

**ARKANSAS**  
**DEPARTMENT OF HEALTH**

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

***SDWA OPERATOR CERTIFICATION***  
***OPCERT GUIDELINES REPORT***  
**STATE FISCAL YEAR 2020**  
**(July 1, 2019 – June 30, 2020)**

# Arkansas

## Annual OpCert Guidelines Report

July 1, 2019 – June 30, 2020

Arkansas Department of Health; Engineering Section; Drinking Water Operator Licensing Program's Annual OpCert Guidelines Report for SFY 2020 (July 1, 2019 to June 30, 2020) detailing the implementation methods to meet 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. A revised version is expected to be completed during SFY 2021.

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. The Department has started addressing systems without a fully licensed operator Priority II in the License Committee Enforcement Guideline. See Appendix 2 for enforcement strategies. The Section is addressing back-up system operators during the Sanitary Survey process. The latest verified compliance data available for this report is calendar year 2019. Provided below is a comparative summary of compliance levels at the end of calendar years 2017, 2018 and 2019.

# of Water Systems	Community PWS			NTNCPWS			Transient PWS		
	2017	2018	2019	2017	2018	2019	2017	2018	2019
Calendar Year	2017	2018	2019	2017	2018	2019	2017	2018	2019
License Required	759	692	689	33	33	32	18	16	16
Have Licensed ORC (December 31, 2019)	747	683	679	33	33	34	18	16	16
Need License	12	9	10	0	0	0	0	0	0
Per Cent Compliant	98.5%	98.5%	98.5%	100%	100%	100%	100%	100%	100%

The Section's district and transient system program staff contact 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 the enforcement plan is outlined to the 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.*

The Department in calendar year 2019 took formal enforcement action for licensure noncompliance against 22 water systems through the issuance of escalating Notices of Non-Compliance. The most severe enforcement action for each system is shown in the below table:

System Name	PWS #	Enforcement Level Reached	Most Current Action Date
AHTD Marion County	N0129	Administrative Order	01-Aug-19
Ark State Park Mt Magazine	T1110	Notice of Violation	01-Jul-19
Bois D'Arc Water System	178	Consent Order	01-May-20
Cave Springs Waterworks	043	Consent Order	01-Jun-19
Cotton Plant Waterworks	596	Board of Health Enforcement Order	01-Nov-19
Diamond City Water	061	Consent Order	01-May-20
Earle Waterworks	150	Notice of Violation	01-May-19

Free Hope Water Association	625	Consent Order	01-May-20
Green Hill-Brooks Chapel Water	701	Consent Order	01-Apr-20
Humnoke Waterworks	344	Notice of Violation	01-Jan-19
Humphrey Waterworks	010	Consent Order	01-May-20
Jacksonport Waterworks	263	Administrative Order	01-Jul-19
JLM Veterans Hospital	1227	Notice of Violation	01-May-19
Little Portion Hermitage	808	Notice of Violation	01-Nov-19
Magnolia Waterworks	109	Notice of Violation	01-Sep-19
Manila Waterworks	378	Notice of Violation	01-Sep-19
Mc Rae Waterworks	589	Notice of Violation	01-Jan-19
North White Co Rural Water PFB	583	Consent Order	01-Dec-19
Pickens Waterworks	172	Board of Health Enforcement Hearing	01-Apr-20
Shady Acres Mobile Home Park	540	Board of Health Enforcement Order - MHP Ceased Operation	01-Mar-20
South Logan County Water	851	Administrative Order	01-Oct-19
Wabbaseka Waterworks	283	Board of Health Enforcement Hearing	01-May-20

The Arkansas Drinking Water Advisory and Operator Licensing Committee (Committee) in a September 19, 2019 Committee hearing acted against one license holder for alleged falsification of monitoring documents. The Committee Hearing concluded with a recommendation to the Arkansas Board of Health to revoke the license holder's license and allow the individual to obtain a license six months after the effective date of the revocation. The Board of Health at its January 23, 2020 voted to confirm the Committee's recommendation and ordered the licenses revoked. The license holder has appealed the Board's action to the Arkansas Circuit Court. The Court stayed the Board of Health action pending the its final action.

The goal of the Department's enforcement actions against public water systems is intended to increase water system compliance with the Arkansas Operator Licensing Statute and the Rules & Regulations Pertaining to Water Operator Licensure. This report year's frequency of non-complying systems continues to increase with a significant increased number of systems reaching advanced levels of enforcement. This increase directly relates to the Disinfection and Disinfection Byproducts Rule's qualified operator requirements converting what were State Regulation violations into SDWA violations. The no qualified licensed operator violations then factor into the overall SDWA compliance enforcement escalation plan. The Department continues to increase enforcement against systems that have licensed personnel with insufficient licenses or do not have all required license types with those systems cited for State Regulation violations. See Appendix 2 for a description of the enforcement process. In addition, non-compliance is addressed as a significant deficiency in the system's SDWA required sanitary survey.

