

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

**Statutory Authority: 16 Delaware Code,
Section 122(3)(c) (16 Del.C. §122(3)(c))**

ORDER

463 Regulations for the Licensing and Registration of Operators of Public Water Supply Systems

FINAL

Nature Of The Proceedings:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt State of Delaware **Regulations for the Licensing and Registration of Operators of Public Water Supply Systems**. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Del.C. Chapter 101 and authority as prescribed by 16 Del.C. 122 §(3)c.

On July 1, 2004 (Volume 8, Issue 1), DHSS published in the Delaware Register of Regulations its notice of proposed regulations, pursuant to 29 Del.C. §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by July 30, 2004, or be presented at a public hearing on July 28, 2004, after which time DHSS would review information, factual evidence and public comment to the said proposed regulations.

Findings Of Fact:

No verbal comments were received during the public hearing and no written comments were received during the official public comment period. The public comment period was open from July 1, 2004 through July 30, 2004. Verifying documents are attached to the Hearing Officer's record. The regulation has been reviewed and approved by the Delaware Attorney General's office.

The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations for the Licensing and Registration of Operators of Public Water Supply Systems are adopted and shall become effective September 10, 2004, after publication of the final regulation in the Delaware Register of Regulations.

Vincent P. Meconi, Secretary, 8/13/04

463 Regulations for the Licensing and Registration of Operators of Public Water Supply Systems

1.0 Purpose

It is the purpose of this regulation to protect the public health and to provide for the development and protection of the potable water supply systems of this State; to provide for the classification of public water systems; to require the licensing of operators of these systems; to provide procedures for such licensing and registration; to create an Advisory Council for Certification; to provide for reciprocal arrangements; and to prescribe penalties for violation of this regulation.

2.0 Definitions

"Acceptable Experience" means active, on-site charge and/or performance of operation of a treatment plant and/or distribution system of a public water supply and would include such activities as treatment plant startup and hands-on (in the field) operator training. **"Hands-on"** means the applicant has been actually operating a water treatment plant and/or working on the distribution system, has performed routine tests, collected samples, completed operational reports, etc. It means that the knowledge possessed was, at least in part, gathered from daily operating experience, not merely from textbook study.

"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 in which the following information is covered: 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 operates and/or is the direct-responsible-charge (DRC) for more than one (1) public water system.

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

“Continuing Education Unit (CEU)” means a measure of professional, educational training, where one (1) CEU is equal to ten (10) hours of classroom and/or laboratory training.

“Department” means Delaware Health and Social Services.

“Direct-Responsible-Charge (DRC)” means certified water system operator(s) assigned ~~accountability for performance of active, on-site operational duties~~ active daily technical direction and supervision or active daily accountability for process control decisions of a facility or a major segment of a facility that directly impacts public health or the environment.

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

“Division” means 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, not including travel time or lodging time. For purposes of these Regulations, the initial base certification course does not qualify as educational contact hours and one (1) hour of time spent in a training course is equal to one (1) educational contact hour.

“Endorsement” means any water treatment operation as listed in Section 5.2.1 which is over and above the base level license as defined in “Base Level Service” this section.

“Operator” ~~means a licensed person who works in a water treatment facility and/or a water distribution system who may be a DRC or may work under a DRC.~~ 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 any individual, partnership, firm, association, joint venture, public or private corporation, trust, state commission, Advisory Council, public or private institution, utility, cooperative, municipality or any other political subdivision of this State, or any other legal entity.

“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 for consumption in more than three dwelling units, or furnishes 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, camps of all types, day and boarding schools, clubhouses, hospitals and other institutions, or offers any water for sale for potable or domestic purposes. Public water systems are classified as follows:

“Community Water System (CWS)” means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents;

“Non-Transient Non-Community Water System (NTNCWS)” means 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;

“Non-Community Water System (NCWS)” means a public water system which has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (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 (b), Delaware Code or his/her duly authorized designee.

“Water Distribution System” means that portion of the water supply system in which 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 which is meant to alter the physical, chemical or bacteriological quality of the water.

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

3.0 Advisory Council For Certification Of Public Water System Operators

3.1 An Advisory Council for Certification of Public Water System Operators shall be appointed by the Secretary, Delaware Health and Social Services to advise and assist the Secretary in the administration of this regulation. The Advisory Council shall hold at least quarterly meetings each calendar year and such special meetings as it deems necessary.

