

~~5.3.b.1. In Classes II, III and IV public water systems, a certified operator, with certification equal to or greater than the plant classification, shall be on duty at all times when the plant is operational, unless the Commissioner grants a written exception to this requirement in response to a written request.~~

~~5.3.b.2. In Classes III and IV public water systems, the certified operators on duty shall hold certifications no lower than one (1) class below the system class.~~

~~5.3.c. Class 1D Public Water Systems and Operators.~~

~~5.3.c.1. A Class 1D public water system shall be operated by a certified operator holding a Class 1D or higher certification.~~

~~5.3.c.2. Class 1D certified operators may operate only Class 1D public water systems, but may perform Class 1D associated duties of sampling in higher class public water systems.~~

~~5.3.d. Distribution System Sampling. Personnel employed by a community or nontransient noncommunity public water system to collect samples from the distribution system shall hold a Class 1D or higher operator certification.~~

~~5.4. Display of Certificates.~~

~~A public water system shall prominently display in its water treatment plant or office the certifications of its certified operators and certified OITs.~~

~~5.5. Requirements Regarding Personnel Changes.~~

~~5.5.a. Notice by the Public Water System. The owner of a public water system shall notify the Commissioner of employment status changes of the system's certified operators, OITs and intended certified operators and OITs, including their hiring, discharge, resignation, lay off, retirement or reassignment. When possible, notification shall be made to the Commissioner in advance but shall in no case be made later than five (5) working days following the change.~~

~~5.5.b. Notice by Certified Operators. At least thirty (30) days prior to voluntarily terminating employment with a public water system, a certified operator shall notify the Commissioner in writing of the following:~~

~~5.5.b.1. The last date of the certified operator's employment; and~~

~~5.5.b.2. The public water system where the certified operator will be employed, if known, and if not known, whether the certified operator intends to continue working in a public water system.~~

~~5.5.e. Retesting. The Commissioner may require that a Class II certified operator be retested and pass the Class II certification examination when changing employment from a Class II groundwater source system to a surface source system.~~

~~§64-4-6. Certified Operator-In-Training (OIT).~~

~~6.1. The OIT certification applies only to persons training to become certified operators.~~

~~6.2. The chief operator shall verify and submit to the Commissioner an application for an OIT certification within thirty (30) working days after a person's initial employment as an intended OIT or upon intended change in an employee's duties to include water treatment operations. Experience toward certification as a public water system certified operator may begin on the date the Commissioner issues the OIT certification.~~

~~6.3. The chief operator is responsible for the supervision and training of all OITs at the public water system.~~

~~6.4. The OIT certification is valid for one (1) year. The Commissioner shall consider a person for one (1) additional year of OIT certification if he or she submits an application to the Commissioner thirty (30) days prior to the certification's expiration. OIT re-certification is limited to OITs who have taken the Class I certified operator examination.~~

~~§64-4-7. 6. Qualifications for Certification.~~

~~7.1. Persons applying for certified operator or OIT certification shall be eighteen (18) years of age or older.~~

~~7.2. 6.1. Certification of a public water system operator is based on education, a passing grade on the applicable certification examination, and experience as a certified operator or OIT at a public water system. An applicant shall obtain certification for each Class level in sequence, except for Class 1D certification. Persons with a 1D certification must begin with an application for an OIT, if the persons wishes to operate in a higher classification system.~~

6.1.a Operators with a current 1D certification upon the effective date of this rule, currently employed in a WD system or employed in a higher classification system performing work only in the distribution system, may apply to the commissioner to be reclassified as a WD certified operator by passing the WD certification examination and meeting the minimum educational and experience requirements. This provision expires two (2) years from the effective date of this rule. Applicants shall meet all requirements for WD certification two (2) years after the effective date of this rule. A WD certified operator may operate in a WD system or make operating decisions in the distribution system of a higher classification system. Personnel employed in a Class WD or higher public water system to collect samples from the distribution system shall hold a Class 1D or higher operator certification.

~~7.3. Any operator holding Class 1D certification employed on or before the effective date of this rule by a community or nontransient noncommunity public water system who meets the minimum education requirements or substitutes applicable experience on a year-for-year basis to meet the minimum educational requirements may upgrade to a Class 1 certification by passing the certification examination on or before July 1, 2004.~~

6.2. The education and experience requirements are listed as follows:

6.2.a. Various certifications, the requirements are in Table 64-4A of this rule.

6.2.b. The number of CEUs credited for courses and operating experience, are in Table 64-4B of this rule.

