

**ARKANSAS  
DEPARTMENT OF HEALTH**

**ENGINEERING SECTION  
ENVIRONMENTAL HEALTH BRANCH  
CENTER FOR LOCAL PUBLIC HEALTH**

***SDWA OPERATOR CERTIFICATION  
OPCERT GUIDELINES REPORT  
STATE FISCAL YEAR 2013  
(July 1, 2012 – June 30, 2013)***

# Arkansas

## Annual OpCert Guidelines Report

### July 1, 2012 – June 30, 2013

Arkansas Department of Health; Engineering Section; Drinking Water Operator Licensing Program report for SFY 2013 implementation, meeting of the Federal Safe Drinking Water Act, Section 1419, Operator Certification Program Guidelines. This report addresses each of the nine Guidelines in their numerical order.

1. **Authorization:** *A new Attorney General's certification is not necessary unless a state makes statutory and/or regulatory changes to its program.*

No changes were made to the Water Licensing Statute or its Rules & Regulations Pertaining to Water Operator Licensing during this reporting period, therefore a new certification is not necessary.

2. **Classification of Systems, Facilities, and Operators:** *The total number of systems in the state that are required to have a certified operator and the number of systems without an Operator in Responsible Charge (ORC). This could include a brief discussion of how a state is working with those systems to obtain a certified operator. For states that have added systems that are required to have a certified operator because of EPA's Guidelines, this could include a brief discussion of the progress the state has made working with those systems to obtain a certified operator. Information on how the state is implementing its "provisional" or "temporary" certification options could also be included.*

The Department of Health did not allow for grand-parenting of unlicensed operators. However, the Department has an Operator-In-Training (OIT) category for those operators who have passed the required examination, but do not have the required experience. For the purposes of this report, systems with an Operator In Responsible Charge holding only an Operator-in-Training will be included in the total number of Systems with a licensed operator. After the Department has addressed all systems without a licensed operator of any type, the Department will begin addressing those systems that have only an Operator-In-Training. See Appendix 3 for enforcement strategies. Present Department primary enforcement actions are still directed towards systems without a license. The latest verified compliance data available for this report is calendar year 2011. Provided below is a comparative summary of compliance levels at the end of calendar years 2010, 2011 and 2012.

# of Water Systems	Community PWS			NTNCPWS			Transient PWS		
	2010	2011	2012	2010	2011	2012	2010	2011	2012
License Required	723	722	717	33	35	35	21	21	19
Have License (December 31, 2011)	718	718	703	33	35	35	21	21	17
Need License	5	4	14	0	0	0	0	0	2
Per Cent Compliant	99%	99%	98%	100%	100%	100%	100%	100%	89%

The Section's district staff contacts systems immediately after receiving information that the system is operating without a licensed operator. This contact is to make the owner aware of the public health concerns of operating the system without a licensed operator. Compliance expectations are provided and our enforcement plan is outlined to the operator and owner. If an unlicensed operator is in charge of the system, district staff provides technical assistance to ensure critical water quality functions are understood and performed.

3. ***Operator Qualifications:*** *For states that are using the grand-parenting option, a brief discussion on the progress that is being made. For example, how many systems are eligible for grand-parenting and how many of those systems' operators are certified?*

The Department did not allow for grand-parenting of unlicensed operators.

4. ***Enforcement: A brief description of any actions taken against system owners and operators.***

During calendar year 2012, the Department took formal enforcement action for licensure noncompliance against 10 water systems through the issuance of escalating Notices of Non-Compliance. The 9 systems are: Ben Lomond Waterworks, Beulah Grove Water Association, Danville Waterworks, Hartford Waterworks, Mountain Pine Waterworks, Oakwood Mobile Home Park, Towering Oaks Baptist Church, Walker Water Association, Ward Mobile Home Park, and Watson Waterworks.

One Consent Order was signed by Beulah Grove Water Association, with a suspended \$900 penalty, provided the system returned to compliance within six months. The system had not complied and the Consent Order had not expired by the end this reporting period.

Three other systems, at the end of this reporting period were under Administrative Order and had not fully complied. The Walker Water Association and Watson Water Association were under an AO to hire a licensed operator. The Danville Waterworks was placed under an AO after an ADH investigation resulted in allegations of falsifications of water quality reporting. The system's compliance agreement resulted in multiple SDWA violations being issued, the system's manager surrendered his license, three operators were fined \$1,000 with \$900 suspended provided they had no additional noncompliance for a one year probation period, and the system was required to hire a fully qualified manager and provide properly licensed chief plant operators for their two surface water treatment plants. The system was still taking steps to comply at the end of 2012.

