

PART XIV
PUBLIC WATER SYSTEM OPERATOR CERTIFICATION

§ 1401 PURPOSE

All public water system operators shall be certified by the Director pursuant to § 309 of the Navajo Nation Safe Drinking Water Act (NNSDWA). Public water system owners shall ensure that their systems are supervised by certified operators, pursuant to these regulations. Possessing and maintaining operator certification protects the public health by promoting the provision of safe drinking water and improving the operation and maintenance of public water systems.

§ 1402 OPERATOR CERTIFICATION

- A. Owners of all public water systems must place the direct supervision of their public water system, including each treatment plant and/or distribution system that comprises that public water system, under the responsible charge of an operator(s) holding a valid certification at or above the level required for the public water system, as provided in § 1404.
- B. Operator(s) in responsible charge or equivalent must hold, at a minimum, a valid certification at or above the level required for their public water system, including each treatment plant and distribution system, as provided in § 1404.
- C. All operating personnel making process control/system integrity decisions about water quality or quantity that effect public health must be certified.
- D. Owners shall require that a designated certified operator be available for each operating shift.

§ 1403 GENERAL REQUIREMENTS

- A. The owner of a public water system shall ensure that the person in direct responsible charge of the system is a certified operator and is certified at or above the level of the public water system.
 - 1. A person in charge of a public water system, in the absence of the principal certified operator, shall be certified at a level no lower than one level below the level of the public water system.
 - 2. No person shall make a decision about process control or system integrity regarding water quality or water quantity that affects public health, unless that person is a certified operator.
 - 3. If a certified operator is in direct responsible charge of more than one public water system, the certified operator shall be certified at or above the level of the public water system with the highest level.
- B. The public water system owner shall notify the Director in writing of the name of the current certified operator within 30 days of the effective date of these regulations and shall notify the Director of the name of any person replacing the certified operator within 10 business days of the change in operators. The owner shall notify the Director in writing within 10 business days of the date a public water system ceases operation.
- C. There shall be four levels of public water systems, with Level 4 being the classification for the most complex. The Director shall classify each system pursuant to the criteria listed in § 1404, and may increase the classification of a public water system to a higher level only for the following reasons:
 - 1. The public water system has special design feature characteristics that make it more difficult to operate than usual;
 - 2. The water is unusually difficult to treat; or
 - 3. The public water system poses potential risk to public health.

The Director shall notify the owner in writing of any change in classification. The owner may respond to any change in classification within 30 days of notification, and the Director will consider and respond to such comments before making a final decision as to classification. For a multi-facility, each component system shall be classified according to complexity and the total population or population equivalent served.

- D. A certified operator may operate any water system of the same level for which the operator is certified or of any lower level.

- E. NNEPA will consider that a system has an appropriately certified operator when the operator:
1. holds a valid certification equal to or greater than that required for the classification of the treatment facility and/or distribution system, as specified in these regulations;
 2. demonstrates competency through knowledge, skills, and abilities to operate the system in compliance with the NNPDR; and
 3. is on-site, or able to be contacted as needed in order to initiate any necessary action in a timely manner.

§ 1404 CLASSIFICATION OF PUBLIC WATER SYSTEMS

A. Public water systems are classified by type and then by level according to each system characteristic, as follows:

1. Water Distribution System:

Level	Population/System Characteristics
Level 1	Population <3,300, Groundwater Disinfection by hypochlorite only
Level 2	3,301 - 10,000 population served, or Gaseous and other Chlorine Disinfectant, or 5 or more Pressure Zones, or Recycled Water Distribution, or System is Blending Sources to meet MCL
Level 3	10,001 - 25,000 population served
Level 4	>25,001 population served

2. Water Treatment Plant:

Level	Points
Level 1	1-30
Level 2	31-55
Level 3	56-75
Level 4	>76

B. The points assigned for each system characteristic are as follows:

Water Treatment Plant

SYSTEM CHARACTERISTICS	POINTS
Population	1 per 1,000
Maximum Design Capacity	1 per 0.5 MGD up to 10
Groundwater Source without coliform (total, fecal or e. coli) presence	2
Groundwater Source with coliform (total, fecal or e. coli) presence	5
GWUDI Source	8
Surface Source	10
AVERAGE RAW WATER QUALITY VARIATION:	

