

**WEST VIRGINIA  
SECRETARY OF STATE  
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OFFICE WEST VIRGINIA  
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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

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

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: PUBLIC WATER SYSTEMS OPERATORS

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 278

SECTION §64-5-2(b), PASSED ON March 10, 2007

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: April 18, 2007

Martha Jean Walker  
Authorized Signature

TITLE 64  
LEGISLATIVE RULE  
BUREAU FOR PUBLIC HEALTH

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2007 APR 18 AM 10:48

SERIES 4  
PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

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. --

1.4. Effective Date. --

1.5. Repeal and Replacement of Former Rules. -- This legislative rule repeals and replaces Bureau for Public Health rule 64CSR4, Public Water Systems Operator Regulations, effective 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 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.

3.3. Certified Operator. -- An individual holding a valid West Virginia public water system certification in accordance with Section 6 of this rule.

3.4. Chief Operator. -- The certified operator whom the owner designates who is responsible for managing 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 rules and 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 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 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 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 6 of this rule.

3.9. Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or

her designee.

3.10. 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.

3.12. Continuing Education Hour (CEH). -- 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.

3.13. Continuing Education Unit. -- Ten (10) CEHs.

3.14. Course of Study. -- A series of continuing education courses, approved by the Commissioner, required as one way to qualify for a higher certification level.

3.15. Day. -- A 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.

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

3.18. Experience. -- Hands-on work performing certified operator duties at a public water system.

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

3.20. 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.

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

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

3.24. Owner. -- The person that is legally responsible for the operation of a public water system.

3.25. 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.

3.28. Public Water System. -- 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 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) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) Obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition; (3) Does not sell water to any person; and (4) Is not a carrier conveying passengers in interstate commerce.

3.29. Public Water System Operator Certification. -- 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.

3.34. Water Treatment Plant. -- A facility to process and treat water for 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.

4.1.a. 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. 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 a 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. Class II also includes 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 a 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. Class III also includes 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 a surface water source and serves a population of at least 20,000 (including consecutive connection population).

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

5.1. The owners of public water systems shall:

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 operate the system;

5.1.b. Not employ more OITs than the number of employed certified operators, unless written permission is granted by the Commissioner;

5.1.c. Apply to the Commissioner for OIT Certification, on behalf of OIT applicants, within thirty (30) days of their 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. Submit the renewal application 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. Require in the case of Class II, III, and IV public water systems, that a certified

operator with certification equal to or greater than the system classification, 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. Require in the case of Class III and IV public water systems, that a certified operator with certification no lower than one (1) class below the system classification, 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 includes, 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; and

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 no water treatment plant, the office of the public water system.

5.2. A certified operator shall:

5.2.a. 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. Obtain the necessary amount of CEHs and retain documentation of attendance required for his or her 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; and

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

5.2.e. 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.

**§64-4-6. Qualifications for Certification.**

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. A person with a 1D certification shall begin with an application for an OIT, if he or she 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.

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

6.2.a. The requirements for the various certifications are in Table 64-4A of this rule; and

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.

6.5. 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. An 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. A person newly designated by the owner as the Chief Operator or a person working as the only certified operator at that facility, 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 certified operator in 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.

**§64-4-7. Certification Expiration, Renewal, Recertification, Suspension and Revocation.**

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

7.2. 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.

7.2.a. OIT: minimum of six (6) CEHs required for renewal.

7.2.b. 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.

7.3. The Commissioner may specify certain courses an operator must attend in order to qualify for renewal.

7.4. A formerly certified applicant seeking recertification 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.

7.5. Suspension and Revocation of Certification.

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

7.5.a.1. Fraudulently obtained certification;

7.5.a.2. Performed the duties of an operator in a grossly negligent or incompetent manner;

7.5.a.3. Knowingly or negligently submitted misleading, inaccurate, or false reports to the Commissioner;

7.5.a.4. 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. Failed 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 10 of this rule.

7.5.b. 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 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, as if the revocation had not occurred.

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

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

8.1.a. Submits a completed application in a manner and form approved by the Commissioner;

8.1.b. Meets the educational and work experience requirements of this rule; and

8.1.c. Passes a West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner.

#### **§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, with one (1) from each classification, except 1D, and a person designated by the Commissioner.

9.3. The Commissioner shall assign the duties of the advisory board.

#### **§64-4-10. Compliance and Penalties.**

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.

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 there is a failure to comply with a provision of this rule may be a separate offense.

#### **§64-4-11. 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 of Procedures for Contested

**Table 64-4A  
OPERATOR EDUCATION AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION**

| <b>CLASS</b> | <b>EDUCATION REQUIRED</b>  | <b>EXPERIENCE REQUIRED</b>  |
|--------------|--|---|
| 1D           | Eighth Grade and attendance at a one (1) day class administered by the Bureau for Public Health.   | No experience required.   |
| OIT          | High school diploma or GED****   | No experience required.   |
| WD           | High school diploma or GED & attendance at a course approved by the Bureau for Public Health for WD training.  | One thousand (1,000) hours at a Class WD or higher public water system.   |
| I            | 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 subsection 6.4. | Two thousand (2,000) hours at a public water system *   |
| II           | High School diploma or GED & attendance at a course approved by the Bureau for Public Health for Class II training and passing the examination in accordance with subsection 6.4.  | 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. * / ***                  |
| III          | High school diploma or GED and successfully completing ninety (90) CEUs** and passing the examination in accordance with subsection 6.4.   | 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.*      |
| IV           | High school diploma or GED and successfully completing one hundred eighty (180) CEUs** and passing the examination in accordance with subsection 6.4.                              | 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. * |

\*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 10<sup>th</sup> 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 64-4 B

## CEUs FOR COURSES AND OPERATING EXPERIENCE

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

\*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.



OFFICE OF THE SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**Betty Ireland**  
Secretary of State

March 19, 2007

John Law  
Health  
350 Capitol St Rm 702  
Charleston WV 25301

**SB 278** passed the Legislature on **March 10, 2007** and is awaiting the Governor's signature authorizing **Title 64, Series 4, Public Water Systems Operator Regs.**

You have sixty (60) days after the Legislature passed **SB 278** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, "Final Filing", and file the form with your rule in our office. For your convenience, the forms are now available on the Internet. Go to [www.wvsos.com/csr](http://www.wvsos.com/csr) and click on rulemaking, then forms. You may fill out the form online and print it. Authorization for your legislative rule is cited in **SB 278, Section § 64-5-2(b)**. The effective date of the legislative rule may be set from the date it is final filed up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT:** When your agency completes the legislative rule in word or wordperfect compatible format, you **must submit a clean copy with all underlines and strike-throughs, headers or footers removed**, to our office when final filing the rule. Remember, the text of the electronically filed rule **must be identical word for word, comma for comma**, as the paper copy authorized by the legislature. **Notice: All electronic filings not complying with this will be rejected and sent back to the agency to be resubmitted!**

After the final rule is entered into the database, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of State. **If the agency fails to return this within ten (10) working days, the rule WILL be filed in the database with a disclaimer attached stating that the agency failed to review the rule.** Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,  
Administrative Law Division

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