The Department's enforcement initiative is intended to increase water system compliance with the Arkansas Operator Licensing Statute and the Rules & Regulations Pertaining to Water Operator Licensure. It has resulted in reduced timeframes of non-compliance by water systems. This report year had a decrease in the frequency of non-complying systems. See Appendix 2 for a description of the enforcement process, and Appendix 3 for a summary of enforcement actions. Please note that due to a lack of enforcement resources, enforcement is only being initiated for those systems that have no licensed personnel. The level of operator turnover in small utilities and increased non-compliance with other SDWA requirements continues to create enforcement activity that does not allow our current resources to take action against systems that have licensed personnel with insufficient licenses or all needed license types. If the non-compliance becomes severe enough it is addressed as a significant deficiency in the system's SDWA required sanitary survey.

**5. *Certification Renewal: A brief description of the state's training program, including any suggestions under consideration or changes that will be made based on stakeholder input and program review.***

The Department utilizes a variety of sources to make available the training necessary for operator certification. Included are:

- 1) Engineering Section – The Section's largest operator training effort is the provision of an eight-hour Arkansas Rules, Regulations, and Safe Drinking Water Act Compliance Course. The course was offered 16 times during SFY 2013. They are held in various locations throughout the State. Operators must attend this course to prepare for their initial license examination or voluntarily for license renewal credit. The course utilizes the *Arkansas Rules and Regulations Pertaining to Public Water Systems* and the Section developed and maintained *Compliance Summary for Public Water Systems* which details water system compliance requirements under the federal SDWA Drinking Water Regulations, and the Arkansas water system regulations, policies and guidelines. An update of the Compliance Summary was completed in May 2012. The significant revision of the Summary incorporated the SDWA Groundwater Rule, changes in the Surface Water Treatment rules, changes in the Disinfection and Disinfection Byproducts rules, and State regulation changes, primarily the mandatory fluoridation requirement. See Appendix 4 for additional information on the Summary.

The Section, in SFY 2013 offered rule specific compliance training in distribution system Disinfection Byproduct Control and a refresher course on the development of water system required Consumer Confidence Report. The Distribution System DBP Control training was a Performance Based Training concept consisting of 4 daylong sessions on August 21, 2012; November 27, 2012; February 6, 2013; and May 21, 2013.

- 2) Arkansas Environmental Training Academy – The Academy is a branch of Southern Arkansas University Tech. AETA conducts regularly scheduled exam preparation water system operation courses and specialty training courses on-campus and off-campus. The training is aimed at operators who are preparing for examination (the mandatory courses) or seeking training for license renewal credit. In addition, adjunct instructors conduct similar training courses in the communities in which they live. AETA does not normally charge fees for training operators of non-profit or municipal utilities.
- 3) Arkansas Rural Water Association – ARWA conducts regularly scheduled exam preparation water system operation courses and specialty training courses on-campus and off-campus. The training is aimed at operators who are preparing for examination (the mandatory courses) or seeking training for license renewal credit. In addition, ARWA conducts new technology vendor driven training through their annual conference and through a variety of one or multiple day training courses throughout the state. ARWA does not normally charge fees for these courses, other than the registration fees for their annual conference and some specialty training courses.

Both AETA and ARWA are conducting courses utilizing curricula jointly developed by AETA, ARWA, and ADH staff, and accepted by the Arkansas Drinking Water Advisory & Operator Licensing Committee. Each course's curriculum has been developed to meet the mandatory training requirements contained in the Rules & Regulations Pertaining to Water Operator Licensing. See Appendix 1 for requirements.

AETA and ARWA contract with the Department to provide up to two of the mandatory courses for license exam preparation each month. The funding for the contracts utilized the USEPA OpCert Training

Reimbursement Grant ADH received in 2003, until it expired December 31, 2012. The Section will continue to fund the contract until it expires June 30, 2014 utilizing SRF Set Aside Capacity Development funds. The Section halted reimbursing operator travel cost to the courses. The ultimate loss of this contract, SRF funds are not available to renew the contract, is a significant threat to the continued offering of these courses at needed levels to meet the needs of the operators preparing for license exams.

The Department requires 24 hours of license renewal continuing education every two year renewal cycle. At least 12 contact hours of the required 24 hours must be training directly related to water system operations. The balance may either be additional direct training or indirectly related training; such as operator safety, wastewater treatment, plumbing inspection, laboratory processes, etc.