Little or no variation - only treatment is disinfection	0
Minor variation - eg. "High quality" surface source appropriate for slow sand filtration	2
Requires moderate variation in chemical feed, dosage changes made; monthly (3pts), weekly (4pts), or daily (5pts)	3-5
Variation significant enough to require pronounced and/or very frequent changes (more than daily)	6
Severe variation - source subject to non-point discharges, agricultural/urban storm runoff, flooding	7
Raw water quality subject to agricultural or municipal waste point discharges	8
Raw water quality subject to recreational use (boating fishing, etc.)	6
Raw water quality subject to periodic serious industrial waste pollution	10
Taste and/or odor for which treatment process adjustment are routinely made	2
Color levels >NNSDWR	3
Iron and/or manganese levels > NNSDWR	2
Algal growths for which treatment process adjustments are routinely made	3
CHEMICAL TREATMENT ADDITION PROCESS:	
Fluoridation	5
DISINFECTION	
If a disinfectant/oxidizer is generated on-site, add 1 point to the point value shown	
Hypochlorite Liquid or Solid	5
Chlorine Gas	8
Chlorine Dioxide	10
Chloramine	10
Ozone	10
UV Irradiation	2
Potassium permanganate	4
pH Adjustment (Calcium carbonate, carbon dioxide, hydrochloric acid, calcium oxide, calcium hydroxide, sodium hydroxide, sulfuric acid, other)	4
Stability or Corrosion Control (calcium oxide, calcium hydroxide, sodium carbonate, sodium hexametaphosphate, other)	10
COAGULATION AND FLOCCULATION PROCESS	
Rapid Mix (mechanical, injection and in-line blenders)	2
Primary coagulant addition	6
Coagulant aid / flocculant chemical addition (in addition to primary coagulant use)	2
Flocculation	2
Filter aid addition (non-ionic/anionic polymers)	2
CLARIFICATION/SEDIMENTATION PROCESS	
Sedimentation (plain, tube, or plate)	4

Contact adsorption	6
Upflow Clarification	8
Horizontal-flow (rectangular basins)	5
Horizontal-flow (round basins)	7
Other clarification process (air floatation, ballasted clarification, etc)	6
FILTRATION PROCESS	
Granular Media filtration < 3gpm/sq. ft.	10
Granular media filtration > 3gpm/sq. ft.	20
Direct filtration	5
MEMBRANE FILTRATION	
for compliance with a NNPDR	10
for compliance with a NNSDR	6
Diatomaceous earth (pre-coat filtration)	10
Cartridge/bag	5
Gravity Sand Filter	5
Pressure or greensand filtration	20
Biologically active filter	15
Pre-filtration (staged cartridges, pressure sand w/o coagulation, etc.): add one point per stage to max of 3 points.	1-3
OTHER TREATMENT PROCESSES	
O ₂ (aeration)	3
Packed tower aeration	5
Air stripping	5
Ion exchange softening	5
Lime-soda ash softening (includes: chemical addition, mixing/flocculation/clarification/filtration - do not add points for these processes separately)	20
Granular Activated Carbon (do not assign points when included as a bed layer in another filter)	5
Powdered activated carbon	2
Activated Alumina	5
Chemical Precipitation	15
BLENDING SOURCES WITH SIGNIFICANTLY DIFFERENT WATER QUALITY:	
to achieve compliance with a NNPDR	4
to achieve compliance with a NNSDR	2
Reservoir management employing chemical addition	2
Electrodialysis	15
Other: including but not limited to POE and POU devices, various adsorption technologies, ion-exchange for Arsenic removal.	2-15
RESIDUALS DISPOSAL	

Discharge to surface, sewer, or equivalent	1
Discharge to lagoon/drying bed, with no recovery/recycling - e.g. downstream outfall	1
On-site disposal, land application	1
Backwash recovery/recycling: discharge to basin or lagoon and then to source	3
Backwash recovery/recycling: discharge to basin or lagoon and then to plant intake	5
FACILITY CHARACTERISTICS	
Instrumentation - Use of SCADA or similar instrumentation systems to provide data, with:	
Monitoring/alarm only, no process operation	0
Limited process operation - e.g. remote shutdown capability	1
Moderate process operation	2
Extensive or total process operation	4
Design limitation regarding: clearwell, pumps, storage, etc.	1-5

