

PART XIV
PUBLIC WATER SYSTEM OPERATOR CERTIFICATION

§ 1401 PURPOSE

All public water system operators shall be certified by the Director pursuant to § 2539 of the Navajo Nation Safe Drinking Water Act (NNSDWA). Public water system owners shall ensure that their systems are supervised by adequately trained and certified operators, pursuant to the regulations of this part. The possession of adequate training and maintenance of certification by public water system operators protect the public health by improving the operation and maintenance of public water system and by promoting the provision of safe drinking water.

§ 1402 OPERATOR CERTIFICATION

- A. Owners of all public water systems shall place the direct supervision of that 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 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 in accordance with this part.
- D. The owner of a public water system shall ensure that for each operating shift, a certified operator is designated and is on-site or able to be contacted as needed in order to initiate any necessary action in a timely manner.

§ 1403 GENERAL REQUIREMENTS

- A. The owner of a public water system shall ensure that the person in responsible charge of the system, for each operating shift, is a certified operator and is certified at or above the level of the public water system, as provided in § 1404.
 - 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. (reserved)
 - 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 of the name of any person replacing the currently certified operator within 10 business days of the change. The owner shall notify the Director in writing within 10 business days of the date a public water system ceases operation.
- C. There are 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 for the following reasons:
 - 1. The public water system has special design features that make it more difficult to operate than usual;
 - 2. The source 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 proposed change in classification. The owner may respond to any change in classification within 30 days of notification, and the Director shall 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 its own complexity and also to 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 NNPDWR; and
 3. is on-site during a specified operating shift, or is able to be contacted as needed in order to initiate any necessary action in a timely manner.

§ 1404 CLASSIFICATION OF PUBLIC WATER SYSTEMS

A. NNEPA will classify water distribution systems according to the following classification system:

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:

1. NNEPA will classify all water treatment plants using a point system as explained in the table below. Systems that score less than or equal to 14 points will only require distribution certification.

Level	Points
Level 1 (Basic)	15-30
Level 2 (Intermediate)	31-55
Level 3 (Advanced Intermediate)	56-75
Level 4 (Advanced)	≥76

B. The points assigned to each water treatment plant for each system characteristic are as follows:

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 NNPDWR	10
for compliance with a NNSDWR	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 NNPDWR	4
to achieve compliance with a NNSDWR	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, Sampling and Basic Distribution System.
- 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 § 1405(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, if applicable.
- B. Prior to submitting to the Director an application for certification, 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. All fees are non-refundable.
- 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); and
 - 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 certification examination. All application fees will be used to defray, in whole or in part, the cost to the applicant of taking the next examination.
- 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 following receipt of a letter from the Director approving certification.
- 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 by the certified operator within 10 working days of his/her notification by the certifying agency. Failure to report to the Director 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 (Reserved)

§ 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 operational 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, at least:
 - a. high school graduation or equivalent and one year of qualifying experience in the operation of a Level 1 or higher utility; or
 - b. Two years or more of post-secondary education in a qualifying discipline.
 - 2. For Level 2, at least:
 - a. High school graduation or the equivalent and 2 years of qualifying experience, including one year 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 3 years of qualifying experience, including 1 year as a Level 2 certified operator; or
 - b. Two years of postsecondary education in a qualifying discipline, and 2 years of qualifying experience, including 1 year as a Level 2 certified operator; or
 - c. A bachelor's degree in a qualifying discipline and 18 months qualifying experience, including 1 year as a Level 2 certified operator.
 - 4. For Level 4, at least:
 - a. High school graduation or the equivalent and 4 years of qualifying experience, including 1 year as a Level 3 certified operator; or
 - b. Two years of post-secondary education in a qualifying discipline and 3 years of qualifying experience, including 1 year as a certified Level 3 operator; or
 - c. A bachelor's degree in a qualifying discipline, and 30 months of qualifying experience, including 1 year as a certified Level 3 operator.
- F. Professional Development Hours (PDH) will be credited to certified operators who attend training that addresses compliance issues relating to the NNSDWA and regulations. Such training may be offered by the Association of Boards of Certification (ABC) or other as approved by the Director.

§ 1410 EXAMINATION

- A. Certification 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. Examinations for certification will be scheduled at such times and locations as the Director deems appropriate.
- D. If an applicant does not pass an examination for certification, the applicant may re-apply and re-test after 30 days from the date of the last attempted 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 to 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 examination, 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 examination questions have been added to or written upon these materials. 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 renewed 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) of this section are met.
- B. Renewal will require that each certified operator be credited with having obtained 35 PDHs 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 within 90 days of the certificate expiration date 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; or
- 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 the date of issuance of the initial order 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 by the operator 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, as described in § 1415.
- 3 Under no circumstance(s) 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 COMMITTEE

A. Pursuant to § 309 of the NNSDWA, the Advisory Committee 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 Advisory Committee of all significant matters brought before the Director to which the NNPDR Operator Certification requirements are applicable.

B. The Advisory Committee members shall be appointed by the Director and must contain at least the following individuals as members:

1. 1 employee of NNEPA;
2. 1 manager, director or administrator representative of the Navajo Tribal Utility Authority;
3. 1 employee of Navajo Area Bureau of Indian Affairs;

4. 1 currently employed operator of a water or wastewater system on the Navajo Nation;
5. 1 representative of small public water or wastewater systems within the Navajo Nation.

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. Each year, the Director shall elect from the Advisory Committee members a chairperson and such officers as deemed necessary. The NNEPA employee shall be the executive secretary and shall keep records of all Advisory Committee communications for the review of the Director.
- D. The duties of the Advisory Committee members shall include (but are not limited to):
 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. Provide input on proposed new and/or revisions to rules and guidelines under this Part;
 3. Make recommendations to the Director for replacement members when a committee member vacancy occurs;
 4. Perform any other function with regard to this Part XIV of the NNPDWR (Operator Certification Regulations).
- E. The Director may remove any member of the Advisory Committee for neglect of any duty required by law, for incompetency or for unprofessional conduct or who violates any provision of the NNSDWA or its regulations.
- F. All Advisory Committee members shall be reimbursed for their expenses related to participation on the committee upon the availability of funds.

§ 1416 FEE SCHEDULE

- A. An applicant must pay the fees listed in the fee schedule established by the Director. 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.