6.3. Experience substitution for education is as follows:

6.3.a. An applicant for certification in Classes III and IV may substitute a maximum of two (2) years prior experience as a certified operator for the educational requirements on a year for year basis; and

6.3.b. An applicant using experience as a substitute for the educational requirement cannot simultaneously use that same experience to satisfy the experience requirement.

6.4. Education substitution for experience is as follows:

6.4.a. An applicant for certification in Classes II, III, and IV may substitute a maximum of three (3) years of education beyond high school on a year for year basis for required experience, not to exceed fifty percent (50%) of the total required experience; and

6.4.b. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.

6.4.c. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.

6.5. An applicant for operator certification shall submit an application for examination in a form and manner approved by the Commissioner with proof of education and, if required, separate proof of work experience.

6.6. The Commissioner shall schedule examinations for the applicants and notify them before the examination date. The applicant is required to demonstrate a passing grade of 70% on the applicable certification examination. An applicant who fails an examination shall wait a minimum of sixty (60) days before applying for re-examination. The results of certification examinations are valid for two (2) years. If the applicant has not met the requirements for education, or experience, or both within those two (2) years, the applicant must reapply for examination.

6.7. Persons newly designated by the owner as the Chief Operator, or is the only certified operator, shall attend a course approved by the Bureau for Public Health for training as a Chief Operator at the next available class, unless waived in writing by the Commissioner. Current Chief Operators shall attend a course approved by the Bureau for Public Health for training as a Chief Operator within two (2) years of the effective date of this rule. A system with one (1) certified operator is automatically designated as the Chief Operator. Attendance of the designated course is also applicable for CEH credit for the renewal cycle. Class 1D systems are exempt from the requirements of this subsection.

~~§64-4-8. Education and Experience Requirements; Substitution.~~

~~8.1. The education and experience requirements are listed as follows:~~

~~8.1.a. Various certifications, the requirements are in Table 64-4C of this rule.~~

~~8.1.b. The number of CEUs credited for courses and operating experience, are in Table 64 4D of this rule.~~

~~8.2. Experience substitution for education is as follows:~~

~~8.2.a. An applicant for certification in Classes III and IV may substitute a maximum of two (2) years prior experience as a certified operator for the educational requirements on a year for year basis; and~~

~~8.2.b. An applicant using experience as a substitute for the educational requirement cannot simultaneously use that same experience to satisfy the experience requirement.~~

~~8.3. Education substitution for experience is as follows:~~

~~8.3.a. An applicant for certification in Classes II, III, and IV may substitute a maximum of three (3) years of education beyond high school on a year for year basis for required experience, not to exceed fifty percent (50%) of the total required experience; and~~

~~8.3.b. An applicant using education as a substitution for the experience requirement cannot simultaneously use that education to satisfy the education requirement.~~

~~§64-4-9. Certification Application and Examination.~~

~~9.1. Application.~~

~~An applicant for certification as a public water treatment operator shall submit an application (Form 102C) to the Commissioner with proof of education and, if requested by the Commissioner, separate proof of work experience.~~

~~9.2. Examination.~~

~~9.2.a. Schedule and Notice. The Commissioner shall schedule examinations for those applicants who meet the requirements of Table 64 4C of this rule and notify them at least fourteen (14) days before the examination date.~~

~~9.2.b. Passing Grade and Re-examination. Seventy percent (70%) is the passing grade for the examination. 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.~~

~~9.2.c. Longevity of Examination Results. The results of certification examinations are valid for two (2) years. If the applicant has not met the requirements for certification within those two (2) years, the applicant may reapply for the examination.~~

~~§64-4-10. 7. Certification Expiration, Renewal, Re-certification, Suspension and Revocation.~~

~~10. 7.1. Expiration. Certified operator and OIT certifications expire two (2) years from the date of issuance.~~

~~10. 7.2. Renewal. Applicants for renewal shall submit documentation that they are employed by a public water system and have successfully completed the minimum number of CEHs. No CEHs are required for Class 1D renewal. CEHs cannot be repeated in two (2) concurrent renewal periods.~~

Operators may not carry over additional CEHs completed during the two (2) year period to satisfy the CEH requirements for the next certification renewal period. The Commissioner may grant extensions upon written request by the applicant.