C. Levels of required training and certification.

1. Operators certified at Level 1 shall receive training to include, but not limited to, General Operation/Maintenance, Security and Safety, Drinking Water Regulations, and Basic Distribution System training.
2. Operators certified at Level 2 shall receive training to include, but not limited to, General Operation and Maintenance, Backflow Prevention and Cross Contamination (Optional), Treatment-Disinfection/Fluoridation, Security and Safety, Water Quality Parameters and Sampling, and Drinking Water Regulations.
3. Operators certified at Level 3 shall receive training to include, but not limited to, Advanced Operation and Maintenance, Backflow Prevention/Cross Contamination, Treatment-Disinfection and Fluoridation Instrumentation, Security, Safety and Administrative Procedures, Water Quality Parameters and Sampling, SCADA or similar instrumentation systems, Drinking Water Regulations and Compliance.
4. Operators certified at Level 4 shall receive training to include, but not limited to, Advanced Operation and Maintenance, Backflow Prevention and Cross Contamination, Treatment-Disinfection and Fluoridation, Surface Water Treatment Plant Processes and Operation Security, Safety and Administrative Procedures, Water Quality Parameters and Sampling, SCADA or similar instrumentation systems, Drinking Water Regulations and Compliance.

§ 1405 CERTIFICATION REQUIREMENTS

To be certified, an applicant shall:

- A. meet the experience and educational requirements in § 1409; and
- B. pass a written examination for the level in which application is made as specified in § 1410, or
- C. meet the reciprocity requirements in § 1407, in lieu of § 1406(B).

§ 1406 APPLICATION FOR CERTIFICATION

- A. Any person who requires a certification shall complete, sign and submit to the Director an application for certification, on a form provided by the Director, together with fees required in § 1416. Applications must be received by the Director no later than 30 calendar days prior to the date of examination.
- B. An operator shall successfully meet the educational, experience and training requirements stipulated in § 1409, prior to application.

- C. Each application submitted will be reviewed for completeness by the Director within 30 days of its receipt, or such longer time as the Director may deem necessary. The Director may also request additional information from the applicant when necessary to clarify or supplement previously submitted material. Request for such information will not render an application incomplete.

§ 1407 RECIPROCITY

- A. The Director may issue a certificate without examination to an applicant who holds a certificate issued by another state, territory, the District of Columbia, tribal government, federal entity, or organization if the criteria in subsection (C) of this section are met and upon the completion of the additional training specified in subsection (E) of this section.
- B. An operator who is certified in another jurisdiction and requests a Navajo Nation certificate shall submit to the Director an application and a notarized copy of his/her current certificate with the appropriate fee, as specified in § 1416.
- C. The criteria for issuing a Navajo Nation certificate are as follows:
1. The certificate from another jurisdiction must be current and valid for the particular type of public water system and level for which application is made.
 2. The certificate from another jurisdiction must be issued under laws in compliance with § 1419 (a) of the SDWA Amendments of 1996 (Pub. L. 104-182).
 3. The applicant shall meet the experience and education requirements in § 1409.
- D. The application requesting a certificate will not be considered until all information, documentation, and fees are received by the Director. A determination will be made within 30 days thereof. If the application is approved, a certificate will be issued. If the application is disapproved, the Director will notify the applicant in writing that he/she will be afforded an opportunity to take the Navajo Nation examination. All fees will be applied to the cost of the next examination. All fees are non-refundable.
- E. In addition to meeting the criteria specified in subsection (C) of this section, the applicant shall attend a full day of training pertaining specifically to the requirements of the NNSDWA and the NNPDWR after a letter from the Director approving certification is received by the applicant.
- F. Certification by reciprocity is based upon the validity of the original certificate issued by another jurisdiction under laws in compliance with § 1419 (a) of the SDWA Amendments of 1996 (Pub. L. 104-182). The suspension or revocation of the original certificate upon which reciprocity is granted shall be reported to the Director within 10 working days of notification by the certifying agency. Failure to provide notification shall constitute fraud, deceit or misrepresentation and may result in suspension or revocation of the certificate pursuant to § 1414(B) and in any other enforcement action deemed appropriate by the Director.

