

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3) (16 Del.C. §122(3))
16 DE Admin. Code 4463

PROPOSED

PUBLIC NOTICE

4463 Licensing and Registration of Operators of Public Water Supply Systems

On January 1, 2017, the Department of Health and Social Services, Division of Public Health, Office of Drinking Water, plans to publish revised Licensing and Registration of Operators of Public Water Supply Systems and hold them out for public comment per Delaware law.

The regulations have been revised to include changes necessary to update requirements for public water system operators to ensure that requirements for training, certification and licensure are in line with federal requirements and industry standards.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by Friday, February 10, 2017 to:

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4463 Licensing and Registration of Operators of Public Water Supply Systems

1.0 Purpose

These regulations: (1) protect the public health and provide for the development and protection of the potable water-supply systems of this State, (2) provide for the classification of public water systems, (3) require the licensing of operators of these systems, (4) provide procedures for licensing and registration, and (5) impose penalties for violations.

2.0 Definitions

“Acceptable Experience” means active, on-site leadership in the operation of a treatment plant/distribution system of a public water supply.

“Advisory Council” means Advisory Council for Certification of Public Water System Operators, as established by this regulation.

“Base-Level License” means a water treatment and/or distribution license that covers general water system information, disinfection by hypochlorination, and distribution operation and maintenance for water supply systems having a flow of less than five hundred (500) gpm at twenty (20) psi.

“Circuit Rider” means a certified water operator who serves as the direct-responsible-charge (DRC) for more than one public water system.

“Combined Treatment/Distribution System” means any water supply system composed of a water treatment facility together with a water distribution system as defined in this section.

“Continuing Education Unit (CEU)” means a measure of professional, educational training, where one CEU is equal to 10 hours of classroom and/or laboratory training.

“Department” shall mean the Delaware Department of Health and Social Services.

“Director” means Director of the Division of Public Health or his/her duly authorized designee.

“Direct-Responsible-Charge (DRC)” means (1) certified water system operator(s) assigned active, daily, technical direction and supervision or (2) active, daily, accountability for process control decisions of a facility/ major segment of a facility that directly impacts public health or the environment. An operator must be fully licensed for one full year before designation as a DRC.

“Distribution system” means a network of pipes, valves, fire hydrants, service lines, meters, storage tanks, finished water reservoirs and pumping stations. The system delivers water to homes, businesses, and industries for drinking water and other uses.

“Division” shall mean Division of Public Health.

“Educational Contact Hour” means the amount of time spent at a water-operators or water-distribution-operators training course, after initial certification. This does not include travel time or lodging time. For purposes of these regulations, the initial base certification course does not qualify as educational contact hours and one hour of time spent in a training course is equal to one educational contact hour.

“Endorsement” means any water treatment operation as listed in subsection 5.2.1 which is over and above the base level license.

“Hands-on” means the applicant operates a water treatment plant or distribution system, and has performed other tasks including but not limited to routine tests, collection of samples, and completion of operational reports, etc. The knowledge possessed was, at least in part, gathered from daily operating experience, not merely from textbook study.

“Leadership” includes activities such as treatment-plant startup and hands-on operator training

“Operator” means the individual who has responsibility for the operation of a water treatment plant or water distribution system and any individual who normally has charge of an operating shift, or who performs process control decisions including analytical control.

“Person” means corporations, companies, associations, firms, municipally owned water utilities, partnerships, societies and joint stock companies, as well as individuals.

“Process Control Decision” means a decision that maintains or changes the water quality or quantity of a water system in a manner that may affect the public health or the environment.

