

ARKANSAS DEPARTMENT OF HEALTH, ENGINEERING SECTION

SUBJECT: Rules Pertaining to Public Water Systems

DESCRIPTION: The Engineering Section of the Arkansas Department of Health is proposing the following changes to its Rules Pertaining to Public Water Systems:

- Section VII.G Approved Chemicals, Materials, Equipment, and Processes: Modify language so that, for very small water systems, product standards equal to ANSI/NSF 60 or 61 can be used for selecting equipment if those equivalent standards are issued by the Food and Drug Administration or ANSI/NSF. In plain language, this means that certifications intended for residential use and sized products can be referenced when the very small water systems need to select equipment of a similar small size.
- Section XI.H Cleaning and Disinfection: Update the referenced American Water Works Association (AWWA) Standard C652-92 to refer to the most recent version of the standard, which is C652-11. This AWWA standard governs the disinfection of drinking water storage tanks prior to placing such a tank into service.
- Section XIV.E Disinfection of Pipe:
 - Update the referenced AWWA Standard C651-92 to refer to the most recent version of the standard, which is C651-14.
 - Strike the language concerning collection of bacteriological samples “that are not collected on the same day” and add the language “and bacteriological sampling” so that the requirements of this section are not in conflict with the requirements of AWWA Standard C651-14. In plain language, the latest revision of this standard allows for two options concerning bacteriological sampling, one of which allows for collection of bacteriological samples on the same day. The proposed changes would allow for use of either option.
- Section XXV Annual Fees: In accordance with Act 788 of 2019, update the indicated public water system service fee from \$0.30/month per service connection to \$0.40/month per service connection.
- Adjust page numbers as needed.
- In accordance with Act 315 of 2019, replace the word “regulations” with the word “rules” and, in Section IV.A, replace “Arkansas Department of Health and Human Services” with “Arkansas Department of Health.”

PUBLIC COMMENT: A public hearing was held on this rule on September 26, 2019. The public comment period expired on October 14, 2019. The agency indicated that it received no comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION #1: Are these rules being promulgated by the Board of Health in any capacity? **RESPONSE:** On August 1, 2019, the Board of Health approved the department's request to begin this process for revising these rules with regards to these changes.

QUESTION #2: Is there a state or federal statute requiring or suggesting reliance on ANSI/NSF and AWWA standards? If not, could you explain why the Department uses these standards? **RESPONSE:** I am not aware of federal law requiring a state to rely upon NSF (National Sanitation Foundation) standards or AWWA (American Water Works Standards). However, almost all states do rely upon these national standards to ensure that safe chemicals, materials, and procedures are utilized. These standards are comparable to any number of other national standards that are utilized to ensure the public safety. These standards are developed with the input from scientific experts and various stakeholders to ensure that sensible standards are developed that protect the public.

The proposed effective date is upon legislative review and approval.

FINANCIAL IMPACT: Per the agency, every entity, residence, or business with a water service meter will be charged an additional \$0.10 per month. The Department of Health does not anticipate any additional financial burden on state, county, and municipal government as a result of the changes. It intends to use the additional income to provide laboratory services to approximately 1000 public water systems to ensure all water systems are monitored for compliance with the federal Safe Drinking Water Act. The agency believes that utilizing the single public health laboratory will promote efficiency so that the benefits of the increased fees outweigh the costs.

LEGAL AUTHORIZATION: Some of the proposed changes implement Act 788 of 2019, sponsored by Representative Dan Douglas, which allowed the Department of Health and the State Board of Health to establish and collect up to \$0.40 per service connection per month from community public water systems and nontransient nonpublic water systems. The State Board of Health has the authority "to make all necessary and reasonable rules of a general nature" to promote public health and safety, sanitation, and disease suppression. *See* Ark. Code Ann. § 20-7-109.