~~10. 7.2.a. Application. At least thirty (30) days before a certification expires, the chief operator shall submit to the Commissioner the applications for the certification renewals of the operators under his or her supervision. If the chief operator fails to do so, the operator shall submit his or her certification applications. OIT: minimum of six (6) CEHs required for renewal.~~

~~10. 7.2.b. CEH. Before the Commissioner grants certification renewal, certified operators, other than Class 1D certified operators, shall complete required CEH during each two (2) year certification period. Class 1 operators are required to complete twelve (12) continuing education hours and Class II and higher classifications must complete twenty-four (24) continuing education hours. The CEH may include classroom, seminar, or workshop training that has been approved by the Commissioner and is directly related to the treatment, monitoring, or distribution of drinking water. Operators may not carry over additional CEH completed during the two (2) year period to satisfy the CEH requirement for the next certification renewal period. WD: minimum of six (6) CEHs required for renewal.~~

7.2.c. Class I: minimum of twelve (12) CEHs required for renewal.

7.2.d. Class II, III, and IV: minimum of twenty-four (24) CEHs required for renewal.

~~10. 7.3. Re-certification. A formerly certified operator seeking re-certification at his or her last certification level shall, if one or more of the following conditions exist, shall be retested and pass a certification examination at his or her last certification level if he or she: The Commissioner reserves the right to specify certain courses to be attended in order to qualify for renewal.~~

~~10.3.a. Has not obtained re-certification within one (1) year after the certification expiration date;~~

~~10.3.b. Has not been actively engaged in public water system operations for a two (2) year period;~~
or

~~10.3.c. Has inadequately performed his or her certified operator's duties.~~

7.4. Formerly certified applicants seeking re-certification at his or her last certification level shall pass a certification examination at his or her last certification level if he or she has not been actively engaged in public water system operations for a one (1) year period.

~~10.4. 7.5. Certification Suspension and Revocation. Suspension and Revocation of Certification.~~

~~10.4.a. 7.5.a. The Commissioner may suspend or revoke the certification of an operator if the operator:~~

~~10.4.a.1. 7.5.a.1. The certified operator obtains certification fraudulently or assists or encourages another to do so; Fraudulently obtained certification;~~

~~10.4.a.2. 7.5.a.2. The certified operator is shown to be guilty of neglect of duties, incompetency, misconduct or non-compliance with this rule or the Division of Health rule "Public Water Systems," 64CSR3; Performed the duties of an operator in a grossly negligent or incompetent manner;~~

~~10.4.a.3. 7.5.a.3. The certified operator fails to notify the Commissioner of voluntary termination of employment in accordance with Subdivision 5.5.b of this rule, even though the failure shall~~

~~not subject the certified operator to the penalties of Section 12 of this rule; or~~ Knowingly or negligently submitted misleading, inaccurate, or false reports to the Commissioner;

~~10.4.a.4. 7.5.a.4. The certified operator is involuntarily terminated by a public water system. The reason for the termination may also subject the certified operator to the penalties of Section 12 of this rule. Violated, or caused to be violated, any portion of the Division of Health rule, "Public Water Systems," 64CSR3 or the Division of Health rule, "Cross-Connection Control and Backflow Prevention," 64CSR15; or~~

7.5.a.5. Fails to notify the Commissioner of voluntary termination of employment in accordance with subdivision 5.2.a. of this rule, even though the failure shall not subject the certified operator to the penalties of Section 4-10 of this rule.

~~10.4.b. 7.5.b. Upon review of written documentation, the Commissioner may reinstate a suspended or revoked certification when justice would be served and public water system operation or public health would not be jeopardized. The Commissioner shall notify the certified operator and the employer via certified mail of a proposed suspension or revocation. The notification shall set forth the action proposed, the effective date, the reason, and the length of time of the proposed action.~~

7.5.c. The suspension of an operator's certification is effective for an initial period of not more than one (1) year, during which time for the certification is not valid. Revocation of an operator's certification is for a period of not less than one (1) year. After the period of ineligibility (caused by the revocation) has expired, the formerly certified operator may apply for examination for certification at the former certification classification held by the operator, and shall obtain the CEHs required for that certification level, s if the revocation had not occurred.

§64-4-11. 8. Certification from Another Jurisdiction.

~~11. 8.1.~~ 8.1. The Commissioner may grant certification to a public water system operator certified by another jurisdiction, if:

8.1.a. The applicant submits a completed application in a manner and form approved by the Commissioner;

~~11.1.a. 8.1.b.~~ 8.1.b. The applicant meets the educational and work experience requirements of this rule;
and

~~11.1.b. 8.1.c.~~ 8.1.c. The applicant passes a West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner.

~~11.2. For information to be evaluated, the applicant shall provide to the Commissioner written verification of previous educational and work experience including program training, classroom contact hours, and certificates of completion before the Commissioner will consider the information.~~

§64-4-9. Advisory Board.