“Public Water System” means a water-supply system for the provision to the public of water for human consumption through pipes or other constructed conveyances either directly from the user's free flowing outlet or indirectly by the water being used to manufacture ice, foods and beverages or that supplies water for potable or domestic purposes to employees, tenants, members, guests or the public at large in commercial offices, industrial areas, multiple dwellings or semi-public buildings including, but without limitation, rooming and boarding houses, motels, tourist cabins, mobile home parks, restaurants, hospitals and other institutions, or offers any water for sale for potable domestic purposes. A dwelling unit means 1 or more rooms arranged for the use of 1 or more individuals as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Public water systems are classified as follows:

- "Community Water System (CWS)" means a public- water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents;
- "Non-Transient Non-Community Water System (NTNCWS)" means a public-water system that is not a community water system and regularly serves at least 25 of the same persons over 6 months per year;
- "Transient Non-Community Water System (NCWS)" means a public-water system which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year;
- "Miscellaneous Public Water System (MPWS)" means a public-water system that is neither community, non-community nor non-transient non-community.

“Secretary, Delaware Health and Social Services” means the Administrator of the Department of Health and Social Services of the State of Delaware as defined in Title 29, Section 7902(a) of the **Delaware Code** or his/her duly authorized designee.

“Water Distribution System” means that portion of the water-supply system where water is stored and conveyed from a water treatment plant, groundwater well, or other supply point to the free-flowing outlet of the ultimate consumer.

“Water Supplier” means any person who owns, operates, or manages a public water system.

“Water Supply System” means the work and auxiliaries for collection, treatment, storage, and distribution of water from the source of supply to the free-flowing outlet of the ultimate consumer.

“Water Treatment” means any process that is meant to alter the physical, chemical or bacteriological quality of the water.

“Water Treatment Facility” means that portion of the water-supply system that is meant to alter the physical, chemical, or bacteriological quality of the water being treated.

- 3.1 An Advisory Council for Certification of Public Water System Operators shall be appointed by the Secretary to advise and assist in the administration of these regulations.
- 3.2 Membership:
 - 3.2.1 The Advisory Council shall consist of a minimum of ~~nine~~ seven members. Membership shall consist of:
 - 3.2.1.1 one representative designated by the Division who shall serve as Secretary/Treasurer, responsible for maintaining all appropriate records and conducting the daily business of the Advisory Council;
 - 3.2.1.2 ~~three~~ one representatives of the public-at-large;
 - 3.2.1.3 two representatives of local government agencies with managerial responsibility for water treatment or water distribution in a public-water system with the following representation:
 - 3.2.1.3.1 one representative of a local government agency having a population greater than or equal to 10,001; and
 - 3.2.1.3.2 one representative of a local government agency having a population less than or equal to 10,000;
 - 3.2.1.4 one representative of business or industry;
 - 3.2.1.5 one representative of a public water utility;
 - 3.2.1.6 one representative holding a valid water operator's license, or who is eligible to be licensed under these regulations.
 - 3.2.2 Advisory Council members shall serve a five-year term or until such time as a re-appointment or a replacement appointment is made. Members shall have the right to resign at their request.
 - 3.2.2.1 Initially one member will be appointed for a term of one year, one for a term of two years, two members for a term of three years, two for a term of four years and two for a term of five years.
 - 3.2.2.2 The Division representative will serve an unlimited term at the discretion of the Secretary.
 - 3.2.3 Advisory Council appointees shall represent all counties of the State, with at least one member each from New Castle, Kent and Sussex Counties.
 - 3.2.4 The Secretary may remove any member of the Advisory Council for misconduct, incapacity, or neglect of duty, and shall be the sole judge of the sufficiency of the case for removal.
 - 3.2.5 The Secretary shall fill any vacancy. Such an interim appointment shall be for the duration of the term.
- 3.3 Meetings – The Advisory Council shall hold at least four meetings each calendar year and such special meetings as it deems necessary.
- 3.4 Responsibility and Authority:
 - 3.4.1 The Advisory Council, with the consent of the Secretary, shall establish such procedures and guidelines as may be necessary for the administration of this regulation. These procedures and guidelines shall include but not be limited to the following:
 - 3.4.1.1 procedures for examination of candidates and the granting of licenses;
 - 3.4.1.2 procedures for the renewal of licenses;
 - 3.4.1.3 procedures for the suspension, revocation and failure to renew licenses;
 - 3.4.1.4 guidelines for evaluating equivalency of training and examinations conducted by recognized agencies and institutions;
 - 3.4.1.5 guidelines for evaluating equivalency of other licensing and certification programs for the purpose of according reciprocal treatment;
 - 3.4.1.6 procedures for the collection and disbursement of fees.
 - 3.4.2 The Advisory Council shall possess the necessary authority as delegated by the Secretary to carry out all activities required for the proper administration of these regulations. Such authority includes:
 - 3.4.2.1 the development of rules and regulations, to be adopted by the Secretary, concerning the licensing of operators of public water systems;
 - 3.4.2.2 establishing the method of examination for each license applicant, including preparation, administration, and grading of examinations;
 - 3.4.2.3 the recommendation to the Secretary regarding the issuance and renewal of licenses;
 - 3.4.2.4 the recommendation of disciplinary sanctions to the Secretary on operators who violate Section 11.0 of these regulations.
 - 3.4.3 At least four members in attendance at any meeting shall constitute a quorum of the Advisory Council.