**6. *Resources Needed to Implement the Program: Any major changes in program resources, including an update on development of new databases, etc.***

The Department had utilized the Operator Certification Expense Reimbursement Grant funds, expired December 31, 2012, to contract reimburse travel cost for eligible system operators to attend the above described mandatory training courses for renewal purposes. Also, the Committee approved the use of OpCert Grant funds to reimburse the travel cost and registration fees for other training courses to assist eligible operators in obtaining renewal-training hours. The loss of this funding, may negatively impact operators ability to obtain needed licensing renewal training.

The training attendance database, previously developed and made accessible via the internet to allow operators to document their renewal and license exam required course training attendance, has been well accepted by the operators. Present efforts are to facilitate additional participation in the electronic transfer of attendance data. One part of this effort was the development of a unique Training ID for each operator. The Training ID in barcode format is included on all operator renewal wallet cards. New license applicants are issued a training card with their ID number bar-coded on the card. Trainers can then use barcode scanners to document training attendance electronically allowing it to be readily transferred to the training database. Our three largest Arkansas water industry conferences, primary expected users of the ID number barcodes, have integrated their use to record operator attendance at these conferences multiple times per day for better validating operator attendance of these conferences. The AWW&WEA Districts conduct monthly training sessions and five of the nine districts are submitting easily up loadable digitally formatted attendance data.

The Licensing Program presently has 3.5 full time equivalent staff. A full time Certification Officer administers the day to day oversight and administration of the Program. A full time administrative person is utilized to perform data entry; data tracking; the processing of license applications, and exams; the issuance of licenses; and the Program's part of processing all program related fees. A one-half time clerical person is utilized to handle the printing, mailing, and filing of the paperwork created by the program. One full time training coordinator who conducts the Compliance Course, processes all training related approvals and attendance rosters, and oversees the individual operators' licensing renewal process. Additional Section administrative staff is also utilized during the biennial renewal process. These positions are funded utilizing Service Fee funds, Water SRF Set Aside funds, General Revenue funds, and Licensing Fee funds. OpCert Grant funds were not utilized to fund License Program staff or administrative cost therefore the expiration of the grant had no impact on day to day License Program operation.

**7. *Stakeholder Involvement: A brief discussion on any type of stakeholder meetings or board meetings that were held during the reporting period.***

Stakeholder involvement consists primarily of quarterly meetings of the Arkansas Drinking Water Advisory and Operator Licensing Committee (Committee). The Committee consists of seven (7) members, appointed by the Arkansas Board of Health (Board), meeting the following conditions:

(1) One (1) shall be a member of the staff of the Division of Engineering of the Department of Health who shall be a registered engineer and who shall act as executive secretary for the Board for water system operator licensing activities, and also acts as executive secretary for the committee;

(2) One (1) shall be an engineer on the teaching staff of any state-supported institution of higher education who shall be either a sanitary engineer, civil engineer, environmental engineer, or chemical engineer with expertise in the drinking water field;

(3) One (1) member shall be a consulting engineer specializing in drinking water systems design; and

(4) Four (4) members shall be active water system operators who shall hold the highest grade licenses.

The Board of Health (Board), which handles all formal enforcement actions and imposes administrative penalties against operators or owners of water systems, serves as an additional stakeholder group. The Board consists of members of the various medical communities, the food service industry, the engineering profession, the environmental health profession, the senior citizen community, and the public at large. The Board must also approve all proposed regulation changes before the Department can begin the public

hearing process, and the Board must give final approval after the public hearing and legislative reviews.

In addition, the Department utilizes stakeholder groups consisting of representatives of the Department's field staff, water operator training organizations, and licensed water operators to develop exams from validated exam items provided by the Association of Boards of Certification and to validate new compliance items added to the exam item bank.

**8. *Program Review: A brief discussion on any program review that was held during the reporting period and the outcome of the review.***

The Committee is routinely provided information concerning the operator certification program's status, including pass rates for each examination category, budget activity that might impact the program's capabilities, and general drinking water program status. This information allows the Committee to review the program's activities each quarter. This report was provided to the Committee at their July 2013 quarterly meeting. Comments from the Committee have been incorporated into the 2013 report.

The Committee, during this report period, did conduct an extensive review of the adequacy of the mandatory training required to be attended to be eligible for license exams. The Committee has recommended several minor expansions of the training courses and establishing the order the courses must be attended.