3.2 Membership:

3.2.1 The Advisory Council will consist of a minimum of nine (9) members and with the following representation:

3.2.1.1 one (1) member representing the Division of Public Health who shall serve as Advisory Council Secretary/Treasurer, responsible for maintaining all appropriate records and conducting the daily business of the Advisory Council.

3.2.1.2 three (3) members representing the general public

3.2.1.3 two (2) representatives from local government agencies with managerial responsibility for water treatment and/or water distribution in a public water system with the following representation:

3.2.1.3.1 one (1) member representing a local government agency having a population greater than or equal to 10,001 and;

3.2.1.3.2 one (1) member representing a local government agency having a population less than or equal to 10,000

3.2.1.4 one (1) member representing business or industry

3.2.1.5 one (1) member representing a public water utility.

3.2.1.6 one (1) member holding a valid water operator's license, or who is eligible to be licensed under this regulation.

3.2.2 Advisory Council members will serve a five (5) year term with the right to resign at their request or until such time as a re-appointment or a replacement appointment is made.

3.2.2.1 Initially one (1) member will be appointed for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years, two (2) for a term of four (4) years and two (2) for a term of five (5) 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 (1) 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 Responsibility and Authority:

3.3.1 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:

3.3.1.1 procedures for examination of candidates and the granting of licenses;

3.3.1.2 procedures for the renewal of licenses;

3.3.1.3 procedures for the suspension, revocation and failure to renew licenses;

3.3.1.4 guidelines for evaluating equivalency of training and examinations conducted by recognized agencies and institutions;

3.3.1.5 guidelines for evaluating equivalency of other licensing and certification programs for the purpose of according reciprocal treatment.

3.3.1.6 procedures for the collection and disbursement of fees.

3.3.2 The Advisory Council shall possess the necessary authority as delegated by the Secretary to carry

out all activities required for the proper administration of this regulation. Such authority includes:

3.3.2.1 the development of rules and regulations, to be adopted by the Secretary, concerning the licensing of operators of public water systems;

3.3.2.2 establishing the method of examination for each license applicant, including preparation, administration, and grading of examinations;

3.3.2.3 the recommendation to the Secretary regarding the issuance and renewal of licenses;

3.3.2.4 the recommendation of disciplinary sanctions to the Secretary on operators who violate Section 10 of this regulation.

4.0 License Requirements For Public Supply Water Systems

4.1 Water Supply Treatment Facilities

4.1.1 Two years following the effective date of this regulation, any public water supply system treatment facility must be under the direct-responsible-charge of a person possessing a valid base level water operator's license, defined in Section 2.0 of these regulations, and all applicable endorsements, if any, for the treatment facility to be operated.

4.2 Water Supply Treatment Facility Operators

4.2.1 Two years following the effective date of this regulation, it shall be illegal for any person to be in a position of direct-responsible-charge (DRC) and/or operate any public water supply system treatment facility unless said person possesses 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

4.3.1 Two years following the effective date of this regulation, any public water distribution system, capable of producing greater than five hundred (500) gallons per minute (gpm) at twenty (20) pounds per square inch (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.

4.4 Water Supply Distribution System Operators

4.4.1 Two years following the effective date of this regulation, it shall be illegal for any person to be in a position of direct-responsible charge (DRC) and/or operate any public water supply distribution system, capable of producing greater than five hundred (500) gallons per minute (gpm) at twenty (20) pounds per square inch (psi), unless said person possesses 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 4.1 and 4.3 apply separately and equally to both the water supply treatment facility operator and the water supply distribution facility operator of a combined treatment/distribution supply system.

4.5.2 Any water supply treatment facility which is part of a combined public water treatment/distribution system must be under the direct-responsible-charge of a person possessing a valid base level water operator's license and all applicable endorsements, as defined by the Division, if any, for the treatment facility to be operated.

4.5.3 Any water supply distribution system which is part of a combined public water treatment/distribution system and is capable of producing greater than five hundred (500) gpm at twenty (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 Section 4.5.3 may be waived if the owner can demonstrate to the Division that all distribution system operation and maintenance is contracted out to another licensed operator.

4.6 Notification to Division of Public Health

4.6.1 Within twenty-six (26) months of the effective date of this regulation, any owner of a public water supply system treatment facility, distribution system, or combined treatment/distribution system must provide to the Division a list of all persons in direct-responsible-charge and all operators who have been duly licensed under these regulations. Further, the owner must notify the Division in writing of any additions, deletions, or other changes in the number of licensed direct-responsible-charges ~~or operators~~ within thirty (30) days of such change. The notification must include the name and license number of the new DRC.