4.0 License Requirements for Public Supply Water Systems

- 4.1 Water Supply Treatment Facilities. A public-water supply-system treatment facility must be under the operation of a DRC.
- 4.2 Water Supply Treatment Facility Operators. It shall be illegal for any person to be a DRC or operate any public-water supply-system treatment facility unless they possess a valid base-level water operator's license and applicable endorsements, if any, for the treatment facility to be operated.
- 4.3 Water Supply Distribution Systems. A public-water distribution system, capable of producing greater than 500 gallons-per-minute (gpm) at 20 pounds per-square-inch (psi), must be under the operation of a DRC possessing, at a minimum, a distribution endorsement.
- 4.4 Water Supply Distribution System Operators. It shall be illegal for any person to be a DRC and/or operate any public-water-supply distribution system, capable of producing greater than 500 gallons-per-minute (gpm) at 20 pounds per-square-inch (psi), unless they possess a valid base-level water operator's license and, at a minimum, a distribution endorsement.
- 4.5 Combined Treatment/Distribution Supply Systems.
 - 4.5.1 The license requirements stipulated in subsections 4.1 and 4.3 apply, separately and equally, to the water-supply treatment-facility operator and the water-supply distribution-facility operator of a combined treatment/distribution supply system.
 - 4.5.2 A water-supply treatment facility that is part of a combined public water treatment/distribution system must be operated by a DRC.
 - 4.5.3 A water-supply distribution system that is part of a combined public water treatment/distribution system capable of producing greater than 500 gpm at 20 psi, must be under the direct-responsible-charge of a person possessing a valid base-level water-operator's license and, at a minimum, a distribution endorsement.
 - 4.5.4 The requirement of a distribution endorsement as stated in subsection 4.5.3 may be waived, if the owner demonstrates to the Division operation and maintenance is contracted out to another licensed operator.
- 4.6 An owner of a public-water supply-system treatment facility, distribution system, or combined treatment/distribution system must provide the Division a list of all persons in direct-responsible-charge and all operators who have been duly licensed under these regulations.
 - 4.6.1 The owner must notify the Division, in writing, of any addition, deletion, or other change in the number of licensed direct-responsible-charges by the end of the day, or no later than the close of business the next business day, of such change. The notification must include the name and license number of the new DRC.
- 4.7 Temporary Variance
 - 4.7.1 The Secretary may grant a temporary variance from the license requirements listed in subsection 4.1, 4.3 and 4.5 of this regulation, upon recommendation by the Advisory Council, to the owner of a public-water-system treatment facility, distribution system, or combined treatment/distribution system, when it is demonstrated to the satisfaction of the Advisory Council the owner has unexpectedly lost a licensed operator and/or is unable to hire a licensed operator in spite of good faith efforts. The temporary variance may be issued with any special conditions or requirements deemed necessary to assure the protection of the public health.
 - 4.7.1.1 Owner must notify the Advisory Council of the unexpected loss of a licensed operator within 30 days pursuant to subsection 4.6.
 - 4.7.1.2 Owner must apply for the temporary variance no later than 30 days after notification.
 - 4.7.1.3 The Secretary shall notify the applicant in writing of his/her decision to approve or deny the temporary variance once it reviews the application and any other pertinent materials and makes a recommendation to the Secretary.
 - 4.7.2 A temporary variance shall be valid only for that facility or system for which issued, and for a period of time as specified by the Secretary, not to exceed six months.
 - 4.7.3 The Secretary may extend a temporary variance when the owner demonstrates he/she has continued to act in good faith in attempting to hire a licensed operator but is unable to do so.
 - 4.7.3.1 The Secretary may grant one extension of the original variance, upon recommendation by the Advisory Council, for a period of time not to exceed six months.
 - 4.7.3.2 Owners must request an extension of a temporary variance to the Advisory Council, in writing, no later than one month prior to the expiration of the original variance.