The Committee also performed a complete review of the licensing regulations during this report period. The Committee recommended several minor and no major changes in the Regulations. Those recommended changes will be addressed when the regulations are revised.

The Department would like to have a peer-to-peer program review utilizing certification officers and primacy agency staff from other state programs. However, funding the travel cost for the participants is the most significant obstacle preventing the review.

The loss of the training money to fund contracts for the provision of the license exam required mandatory training courses is a significant threat to the Licensing Program. The initial EPA OpCert Training Expense Reimbursement Grant funding was not intended to be the primary funding source for the required training courses, implemented in January 2003, but prior to its expiration, it had become the primary source. This is due to other revenue losses encountered by the training organizations. The Grant funded nearly two thirds of the courses offered, during 2009 through 2012. The Section has delayed

the impact until June 30, 2014 through the use of SRF Capacity Development funds. However, due to decreases in the SRF Capitalization Grant funding past June 30, 2014 is not feasible. The training organizations, present contract recipients, hope to be able to adjust their training commitments to continue the training at adequate levels after June 30, 2014.

**9. *Implementation Schedule Update: A brief discussion on progress that is being made on newly implemented segments of the program.***

In 2013, no significant new program segment has been implemented. Needed improvements in the program to be compliant with the Guidelines were not significant and have become well integrated into the program. Recent program improvements, such as the division of renewal training into direct and indirect training categories and the tracking of training using barcode scanning and internet accessible database, compliment Guideline compliance, but were not the primary implementation purpose.

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## Appendix 1. Mandatory Training Requirements for Licensure Examinations

- The mandating of specific training courses prior to sitting for a license exam ranges from 40 contact hours of prescribed basic courses for the lowest grade licenses to 96 contact hours of prescribed basic and more advanced courses for the highest-grade licenses. See table below. These courses have a specified curriculum to be followed with minimum attendance timeframes.

<b>PROPOSED TRAINING HOUR REQUIREMENTS FOR EXAMS</b>										
<b>COURSE NAME</b>	<b>LENGTH</b>	<b>VSS</b>	<b>D-1</b>	<b>D-2</b>	<b>D-3</b>	<b>D-4</b>	<b>T-1</b>	<b>T-2</b>	<b>T-3</b>	<b>T-4</b>
RULES, REGS, COMPLIANCE	8 hr.	X	X	X	X	X	X	X	X	X
BASIC MATH	8 hr.	X	X	X	X	X	X	X	X	X
APPLIED MATH	8 hr.			X	X	X		X	X	X
DISTRIBUTION BASIC	24 hr.	X	X	X	X	X				
DISTRIBUTION INTERMEDIATE	24 hr.			X	X	X				
DISTRIBUTION ADVANCED	24 hr.					X				
TREATMENT BASIC	24 hr.						X	X	X	X
TREATMENT INTERMEDIATE	24 hr.							X	X	X
TREATMENT ADVANCED	24 hr.								X	X
	Total hrs.	<b>40</b>	<b>40</b>	<b>72</b>	<b>72</b>	<b>96</b>	<b>40</b>	<b>72</b>	<b>96</b>	<b>96</b>

## **Appendix 2. License Committee Enforcement Guideline Guideline # 14**

### **DRINKING WATER ADVISORY AND OPERATOR LICENSING COMMITTEE**

#### **ENFORCEMENT PRIORITIES UTILIZING ADMINISTRATIVE PENALTY**

##### **Enforcement procedures for water systems that do not have a qualified operator:**

This procedure is an integral part of the Engineering Section's present "Compliance and Enforcement Plan for the Public Water System Supervision Program".

Systems with a Surface Water Source or a Groundwater Under the Direct Influence of Surface Water Source enforcement will be performed under the Surface Water Treatment Rule's qualified operator requirements.

##### **Priority I**

Water systems that do not have an operator holding a valid license are subject to the enforcement steps in the Table 1. Presently an Operator In Training status will be allowed for compliance.

##### **Priority II**

The Operator of Record for the system does not hold a valid license for each type license required for the system. The system will be treated as a system without a licensed operator and will progress through the enforcement steps in Table 1. Presently an Operator In Training status will be allowed for compliance.

##### **Priority III**

Water systems determined on a case-by-case basis to have inadequate licensed staff will be required to submit compliance timeframes for positions determined to require a license. The compliance plan must then be met or the system will be treated as a system without a licensed operator and will progress through the enforcement steps in Table 1.