4.7 Temporary Variance

4.7.1 A temporary variance from the license requirements provided in Sections 4.1, 4.3 and 4.5 of this

regulation may be granted by the Secretary, 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 that the owner has unexpectedly lost a licensed operator and/or is unable to hire a licensed operator in spite of good faith efforts. Such temporary variance may be issued with any special conditions or requirements deemed necessary to assure the protection of the public health.

4.7.2 Notification of the unexpected loss of a licensed operator must be sent to the Advisory Council by the owner within thirty (30) days pursuant to 4.6 of this regulation. Application for a temporary variance must be made to the Advisory Council on forms provided by the Advisory Council no later than thirty (30) days following such initial notification. After thorough review of the application and any other information required by the Advisory Council as being pertinent to the issuance of a temporary variance, the Advisory Council shall make a recommendation to the Secretary. The Secretary notifies the applicant in writing of his/her decision to approve or deny the temporary variance.

4.7.3 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, but which shall not exceed six (6) months.

4.7.4 Extension of Temporary Variance

4.7.4.1 When it is demonstrated to the satisfaction of the Secretary that the owner holding a temporary variance has continued to act in good faith in attempting to hire a licensed operator but is unable to do so, one (1) extension of the original variance may be granted at the discretion of the Secretary, upon recommendation by the Advisory Council, for a period of time not to exceed six (6) months. Requests for an extension of a temporary variance must be made to the Advisory Council in writing no later than one (1) month prior to the expiration date of the original variance.

5.0 Classification Of Public Water Systems

5.1 The Division of Public Health 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) it operates. General treatment processes shall be grouped into categories hereby called endorsements. Within each endorsement shall be specific unit processes, hereby called endorsement sub-categories, see appendix A for a list of these endorsements and endorsement sub-categories. 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

5.2.2 The Advisory Council shall amend Appendix A as is necessitated by 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, an emergency endorsement may be added to the DRC's and/or operator's license provided that prior approval, by the Division, is granted. This emergency endorsement shall be issued for a period not to exceed one (1) year, without the express written consent of the Secretary. The operator must pass the appropriate endorsement test within the one-year period of the emergency endorsement.

6.0 License Classification And Operator Qualifications

6.1 License Classification

6.1.1 One (1) 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 Section 5.2.1.

6.1.2 ~~Three (3)~~ Two (2) specialty class licenses are also established:

6.1.2.1 Water Supply Operator-in-Training (OIT)

~~6.1.2.2 Circuit Rider~~

~~6.1.2.3~~ 2 Grandfather Clause

6.2 Operator Qualifications

6.2.1 Base Level Water Supply Operator

- 6.2.1.1 High School Diploma or equivalent and one (1) year of acceptable operating experience, or;
- 6.2.1.2 Three (3) years of acceptable operating experience, and;
- 6.2.1.3 Successful completion of the base level written examination;

6.2.2 Water Treatment Operator-In-Training (OIT)

An operator who lacks either the education or experience requirements for a base level license may, with the approval of the Secretary, upon recommendation by the Advisory Council, and after successful completion of the base level written examination, receive an interim Operator-in-Training (OIT) license, for a maximum of three (3) years, pending fulfillment of the regular license requirements.

6.2.3 Circuit Rider. To ~~be classified~~ qualify as a circuit rider, an operator must be able to meet the following criteria:

6.2.3.1 Must be certified for all endorsements required for the water systems for which he/she is in direct-responsible-charge and/or operates.

6.2.3.2 ~~Spend a recommended number of~~ Shall make at least three (3) visits each week at each water system that provides any treatment and shall make at least one (1) visit each week for each system that has no treatment ~~he/she is in direct-responsible-charge~~. This number may be adjusted by the Advisory Council based upon a ~~yearly review~~ written request from the operator and/or owner of the water system with justification provided for making the change.

6.2.3.2.1 The number of visits spent each week at each water system must be documented on forms, ~~provided~~ approved by the Division, and submitted upon request. Information that must be contained includes: name of water system, name of operator, date of visit, time of visit, activities performed (i.e., filled chlorine tank, adjusted feed rate, etc.)

6.2.3.2.2 For the purposes of this section, a DRC circuit rider must be available in the event of an emergency, but does not have to be on-site.