5.0 Classification of Public Water Systems

- 5.1 The Division shall classify all public-water systems in accordance with the criteria hereby established.

5.2 Water Supply Facilities

5.2.1 Public-water-system supply facilities shall be classified according to the treatment process(es) they operate. General treatment processes shall be grouped into categories hereby called endorsements. Specific unit processes, within each endorsement, shall be called endorsement sub-categories. A list of the endorsements and endorsement sub-categories is attached hereto as Appendix A. The Division will specify which endorsements and endorsement sub-categories a public-water system needs based upon the most recent sanitary survey conducted by the Division. The list of endorsements is as follows:

5.2.1.1 Disinfection

5.2.1.2 Chemical Feed

5.2.1.3 Filtration

5.2.1.4 Surface Water Operations

5.2.1.5 Other Specified Treatment

5.2.1.6 Distribution

5.2.1.7 Approved Sampler/Tester

5.2.2 The Advisory Council shall amend Appendix A depending on the creation of new treatment technologies.

5.2.3 In the event of an emergency, such as source water contamination in which a treatment process is required to protect the public's immediate health, and which the DRC and/or operator is currently not licensed for, the Division may grant prior approval to add an emergency endorsement to the DRC's and/or operator's license.

5.2.3.1 Emergency endorsements shall be issued for a period not to exceed one year, without the express, written consent of the Secretary.

5.2.3.2 Operator must pass the appropriate endorsement test within the one-year period of the emergency endorsement.

5.3 The Division shall provide a classification system for Distribution System Operators, when the holder of this classification is responsible for oversight of a distribution system, and has no responsibilities for operations at the treatment plant.

6.0 License Classification and Operator Qualifications

6.1 License Classification

6.1.1 One regular water-supply operator license class is hereby established:

6.1.1.1 Base-Level Water-Supply Operator with all applicable endorsements as stated in subsection 5.2.1.

6.1.2 Four specialty class licenses are also established:

6.1.2.1 ~~Water Supply~~ Operator-in-Training (OIT)

6.1.2.2 Grandfather Clause

6.1.2.3 Limited License

6.1.2.4 Distribution License

6.2 Operator Qualifications

6.2.1 Base-Level Water-Supply Operator qualifications shall be:

6.2.1.1 High School Diploma or equivalent and one year of acceptable operating experience, or; three years of acceptable operating experience;

6.2.1.2 Successful completion of the base-level written examination;

6.2.2 A water-treatment operator-in-training who lacks either, the education or experience requirements for a base-level license may receive an interim Operator-in-Training (OIT) license, for a maximum of one year, pending fulfillment of the regular license requirements. The interim OIT license depends on: (1) approval by the Secretary, (2) recommendation by the Advisory Council and (3) successful completion of the base-level written examination.

6.2.2.1 An OIT must be employed at a water system performing the duties of an operator consistent with the definition of operator in these Regulations continuously for one year before becoming eligible for full licensure.

6.2.2.1.1 An applicant that passes the Base Level Exam or Distribution Exam must obtain a job with a Delaware water system within two years of passing the test. Failure to obtain the job within the two year period will require submittal of a new application and retaking the appropriate exam.