§ 1408 GRANDPARENTING

- A. Grandparenting is permitted only for existing operator(s) in responsible charge of existing systems at the time this Part of the NNPDWR becomes effective. Grandparenting permits an operator to obtain certification without meeting the certification requirements in § 1405.
- B. The water system owner shall apply for certification on a form provided by the Director within 30 calendar days of the effective date of this Part. The Director will respond within 30 days from the date of application with a determination as to whether the operator is eligible for "grandparent" certification status. The Director will make this decision on a case-by-case basis, based upon a completed application, a written letter of request and supporting documents. If the operator is determined to be eligible for grandparent certification status by the Director, the operator may obtain Navajo Nation certification by submitting the fees specified in § 1416.
- C. If the Director approves the certification, the following restrictions shall apply:
1. The certification must be site-specific and non-transferable to other operators.
 2. If the classification of the plant or distribution system changes to a higher level, then the grandparented certification will no longer be valid.
 3. If a grandparented operator chooses to work for a different water system, he or she must meet the initial certification requirements for that system.
 4. Prior to certification, the grandparented operator shall attend a full day's training

pertaining specifically to the requirements of the NNSDWA and the NNPDWR.

- D. The grandparented operator shall, within 12 months of receiving initial certification, meet all requirements to obtain certification renewal, including the payment of any necessary fees, acquiring necessary training to meet the renewal requirements, and demonstrating the skills, knowledge, ability and judgment for that classification.

§ 1409 EXPERIENCE AND EDUCATION

- A. To determine whether an applicant has adequate experience required for certification at a particular level, the Director shall consider the following:
1. Years of experience at a lower level; and
 2. Previous experience, including experience in another jurisdiction or related field. The applicant shall have acquired at least 6 months of operational experience within the 5-year period preceding the date of application.
- B. The Director shall not certify an applicant at more than one level higher than the level of the highest level water system at which the applicant has at least 1 year of experience.
- C. For the purposes of this Part, a "qualifying discipline" means engineering, biology, chemical sciences, or a closely related technical or scientific discipline. The Director may require that the applicant provide transcripts or certificates to verify completion of the education requirements.
- D. For the purposes of this Part, "qualifying experience" means experience directly in the field for which application is made. The fields of qualifying experience are water treatment and distribution.
- E. An applicant shall meet the following requirements for admission to a certification examination:
1. For Level 1, high school graduation or equivalent and one year of qualifying experience in the operation of a class 1 or higher utility. No substitution for experience will be permitted.
 2. For Level 2, at least:
 - a. High school graduation or the equivalent and 3 years of qualifying experience as a Level 1 certified operator; or
 - b. Two years of post-secondary education in a qualifying discipline and 1 year of qualifying experience, including 6 months as a certified Level 1 operator; or
 - c. A bachelor's degree in a qualifying discipline and 6 months of qualifying experience.
 3. For Level 3, at least:
 - a. High school graduation or the equivalent and 2 years of qualifying experience, including 4 years of qualifying experience as a Level 2 certified operator; or
 - b. Two years of postsecondary education in a qualifying discipline, and 2 years qualifying experience as a Level 2 certified operator; or
 - c. A bachelor's degree in a qualifying discipline and 1 year qualifying experience as a Level 2 certified operator.
 4. For Level 4, at least:
 - a. High school graduation or the equivalent and 6 years of qualifying experience, including 4 years of qualifying experience as a Level 3 certified operator; or
 - b. Two years of post-secondary education in a qualifying discipline and 4 years of qualifying experience, including 2 years as a certified Level 3 operator; or
 - c. A bachelor's degree in a qualifying discipline, and 1 year qualifying experience as a certified Level 3 operator.
- F. Professional Development Hours (PDH) will be credited for attending training offered by providers of the Association of Boards of Certification (ABC) or other approved providers that address compliance of the Navajo Nation Safe Drinking Water Act and regulations.

§ 1410 EXAMINATION

- A. Examinations will be given by the PWSSP under the authority of the Director. The examination shall be used to determine knowledge, ability and judgment of the applicant for a specific level of certification.
- B. A score of 70% is required for certification. All examinations will be graded and applicants will be notified of the results within 30 days of examination date. Examination papers will not be returned to the applicant, but may be reviewed by the applicant at the PWSSP office. Under no circumstances shall the exams be viewed immediately after the examination or at the site of examination.
- C. The Director shall not issue an initial certificate to an applicant who has not taken and passed the examination for certification, except as provided in §§ 1407 and 1408.
- D. Examinations for certification will be scheduled at such times and locations as the Director deems appropriate.
- E. If an applicant does not pass an examination for certification, the applicant may re-apply and re-test after 90 days from the date of the last examination.