9.1. The Commissioner may establish an advisory board and designate the chairman of the board.

9.2. The advisory board membership shall consist of, but not necessarily be limited to, the following members: five (5) certified public water system operators [one (1) from each classification, except 1D], and a person designated by the Commissioner.

9.3. The duties of the advisory board are assigned by the Commissioner.

~~§64-4-12.~~ 10. Compliance and Penalties.

~~12.~~ 10.1. A person subject to the provisions of this rule shall comply fully with them and shall not direct or assist another person to violate this rule.

~~12.~~ 10.2. A person who violates any provision of this rule or any rules or orders of the Division of Health is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500), as provided under W.Va. Code §16-1-18. Each day's there is a failure to comply with a provision of this rule may be a separate offense.

~~§64-4-13.~~ 11. Administrative Due Process.

11.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with the Division of Health rule, "Rules ~~and~~ of Procedures for Contested Case Hearings and Declaratory Rulings," 64CSR1.

TABLE 64-4A

POINT RATING SYSTEM FOR CLASSIFICATION OF PUBLIC WATER SYSTEMS

NOTE: If a process is used for more than one function, the points count only once according to the primary function.

	Points
Population _____	1 point per 1000 (or part _____)
Design Flow _____	1 point/MGD (or part _____)
Source	
Groundwater _____	3 _____
Groundwater Under the Direct Influence of Surface Water _____	5 _____
Surface Water _____	8 _____
Purchased _____	1 _____
Treatment	
A. Fe/Mn Removal	
Greensand with $KMnO_4$ _____	6 _____
Oxidation/Filtration _____	5 _____
Oxidation/Sedimentation _____	2 _____
Sequestration _____	2 _____
pH Adjustment _____	2 _____
Flocculation/Sedimentation _____	4 _____
B. Softening	
Ion Exchange _____	3 _____
Lime Soda	
Presedimentation _____	2 _____
Chemical Coagulant/Add _____	5 _____
Mixing/Sedimentation/ Flocculation _____	4 _____
Filtration _____	4 _____

C. Surface Water Treatment	
Presedimentation	2
Chemical Addition	5
Mixing/Flocculation/Sedimentation	4
with Upflow Clarification (sludge blanket)	6
Filtration	5
Diatomaceous Earth Filtration	6
Potassium Permanganate	3
Powdered Activated Carbon	2
Disinfection Process	
Gaseous Chlorination	5
Hypochlorination	3
Ozonation	5
Chlorine Dioxide	5
Chloramine	3
Corrosion Control	
pH Adjustment	2
Inhibitor Addition	2
Aeration	2
Fluoridation	
Hydrofluorosilicic Acid	6
Sodium Fluoride or Sodium Fluorosilicate	4
Sludge/Backwash Water	
Lagoon	2
Flocculent Addition/Filter press	
Recirculation of Backwash Water	2
Advanced Treatment Technique	
Reverse Osmosis	5
Ultrafiltration	5
Ion Exchange	5
Other (air stripping, carbon contactor, etc.)	5
Lab Control	
Groundwater Disinfection	2
Groundwater Fe Removal	3
Surface Water Under Direct Influence	3
Surface Water ≤ 3.0 MGD (design)	4
Surface Water $> 3.0 \leq 10$ MGD (design)	6
Surface Water > 10 MGD (design)	8
Bacteriological Laboratory	4

TABLE 64-4B

~~CLASSIFICATION OF PUBLIC WATER SYSTEMS~~

Class	1D	I	II	III	IV
Points	1-17	18-35	36-55	56-75	76

- ~~NOTES: 1. Regardless of point rating, a community or non-transient non-community public water system is, at a minimum, a Class I public water system.~~
- ~~2. Regardless of point rating, a public water system with a surface water source (including groundwater under the direct influence of surface water) is, at a minimum, a Class II public water system.~~