6.2.3.3 The distances between each water system shall be such that, in the event of an emergency, the circuit rider will be able to reach the water system within two (2) hours of first being notified of the emergency.

6.2.4 Grandfather Clause: A valid, base level license and any applicable endorsements shall be issued by the Secretary, upon recommendation by the Advisory Council, to the individual(s) certified by the governing body or owner of a public water system to have been in responsible charge and/or operated a water facility on the effective date of this regulation, under the following criteria:

6.2.4.1 ~~the individual(s) can provide documentation to the Advisory Council attesting to the fact they have been in a position of Direct-Responsible-Charge and/or operated a water facility for at least five (5) years prior to the adoption date of these Regulations, , and~~

6.2.4.2 any application for a license pursuant to this section must be submitted on or before July 1, 2001.

6.2.5 A license and endorsement(s) granted under Section 6.2.4 of these Regulations shall not be transferable to another water system.

6.2.6 Acceptable Experience Requirement: 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 Operator in Training license for up to one year in order to obtain the necessary experience.

7.0 Licensing Procedures

7.1 Examinations

7.1.1 The Advisory Council or its authorized designee may enter into a contract with third party to prepare, administer and grade written examinations required for each category and classification of license. A minimum score of seventy percent (70 %) shall be required to pass the examination. Examinations are confidential and remain the property of the Advisory Council. Due to unusual and extenuating circumstances, the Advisory Council may waive the requirements for the written examination, in which case an oral recorded examination shall be conducted and retained by the Advisory Council.

7.1.2 Schedule

7.1.2.1 Examinations shall be held at places and times designated by the Advisory Council, and shall be held at least semiannually. Advance public announcement shall be made by the Advisory Council at least two (2) months prior to the scheduled examination date.

7.1.3 Applications

7.1.3.1 Candidates wishing to take any license examination must submit an application to the Advisory Council at least thirty (30) days prior to the announced date of the examination on forms provided by the Advisory Council. No application form shall require a picture of the applicant, require information relating to citizenship, place of birth, or length of State residency, nor shall it require personal references

7.1.4 Application Review and Notification

7.1.4.1 The Advisory Council shall review all applications submitted and determine the eligibility of each candidate to sit for the particular examination applied for. Each candidate approved for examination shall be notified in writing by the Advisory Council of the time and place of the next examination for which the candidate is eligible. Such notification shall be given at least two (2) weeks prior to the examination date.

7.1.5 Fraudulent Applications

7.1.5.1 Where the Council has found to its satisfaction that 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.

7.1.6 Eligibility

7.1.6.1 Approved applications for examination shall remain valid for one (1) year. Any approved candidate who fails to appear for an examination during the one (1) year period following the first notification of eligibility must submit a new application for examination to the Advisory Council.

7.1.6.2 Any applicant that fails to submit payment for their license within ninety (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 exam.

7.1.7 Appeal of Rejected Applications and Failed Examinations

7.1.7.1 Where the application of a person has been refused or rejected, the applicant may appeal in writing, via certified mail, to the Secretary within thirty (30) days. Any applicant who failed the examination has the right to appeal before the Advisory Council.

7.1.8 Re-Examination

7.1.8.1 Any candidate who fails to pass an examination may apply for re-examination upon subsequent scheduled examination dates. Candidates are permitted to sit for the same examination two (2) times per year. If both examinations are failed, the candidate must wait one (1) year prior to re-examination.

7.2 Issuance of License

7.2.1 On satisfactory fulfillment of the requirements provided in this regulation, and providing proof of employment at a Delaware water system, the candidate shall be issued a suitable license by the ~~Secretary~~ Director, upon recommendation by the Advisory Council. The license shall indicate all endorsements for which the operator is qualified, ~~and the date of issuance and date of expiration.~~

7.3 Renewal of License

7.3.1 Licenses shall be renewed every two (2) years unless suspended, revoked for cause, or invalidated under 7.4. The deadline renewal date shall be the month and day of the original license issuance. Application for renewal must be submitted to the Advisory Council on forms provided by the Advisory Council at least sixty (60) days prior to the deadline renewal date.

7.3.2 In addition to Section 7.3.1, all operators, including grandfathered operators, must receive an additional amount of training, as approved by the Advisory Council, every two (2) years in order to renew their licenses, as shown below.