§ 1411 EXAMINATION APPEAL PROCESS

- A. All applicants with a score from 65% to 69% will be allowed to appeal an exam score by sending a letter of appeal to the Director within 30 days of receiving the notice of exam results.
- B. The Director will schedule a date for the applicant to review the graded exam and indicate which questions are being appealed. The applicant will be given adequate time to specify the reason for the appeal. References are encouraged to be cited and supporting documentation may be submitted to substantiate claims that examination questions are flawed or ambiguous.
- C. The Director will designate a proctor to oversee the appeal session. The proctor is prohibited from discussing any exam issues or to assist in the appeal of any missed questions.
- D. At the end of the appeal session, the proctor will collect the exam, the answer sheet, the appeal form, and any notes or scratch paper. The proctor will also review any reference material brought to the appeal session to ensure that no notes or comments pertaining to exam questions have been added. The applicant will be allowed to leave with only the reference material that he/she brought to the session.
- E. The Director will review the appeal and the supporting documentation submitted by the appellant and will make a determination within 30 days of the appeal. All decisions will be final, and no further appeals will be allowed.

§ 1412 RENEWAL OF CERTIFICATES

- A. If the Director renews a certificate, the certificate shall be valid for a period of 3 years. A renewal application and a fee, set by the Director, payable to the Navajo Nation Public Water System Supervision Program shall be submitted at least 30 days prior to the expiration of each certificate. The request for renewal shall be approved by the Director provided that the criteria in subsections (B) or (C) are met.
- B. Renewal will require that each certified operator be credited with having obtained 35 PDH in the 3-year period preceding the date on which the renewal application is due. Documentation of each training credit shall be on a form provided by the PWSSP and verification shall be provided in writing by the operator's supervisor or the entity that provided the education or training.
- C. A certified operator may renew a certificate by taking and passing an examination for the same level and classification, in lieu of meeting the requirements specified in subsection (B) of this section.

§ 1413 AN EXPIRED CERTIFICATE

- A. A certificate shall expire on the expiration date printed on the certificate, unless renewed before the expiration date pursuant to § 1412.
- B. Expired certificates may be reinstated without penalty upon application within 30 days of the date of expiration. An expired certificate which has not been reinstated within the 30 day period may be reinstated for the same level without examination if the certificate holder files the appropriate application, meets the requirements of renewal in § 1412 and submits payment for renewal fees specified in § 1416 plus \$10.00 per month late fee for each month or portion thereof beyond the expiration date.

- C. If an expired certificate is not renewed within 90 days of the certificate expiration date, the certificate shall not be reinstated. The certificate holder may re-apply and be re-examined as a new applicant.

§ 1414 SUSPENSION AND REVOCATION

- A. The Director may suspend or revoke any or all certificate(s) held by a certified operator as stipulated under this section.
- B. The Director shall suspend or revoke certification under the following circumstances:
1. The certificate-holder has been found by tribal, federal or state court to have violated laws applicable to drinking water systems.
 2. The certificate-holder obtained a certificate through the use of fraud, deceit or misrepresentation.
 3. The certificate-holder has prepared a false or fraudulent report or record regarding the operation or management of a drinking water system.
 4. The certificate-holder has violated any other law that poses a risk to the health and safety of the public served by the drinking water system.
- C. When the Director contemplates the suspension or revocation of a certificate, the Director shall serve upon the certificate-holder an initial order pursuant to the Uniform Rules § 304(a), containing a statement:
1. that the Director has sufficient evidence which, if not rebutted or explained, will justify the Director in suspending or revoking the certificate;
 2. that indicates the general nature of the evidence; and
 3. that unless the certificate-holder within 30 days after service of notice requests a hearing pursuant to Uniform Rules § 305, the Director will take the contemplated action and judicial review will not be available. If the certificate-holder requests a hearing, the Director shall designate a Hearing Official and a Hearing Clerk and a hearing shall be held pursuant to Uniform Rules Subpart 3(C). Judicial review of the final order shall be available pursuant to Uniform Rules § 332.
 4. Notwithstanding Uniform Rules § 304(b) (3), an order suspending or revoking a certificate need not specify a schedule for compliance.
- D. If any certificate held by an operator is suspended or revoked by the Navajo Nation, a letter to request re-application and re-examination may be submitted to the Director for consideration upon the expiration of the action and in accordance with the final determination of the suspension or revocation.
1. The Director shall make a determination and respond in writing within 30 days of such request to permit or deny re-application and re-certification. The Director may request additional information to evaluate the severity of the violation that led to the suspension or revocation, any good faith efforts to remedy that violation, and any other factors that the Director deems relevant in the determination.
 2. Each request for re-application and re-examination will be considered on a case-by-case basis. The Director may seek the advice of the Advisory Board to make a decision.
 3. Under no circumstances shall an approval for re-application and re-examination be in conflict with a previously issued suspension or revocation.
 4. All decisions by the Director are final. If approved, the applicant shall be permitted to re-apply and retake the exam as a new applicant subject to the certification requirements of this Part. If disapproved, a letter of denial with an explanation will be issued.