6.2.2.2 An OIT must submit an application for full license 30 days prior to the expiration of his/her OIT license.

- 6.2.3 An operator who works for a school system, day care facility or small NTNC water system that is required to have a licensed operator may obtain a limited license. A limited license shall not be transferable to another facility. To obtain a limited license an operator must:
 - 6.2.3.1 Attend a course approved by the Division and pass the test,
 - 6.2.3.2 Obtain all endorsements required based on the treatment processes used by the facility;
 - 6.2.3.3 Obtain the required number of continuing education credits in accordance with subsection 7.3.2.
- 6.2.4 A Distribution System Operator may obtain a distribution license when they are responsible for oversight of a distribution system and have no responsibilities for operations at the treatment plant.
 - 6.2.4.1 The qualifications for a distribution license shall include:
 - 6.2.4.1.1 A high school diploma or equivalent and one year of acceptable experience, or; three years of acceptable operating experience; and
 - 6.2.4.1.2 Successful completion of the distribution written examination;
- 6.2.5 Circuit Rider. The requirements for a Circuit Rider shall be:
 - 6.2.5.1 Must obtain certification for all endorsements required for the water systems for which he/she is in direct-responsible-charge and/or operates.
 - 6.2.5.2 Must complete three weekly visits at each water system that provides any treatment and shall make at least one weekly visit for each system that has no treatment. Advisory Council may adjust this number upon a written request from the operator and/or owner of the water system if they provide justification for the change.
 - 6.2.5.2.1 The number of weekly visits at each water system must be documented on forms, approved by the Division, and made available upon request. Information documented shall include, but not be limited to: name of water system, name of operator, date of visit, time of visit, activities performed (i.e., filled chlorine tank, adjusted feed rate, etc.).
 - 6.2.5.2.2 For the purposes of this subsection, a DRC circuit rider must be available in the event of an emergency, but does not have to be on-site.
 - 6.2.5.3 The distances between each water system shall be reachable by the Circuit Rider within two hours of first being notified of the emergency.
- 6.2.6 ~~The Secretary may allow a water facility to be grandfathered by approving a valid, base-level license and any applicable endorsements to the individual(s) the governing body or owner of a public water system certifies to have been in responsible charge and/or operated a water facility on the effective date of these Regulations, under the following criteria: Water facility operators and Distribution system operators shall not be grandfathered.~~
 - 6.2.6.1 ~~The individual(s) provide documentation to the Advisory Council to the fact they have been in a position of Direct Responsible Charge and/or operated a water facility for at least five years prior to the adoption date of these Regulations; and~~
 - 6.2.6.2 ~~The individual submits an application for a license pursuant to this subsection on or before July 1, 2001.~~
 - 6.2.6.3 ~~A license and endorsement(s) granted under subsection 6.2.6 of these Regulations shall not be transferable to another water system.~~
- 6.2.7 An applicant for any endorsements or sub-endorsements must have at least one year of acceptable experience with the treatment process or distribution system in order to receive the endorsement on his/her license. Applicants that take and pass the endorsement test may receive an OIT license for up to one year in order to obtain the necessary experience.

7.0 Licensing Procedures

- 7.1 The Advisory Council, or its authorized designee, may enter into a contract with a third party to prepare, administer and grade written examinations required for each category and classification of license.
 - 7.1.1 A minimum score of 75 percent (75%) shall be considered passing.
 - 7.1.2 Examinations are confidential and remain the property of the Advisory Council.
 - 7.1.3 The Advisory Council may waive the requirements for the written examination, due to unusual and extenuating circumstances, and allow a recorded examination conducted and retained by the Advisory Council.
 - 7.1.4 The Advisory Council shall designate the locations and times for examinations to be held and provide notification at least two months prior to the scheduled examination date. Examinations shall be held in January and June of each year.