Table 64-4C-A

OPERATOR EDUCATION AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION

CLASS	EDUCATION REQUIRED	EXPERIENCE REQUIRED
1D	<u>Eighth Grade and attendance at a one (1) day class administered by the Bureau for Public Health.</u>	<u>Attendance at a one (1) day class administered by the Bureau for Public Health. No experience required.</u>
OIT	<u>High school diploma or GED****</u>	<u>No experience required.</u>
WD	<u>High school diploma or GED & attendance at a course approved by the Bureau for Public Health for WD training.</u>	<u>One thousand (1,000) hours at a Class WD or higher public water system.</u>
I	<u>High School diploma or GED and attendance at a course approved by the Bureau for Public Health for Class I training and passing the examination in accordance with subdivision 6.4. of this rule.</u>	<u>One (1) year at a Class 1D or higher public water system. Two thousand (2,000) hours at a public water system *</u>
II	<u>High School diploma or GED plus & attendance at a course approved by the Bureau for Public Health for Class II course training and passing the course test examination in accordance with subdivision 6.4. of this rule.</u>	<u>Three (3) years at a Class 1D or higher public water system with at least one (1) of those years in a Class I public water system.* Six-thousand (6,000) hours at a public water system with at least two-thousand (2,000) of those hours at a Class II or higher public water system. * / ****</u>
III	<u>Two (2) years of college; or a high school diploma or GED and ninety (90) CEU. High school diploma or GEO and successfully completing ninety (90) CEUs** and passing the examination in accordance with subdivision 6.4. of this rule.</u>	<u>Five (5) years at a Class I or higher public water system with at least one (1) of those years at a Class II or higher public water system.* Ten-thousand (10,000) hours at a Class I or higher public water system with at least two-thousand (2,000) of those hours at a Class II or higher public water system. *</u>
IV	<u>Four (4) years of college; or a High school diploma or GED and successfully completing one hundred eighty (180) CEUs** and passing the examination in accordance with subdivision 6.4. of this rule.</u>	<u>Six (6) years at a Class I or higher public water system with at least one (1) of those years at a Class III or higher public water system.* Twelve-thousand (12,000) hours at a Class I or higher public water system with at least two-thousand (2,000) of those hours at a Class III or higher public water system. *</u>

64CSR4

~~* Experience obtained exclusively in distribution shall not count for more than thirty percent (30%) of the total experience required for Class II through IV certification. Less than full-time experience shall be counted proportionately as full-time equivalent experience.~~

* Experience obtained exclusively in distribution, Class 1D, or Class WD shall not count for more than six hundred (600) hours of the total experience required for Class I through IV certification.

** The required CEUs will be from a course of study pre-approved by the Commissioner.

*** Required one-thousand (1,000) hours of experience (or approved alternative) in a surface source water treatment plant prior to being allowed to operate unsupervised in a Class II or III surface water source water treatment plant.

**** Can be waived by the Commissioner, in writing, to a minimum age of sixteen (16) and completion of the 10th grade. Minimum requirements are verification each semester that the student is currently attending school and maintaining a 2.00 average on a 4.0 scale towards graduation requirements. Failure to meet the above requirements will be grounds for revocation of the certificate.

TABLE 64-4D

CEUs FOR COURSES AND OPERATING EXPERIENCE

10 Classroom Hours With an Instructor	1 CEU (Continuing Education Units)
1 College Semester Credit Hour*	1.5 CEUs
1 Year of College (30 Semester Credit Hours*)	45 CEUs
1 Year of College (45 Quarter Credit Hours*)	45 CEUs
1 Public Water Supply Operators Short Course sponsored by the Commissioner [No credit issued for repeating course.]	4 CEUs
1 Public Water Supply Operators Seminar sponsored by the Commissioner	1 CEU
Courses directly related to the field of water treatment/distribution**	1 CEU for each 10 classroom hours with an instructor
Courses not specifically related to water treatment/distribution	0.5 CEU for each 10 classroom hours with an instructor
1 Year of Experience	45 CEUs
1 Month of Experience	3.75 CEUs

*— Courses completed in the fields of engineering, chemistry, water/wastewater technology or allied sciences.

**— The Commissioner may evaluate courses from correspondence schools, trade schools, community colleges, formalized workshops, and seminars directly related to water treatment and distribution to determine the CEUs allowed.

Table 64-4 B
CEUs FOR COURSES AND OPERATING EXPERIENCE

<u>Ten (10) Classroom Hours</u>	<u>1 CEU</u>
<u>One (1) College Semester Credit Hour</u>	<u>1.5 CEU</u>
<u>One (1) College Quarter Credit Hour</u>	<u>1 CEU</u>
<u>Any Public Water System Operator Course sponsored by the Commissioner (no credit issued for repeating the same course)</u>	<u>4 CEU</u>
<u>One (1) Public Water System Operators Seminar sponsored by the Commissioner</u>	<u>1 CEU</u>
<u>*Two-thousand (2,000) hours of experience</u>	<u>*45 CEU</u>

*Note: All courses will be evaluated by the Commissioner and 100% credit will be awarded for those deemed to be directly related to water treatment and distribution (examples are mathematics, science, and business courses). If the Commissioner deems the course not directly related, 50% credit will be awarded.