§ 1415 UTILITY OPERATORS CERTIFICATION ADVISORY BOARD

- A. Pursuant to § 309 of the NNSDWA, a Board shall be appointed by the Director to make recommendations and provide technical advice and assistance to the Director as may be needed. The Director shall promptly notify the Board of all matters brought before the Director to which the NNPDR Operator Certification requirements are applicable.
- B. The Board shall consist of five (5) members appointed by the Director as follows:

1. 1 employee of PWSSP;
2. 1 manager, director or administrator of Navajo Tribal Utility Authority;
3. 1 employee of Navajo Area Bureau of Indian Affairs;
4. 1 currently employed operator of a water system on the Navajo Nation;
5. 1 representative of small public water systems within the Navajo Nation; and

The Director shall also appoint two certified operators to serve as alternates to Board members in their absence. All alternates appointed prior to the effective date of this Part will be allowed to serve out the remainder of their three-year terms.

- C. Appointments to the Board shall be for 3-year terms. The Director shall appoint new Board members at its first meeting of each fiscal year. The terms shall overlap so that no more than three terms shall expire in any one year. A Board member may be reappointed, but no member, except the PWSSP member, may serve more than two consecutive terms.
- D. At the first meeting of the Board each fiscal year, the Board shall elect from its members a chairperson and such officers as deemed necessary. The PWSSP member shall be the executive secretary and shall keep records of all meetings for the review of the Director. The Board shall meet at least 4 times per year.
- E. A quorum shall consist of at least three members: the chairperson or designated representative, executive secretary or designated representative, and one other members of the Board.
- F. In the event of a vacancy caused by death, resignation, or removal for cause, the Director shall appoint a successor for the unexpired term.
- G. The duties of the Board shall include:
 1. Advise the Director in administering and implementing this Part by providing a forum for the discussion of technical and administrative issues, and by providing training assistance or information on such assistance;
 2. Review proposed new and/or revisions to rules and guidelines under this Part;
 3. Make recommendations to the Director for replacement members when a Board vacancy occurs;
 4. Perform any other function with regard to this Part XIV of the NNPDWR (Operator Certification Regulations).
- H. Any Board member failing to attend three consecutive regular meetings shall be automatically removed as a member of the Board. The Director may remove any member of the Board for neglect of any duty required by law, for incompetency or for unprofessional conduct and shall remove any Board member who violates any provision of the NNSDWA or the NNPDWR. The Director shall fill any vacancies on the Board.
- I. All Board members shall be paid upon the availability of funds.

§ 1416 FEE SCHEDULE

- A. An applicant must pay the fees listed in the attached fee schedule. These fees may be revised by the Director to reflect operator certification and training program costs, pursuant to the rulemaking requirements of Uniform Rules Subpart 4.
- B. All fees must be paid to the Navajo Nation Public Water Systems Supervision Program.
- C. In the event that an applicant is denied reciprocity or renewal of a certificate, the fees may be transferred to cover future application, renewal or examination fees. At no time will fees be returned to the applicant.
- D. The fees may be used to cover the cost of examination services, training material reproduction, postage, and other certification-related costs.
- E. If a grandparented operator is currently certified, renewal fees shall apply. If a grandparented operator is without a current certificate, then initial fees shall apply.