**Guideline # 14**  
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TYPE OF VIOLATION (NO QUALIFIED OPERATOR)	NUMBER OF DAYS FOLLOWING THE END OF THE COMPLIANCE PERIOD	ACTION TO BE TAKEN BY ADH STAFF
PWS DETERMINED TO NOT HAVE A QUALIFIED OPERATOR      Phase 1	THIRTY DAYS	ISSUE NOTICE OF NON-COMPLIANCE
PWS DETERMINED TO NOT HAVE A QUALIFIED OPERATOR      Phase 2	SIXTY DAYS	ISSUE NOTICE OF NON-COMPLIANCE, WITH WARNING OF ADMINISTRATIVE ORDER. PHONE CALL CONFIRMING ADMINISTRATIVE ORDER
PWS DETERMINED TO NOT HAVE A QUALIFIED OPERATOR      Phase 3	NINETY DAYS	ISSUE NOTICE OF NON-COMPLIANCE. ISSUE ADMINISTRATIVE ORDER AND GIVE 60 DAYS TO COMPLY, WITH WARNING OF PENALTY.
PWS DETERMINED TO NOT HAVE A QUALIFIED OPERATOR      Phase 4 & 5	ONE HUNDRED AND FIFTY DAYS	ASSESS ADMINISTRATIVE PENALTY FOR VIOLATION, WITH ESCALATING PENALTY.

Table 1

See next page for example timetable following above plan.

Approval noted in January 11, 2006 Arkansas Drinking Water Advisory and Operator Licensing Committee meeting minutes.

Original policy approved at January 9, 2001 Arkansas Drinking Water Advisory and Operator Licensing Committee meeting.

# TIMETABLE EXAMPLE

## Example Enforcement Timetable for water systems that do not have a licensed operator

<b>Compliance or enforcement activity</b>	<b>Week of</b>
System X is determined to not have a qualified operator	January 15
System X is issued a Notice of Non-Compliance for month of January violation of no qualified operator. (Phase 1)	February 28
System X still does not obtain a qualified operator for month of February and is issued second Notice of Non-Compliance. Additionally, Warning of Administrative Order is issued with second violation. (Phase 2)	March 30
System X, again does not obtain a qualified operator for the months of March and April, subsequently Administrative Order is issued and system given an additional 60 days to correct the problem. (Phase 3)	April 30
System X, ignoring all correspondence still does not obtain a qualified operator for the months of May, June, and July, subsequently a Proposed Penalty/Notice of Hearing is issued. (Phase 4)	August 15
System X, still ignoring all previous enforcement action and continues to provide water without a qualified operator for the months of August and September appears before the subcommittee of the Arkansas Board of Health on September 15. The committee makes a judgement to be recommended to the full Arkansas Board of Health for adoption. (Phase 5)	September 15
System X, still does not have a qualified operator for the month of October, appears before the full Arkansas Board of Health on October 15. (Phase 5, continued)	October 22
Board of Health summarizes hearings in <b><u>Findings of Fact, Conclusion of Law and Order</u></b> to be issued. (Phase 5, continued)	November 3
Note: System X has the option at any time following the initial violation to enter into a Consent Order and shall be signed by representatives of both the Department of Health and the Public Water System. The Consent Order would specify an agreed to time period (180 days) by which the system would obtain the services an appropriately licensed operator. The Consent Order would also specify an administrative penalty amount that would be assessed against the system if they failed to comply with the terms of the Consent Order.	

### Appendix 3. Enforcement Activities

Enforcement actions taken in Calendar year 2012, the latest available timeframe verified compliance data is available, were:

System Type	Community	NTNC
Systems Sent Notice Of Noncompliance	9	1
Systems Signing Consent Order After Receiving Notice Of Noncompliance	3	0
Systems Issued Warning Of Potential Administrative Order (WAO)	4	0
Systems Issued Administrative Orders (AO)	0	0
Systems Issued Notice For Hearing / Proposed Penalty	3	0
Systems with Penalty Hearing Held by Board of Health	2	0
Systems with Penalty Assessed and Suspended	3	0
Systems with Penalty Assessed	3	0
Systems with Penalty Paid	3	0
Systems returning to compliance during report period	3	1

### Appendix 4. Public Water System Compliance Summary Manual

The compliance summary manual has been revised since our last report and is available as a PDF document on the internet at:

<http://www.healthy.arkansas.gov/programsServices/environmentalHealth/Engineering/Documents/Reports/Compliance/ComplianceSummary.pdf>

A printed copy of the manual will be provided upon request.