- 7.1.5 Candidates wishing to take any license examination must submit an application to the Advisory Council at least 30 days prior to the announced date of the examination.
 - 7.1.5.1 Advisory Council shall provide application forms.
 - 7.1.5.2 No application form shall require a picture of the applicant information relating to citizenship, place of birth, or length of State residency, nor include personal references.
- 7.1.6 The Advisory Council shall review all applications submitted and determine the eligibility of each candidate to sit for the examination. Each candidate approved for examination shall be notified in writing, by the Advisory Council, of the time and location of the next examination at least two weeks prior to the examination date.
- 7.1.7 If the Council has found an application has been fraudulent, or that false information has been intentionally supplied, it shall report its finding to the Attorney General for further action.
- 7.1.8 Approved applications for examination shall remain valid for one year. If an approved candidate fails to sit for an examination during the one-year period, following the first notification of eligibility, they must submit a new application for examination to the Advisory Council.
 - 7.1.8.1 Letters issued to applicants prior to June 1, 2000 shall not be deemed award letters for a license. Applicants must meet all current requirements for licensure.
 - 7.1.8.2 Any applicant that fails to submit payment for their license within 90 days of the first notification they passed the examination and are eligible for licensure must submit a new application to the Advisory Council and retake the examination.
- 7.1.9 An applicant may appeal, in writing via certified mail, to the Secretary within 30 days of notification when if an application is refused or rejected. Any applicant who failed the examination has the right to an appeal before the Advisory Council.
- 7.1.10 Any candidate who fails to pass an examination may apply for re-examination. Candidates may sit for the same examination two times within a one-year period. Applicants who fail twice within a one year period must wait one year before sitting for another examination.
- 7.2 Once an applicant satisfies requirements provided in this regulation, and provides proof of employment as an operator at a Delaware water system, the candidate, upon recommendation by the Advisory Council, shall be issued a suitable license by the Secretary. The license shall indicate all endorsements for which the operator is qualified, the date of issuance and date of expiration.
- 7.3 Renewal of License. It is the responsibility of the licensee to file a renewal application with the Advisory Council. The Advisory Council is not required to notify licensees of expiration dates.
 - 7.3.1 Licenses shall be renewed every two years unless suspended, revoked for cause, or invalidated under subsection 7.4.
 - 7.3.1.1 The deadline renewal date shall be the month and day of the original license issuance.
 - 7.3.1.2 Applications for renewal must be submitted to the Advisory Council on the forms provided 60 days prior to the deadline renewal date.
 - 7.3.2 All operators, including grandfathered operators, Distribution System Operators, and Limited License holders, must receive an additional 20 educational contact hours every two years to be eligible to renew their license.
 - 7.3.2.1 ~~At least 50% of training (10 educational contact hours) must be obtained in classes directly related to waterworks operation, treatment or distribution.~~
 - 7.3.2.2 Educational contact hours are required of all licensees and shall be completed prior to the time a license is to be renewed. Extra educational contact hours do not carry over to the next licensing period. Licensees will only get educational contact hour credit for their first attendance of approved courses during each licensing period. Licensees may retake an approved course in the same licensing period but will not receive additional educational contact hour credit.
 - 7.3.3 Any license that has not been renewed in accordance with subsections 7.3.1 and 7.3.2 shall be automatically invalidated. A license may be revalidated, without examination, upon payment of the appropriate fee and verification of completion of continuing education requirements within one year from the expiration date. License applicants who do not reinstate within one year of the expiration date, must submit a new application to the Advisory Council and may be required to sit for the appropriate written examination.
 - 7.3.3.1 Continuing education credits may be earned during the period of invalidation, if the applicant is short of the required number, to meet the minimum number of credits for renewal. However, these credits will not carry over to the two-year term of the renewed license.

7.4 The Secretary may suspend or revoke the license of an operator, after considering the recommendations of the Advisory Council, when it is found the operator: has practiced fraud or deception; failed to use reasonable care, judgment, or the application of his knowledge or ability in the performance of his duties; or is incompetent or unable to perform his duties properly.

7.4.1 The Advisory Council's recommendation to the Secretary shall be made after conducting a hearing in accordance with provisions established under these regulations. Examples of actions which may result in denial of renewal, suspension or revocation of a license or placement on probation include, but are not limited to; failure to notify the Division of chemical overfeeds and other emergencies, failure to respond to an emergency, etc.