7.3.2.1 Twenty (20) educational contact hours every two (2) years for operators who have endorsements on their licenses.

7.3.2.2 Twelve (12) educational contact hours every two (2) years for operators with a base level license.

7.3.3 Any license that has not been renewed in accordance with 7.301 and 7.302 shall be automatically invalidated. Such expired license may be revalidated without examination upon payment of the appropriate fee and verification of completion of continuing education requirements within one (1) year from the expiration date. Licenses not reinstated within one (1) year shall submit a new application to the Advisory Council and may be required to sit for the appropriate written examination.

Note: Continuing education credits may be earned during the period of invalidation if the applicant is short of the required number. However, these credits will not carry over to the two-year term of the renewed license.

7.4 Denial of Renewal, Suspension, or Revocation of Licenses and Placement on Probation

7.4.1 The Secretary may suspend or revoke the license of an operator, after considering the recommendations of the Advisory Council, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to perform his duties properly. Said recommendations to the Secretary by the Advisory Council shall be made upon the Advisory Council 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 16 Del.C. 122(3)(c) and set forth below shall take effect on the effective date of this regulation.

7.5.1.1 ~~Application for~~ Initial Annual License \$50.00. Biennial License \$100

7.5.1.2 ~~Application for~~ Renewal of Annual License \$50.00. Biennial License \$100

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

7.6 Reciprocity

7.6.1 A license of comparable classification may be issued without examination to any person who holds a certificate or license in any state, territory, or possession of the United States or any country, 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 this regulation.

8.0 Preemption

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

9.0 Severability

Each Section of this regulation and every part of each Section is an independent Section and part of a Section, and the holding of any Section or part thereof to be unconstitutional, void, or invalid for any cause does not affect the validity or constitutionality of any other Section or part thereof which shall continue valid and effective.

10.0 Disciplinary Procedures

10.1 Grounds for Discipline. The conditions and actions of an applicant or licensed operator which may result in disciplinary action as set forth in 10.3 of this Section includes, but is not limited to, the following list. If after following the Disciplinary Procedures as stated in Section 10.2, the Council finds that, after conducting an investigation and hearing an applicant or licensed operator:

10.1.1 Has acted fraudulently or with material deception in order to be certified; or

10.1.2 Has engaged in illegal, incompetent or negligent conduct in the provision of water system operation; or

10.1.3 Has 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

10.1.4 Has violated a lawful provision of this Section or any lawful rule or regulation established here under.

10.2 Disciplinary Procedures

10.2.1 Notice of Violation: Whenever the Director has reason to believe that a violation of any of these Regulations has occurred or is occurring, the Director shall notify the alleged violator and the Secretary. Such notice shall be in writing, may be sent by Certified Mail, or hand delivered, shall cite the Regulation or Regulations that are allegedly being violated, and shall state the facts which form the basis for believing that the violation has occurred or is occurring.

10.2.2 Investigation: Whenever the Director issues a Notice of Violation, an investigation shall be conducted to determine if the alleged violations have occurred or are occurring. ~~One~~ Two members of the Advisory Council shall act as the investigator and shall report the findings of the investigation to the Advisory Council. Upon review of all the facts concerning the alleged violation(s), the Advisory Council will vote on recommended disciplinary sanction(s), as listed in Section 3.0. The investigative member of the Advisory Council will not vote on the recommended disciplinary actions. The Advisory Council shall report to the Secretary and the Director with the findings of fact and recommendations for disciplinary action.

10.2.3 Hearing Request: Any operator who has received a Notice of Violation may submit a request for a hearing to the Director within 30 days via certified mail. A hearing will be held within 180 days.

10.3 Disciplinary Sanctions. Persons regulated under this Section who have been determined to be in

violation of this Section may be subject to the following disciplinary actions:

- 10.3.1 Issuance of a letter of reprimand
- 10.3.2 Placement on probationary status
- 10.3.3 Imposition of a fine not to exceed \$1,000 for each offense
- 10.3.4 Suspension of License
- 10.3.5 Revocation of License

10.4 Renewal of License after Revocation: An operator that has had his/her license revoked by the Secretary and wishes to get their license back must submit a new application to the Advisory Council for consideration. The application shall not be submitted for at least one year after the date of revocation.

11.0 Penalty Clause

11.1 Any person who neglects or fails to comply with this regulation shall be subject to penalty as provided in 16 Del.C. ~~107~~122(3)(c).

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~~ 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

8 DE Reg. 453 (9/01/04)