- 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 operators' initial certification training and subsequent renewal training. Included are:

- 1) Engineering Section – The Section's largest operator training effort is the provision of an eight-hour Arkansas Rules, and Safe Drinking Water Act Compliance Course. The course was offered 12 times during SFY 2020, with three additional courses cancelled due to the Covid-19 pandemic, one each in April, May and June of 2020. 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 Pertaining to Public Water Systems* and the Section developed and maintain the *Compliance Summary for Public Water Systems* which details water system compliance requirements under the federal SDWA Drinking Water Regulations, and the Arkansas water system rules, policies and guidelines. The Compliance Summary is routinely updated, with its last major update completed in March 2018. This revision of the Summary incorporated the several minor updates and additional Revised Total Coliform Rule changes throughout the summary. See Appendix 3 for additional information on the Summary.
- 2) Arkansas Environmental Training Academy – AETA 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 operators attending the mandatory courses.
- 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 direct fees for most courses to ARWA member utility's operators. However, they have a training assessment fee as part of their annual membership dues. Their annual conference and some specialty training courses have actual registration fees.

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.

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

AETA and ARWA struggle to maintain their training levels due to funding losses or flat budgets. Both have indicated the calendar year 2021 may have reductions in training levels. The decreased number of courses has increased the difficulty and cost for water systems to obtain needed training to license staff. Both trainers continue to look for additional funding resources.

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

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. Efforts to facilitate additional participation in the electronic transfer of attendance data has resulted in most routine trainers providing suitable attendance reports for data upload. The database is depended upon heavily to verify operator-training attendance in the renewal process with most renewals training submittals being subjected to an audit.

The Licensing Program presently has 3.0 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. One full time training coordinator who conducts the ADH Compliance Course, processes all training related approvals and attendance rosters, and oversees the licensing renewal process. Additional Section administrative staff is utilized during the biennial renewal process and presently a half time staff member is image capturing the individual operators paper files, approximately 50 percent complete, allowing operator files to be accessed, via captured images, from the section's LAN. These positions are funded utilizing Service Fee funds, Water SRF Set Aside funds, General Revenue funds, and Licensing Fee funds.

The primary data management systems utilized in the water license program is presently an array of MS Access databases struggling to meet IT technology advancements. The Engineering Section's IT staff is progressing with a significant updating and upgrade of the program's data management capability. The primary goal is to consolidate the MS Access databases into one cohesive more robust relational database. Completion date is unknown.

**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 rule changes before the Department can begin the public hearing process, and the Board must give final approval after the public hearing and legislative reviews.

**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 affect the program's capabilities, and general drinking water program status. This information allows the Committee to review the program's activities each quarter. The Committee will review this report at their next quarterly meeting and any substantive comments will be forwarded for inclusion in this report.

The Committee also performed a complete review of the licensing regulations during the 2014 report period. The Committee recommended several minor and no major changes in the Regulations. Those recommended changes will be addressed when the regulations are next revised. This review may be repeated this fiscal year.

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.

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

In SFY 2020, no significant new program segment has been implemented. Needed improvements in the program to be compliant with the Guidelines were originally not significant and have become well integrated into the program.

The most significant recent license program changes were implemented July 1, 2014. The changes included utilizing the Association of Boards of Certification (2017 Version presently utilized) validated national standardized exams, previous exams were customized exams utilizing ABC valid exam items. The licensing exam sessions were decoupled from the mandatory training courses with quarterly exam sessions in multiple locations implemented. The use of ABC's standardized exams also allows operators to utilize computer-based exams through PSI Services, Exam Assessment Centers as an alternative to the quarterly paper-based exams.

The move to ABC's national standardized exams has resulted in a significant decrease in passage rates for the higher-level license exams. The low passage rate appears to be multifaceted. Training courses are addressing needed knowledge levels but have inadequate time to fully cover the NTK. The courses are only one component of the passage rate issues, other factors are the commitment level of the license candidate is critical, the availability of manuals to



study, and time to study the manuals with a desire to know their content. The quarterly exam sessions have increased the time between training course conclusion and the exam requiring greater levels of knowledge retention. The type of work, less than competitive wages, and the low Arkansas unemployment rate may also be affecting the applicant pool.

## 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 <b>(NO QUALIFIED OPERATOR)</b>	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 I)	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

<p>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.</p>	

### Appendix 3. 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:

<https://www.healthy.arkansas.gov/images/uploads/pdf/drinking-water-ComplianceSummary.pdf>

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