7.5 Fees

7.5.1 The fee schedule as authorized by Title 16, Section 122(3)(c) of the **Delaware Code** and set forth below shall take effect on the effective date of these Regulations.

7.5.1.1 Initial Annual License. \$50.00 Biennial License \$100

7.5.1.2 Renewal of Annual License. \$50.00 Biennial License \$100

7.5.2 All fees are payable upon notification by the Division an applicant has been approved for licensure.

7.6 The Division may grant reciprocity and issue a license without examination to an applicant who holds a certificate or license in any state, territory, or possession of the United States or any country.

7.6.1 Reciprocity will be granted, if in the judgment of the Secretary, the requirements under which the certification or license was issued do not conflict with the provisions of this regulation or any rules promulgated hereunder, and are of a standard not lower than that specified by these Regulations.

7.7 A licensee with an active license may request in writing to be placed on inactive status. Inactive status can be renewed on a biennial basis by attestation of completing the required continuing education for licensure. Inactive licenses shall be reactivated by the Advisory Council upon written request and payment of the appropriate fee set by the Division.

7.7.1 An operator is not authorized to work as a licensed operator in this State during the period of inactive status.

8.0 Statement of Ethics

It is the responsibility of all operators to ensure the provision of safe drinking water to their customers by maintaining their license, ensuring they obtain relevant training, keeping up with all current and proposed regulations, maintaining proper records and addressing customer complaints in a timely manner.

9.0 Preemption

The provisions of these regulations preempt existing prior regulations of this State insofar as they relate to or conflict with the provisions of this regulation.

10.0 Severability

In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

11.0 Disciplinary Procedures

11.1 Grounds for Discipline. An applicant or licensed operator may be subject to disciplinary sanctions if the applicant or licensed operator has:

11.1.1 Acted fraudulently or with material deception in order to be certified; or

11.1.2 Engaged in illegal, incompetent or negligent conduct in the provision of water system operation; or

11.1.3 As an operator or otherwise, in the practice of his or her profession, engaged in an act of consumer fraud or deception, or engaged in the restraint of competition, or participated in price-fixing activities; or

11.1.4 Violated a lawful provision of these Regulations.

11.2 Disciplinary Sanctions. Persons regulated under this Section who have been determined to be in violation of these regulations may be subject to one or more of the following disciplinary actions:

11.2.1 Issuance of a letter of reprimand

11.2.2 Placement on probationary status

11.2.3 Imposition of a fine not to exceed \$1,000 for each offense

11.2.4 Suspension of License

11.2.5 Revocation of License

11.3 Disciplinary Procedures

- 11.3.1 The Advisory Council may, upon sworn complaint or upon its own initiative, conduct an investigation to determine whether a license holder has engaged in any activity requiring disciplinary action.
- 11.3.2 Upon completion of the investigation, the Advisory Council shall forward a copy of the investigation report along with its recommendation to the Secretary.
 - 11.3.2.1 The Secretary shall fix the time and place for the hearing.
- 11.3.3 The Secretary shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the alleged holder 30 days before the date fixed for the hearing.
 - 11.3.3.1 In cases where the water operator cannot be located or where personal service cannot be affected, substitute service shall be affected in the same manner as with civil litigation.
- 11.3.4 In all proceedings herein:
 - 11.3.4.1 The alleged violator may be represented by counsel who shall have the right of examination and cross-examination.
 - 11.3.4.2 The accused and the Secretary may subpoena witnesses and admit documentary evidence on their own behalf. Subpoenas shall be issued by the Department upon written request and shall be served as provided by the rules of the Superior Court and shall have like effect as a subpoena issued by said Court.
 - 11.3.4.3 Testimony before the Secretary shall be under oath. The Secretary shall have power to administer oaths for this purpose.
 - 11.3.4.4 A stenographic record of the hearing shall be made by a qualified court reporter. At the request and expense of any party such record shall be transcribed with a copy to the other party.
 - 11.3.4.5 The decision of the Secretary shall be based upon sufficient legal evidence.
 - 11.3.4.5.1 If the charges are supported by such evidence, the Secretary may revoke, refuse to issue or suspend a license or otherwise discipline the individual.
 - 11.3.4.5.1.1 Upon reaching their conclusion of law and determining an appropriate disciplinary action, if any, the Secretary shall issue a written decision and order in accordance with §10128 of Title 29. The order must restate the factual findings, but need not summarize the evidence presented. However, notwithstanding the provisions of § 10128(c) of Title 29, the decision and order may be issued over the signature of only the Secretary. The decision and order must be sent by certified mail, return receipt requested, to the person complained about, with a copy to the Director of the Division of Public Health.
 - 11.3.4.5.2 A suspended license may be reinstated upon further review by the Secretary at the request of the holder. As a condition of reinstatement of a suspended license, the Agency in consultation with the Advisory Council may impose any condition or conditions, including but not limited to a requirement to take an exam. Before reinstating a suspended license, the Secretary shall, without a hearing, make a determination as to whether the holder has taken the required corrective actions and has satisfied all the conditions imposed pursuant to the suspension. A holder who disagrees with a determination made by the Secretary may request a hearing before the Secretary. The written request must be made 10 days from the date of the decision.
 - 11.3.4.6 All decisions of the Secretary shall be final and conclusive. Where the holder is in disagreement with the action of the Secretary, the holder may appeal the Secretary's decision to the Superior Court within 30 days of service or of the postmarked date of the copy of the decision mailed to the practitioner. The appeal shall be on the record to the Superior Court and shall be as provided in §§10142-10145 of Title 29.
- 11.4 Reapplication of License after Revocation: An operator that has had his/her license revoked by the Secretary may submit an application to the Advisory Council for renewal of their license. An application for a license after revocation shall not be submitted for at least one year after the date of revocation.

12.0 Penalty Clause

Any person who neglects or fails to comply with these regulations shall be subject to penalty as provided in Title 16, Section 122(3)(c) of the **Delaware Code**.

APPENDIX A

Listed below are the general endorsement categories. Under each general category is a list of the endorsement sub-categories (unit processes) associated with each general category.

- A. Disinfection
 - 1. Hypochlorination (Calcium or Sodium), powder or liquid
 - 2. Gas Chlorination
 - 3. Ozonation
 - 4. Bromination
 - 5. Iodine
 - 6. Chloramines
 - 7. Chlorine Dioxide
 - 8. Ultraviolet Light
- B. Chemical Feed
 - 1. Lime - Soda Ash Addition
 - 2. pH Adjustment
 - 3. Inhibitor - bimetallic phosphate, hexametaphosphate, orthophosphate, polyphosphate
 - 4. Sequestering
 - 5. Permanganate
 - 6. Peroxide
 - 7. Fluoridation
- C. Filtration
 - 1. Activated Carbon, powder or granulated
 - 2. Sand - Pressure, Rapid, Slow
 - 3. Reverse Osmosis
 - 4. Greensand
 - 5. Activated Alumina
 - 6. Ion Exchange
 - 7. Cartridge
 - 8. Diatomaceous Earth
 - 9. Ultrafiltration
 - 10. Microfiltration
- D. Surface Water Operations
 - 1. Algae Control
 - 2. Coagulation
 - 3. Flocculation
 - 4. Rapid Mix
 - 5. Sedimentation
 - 6. Sludge Treatment
- E. Other Specified Treatment
 - 1. Aeration - Cascade, Diffused, Packed Tower, Slat Tray or Spray
 - 2. Dechlorination - using reducing agents, sodium bisulfate, sodium sulfide, or sulfur dioxide
 - 3. Distillation
 - 4. Bone Char
 - 5. Electrodialysis
- F. Distribution
 - 1. Flow less than 500 gpm at 20 psi
 - 2. Flow greater than 500 gpm at 20 psi
- G. Approved Sampler/Tester
 - 8 DE Reg. 453 (09/01/04)**
 - 17 DE Reg. 924 (03/01/14)**
 - 20 DE Reg. 531 (01/01/17) (Prop.)**