

Public Water System Certified Operator Contract Template

For a Grade 1 or Grade 2 PWS

This template is for a Water Distribution or Treatment Grade 1 or 2 public water system (PWS) contracting with a certified operator. It includes some minimum requirements from Arizona Administrative Code (A.A.C.) Title 18, Chapters 4, and 5, as well as all applicable state and federal laws, including the Code of Federal Regulations (C.F.R.). The template does not cover all applicable regulatory requirements. If a conflict arises between this document's content and any statutory or regulatory requirement, the statutory or regulatory requirement would be controlling. The structure and content of the template can be customized to meet the needs of your water system.

Disclaimer: The only purpose of this contract template is to serve as an educational example of contract terms. It does not have to be used. It does not constitute legal advice, nor does it substitute for legal advice. You should not rely on this contract template when determining whether your contract is valid, complete, sufficient or enforceable. Persons wishing to enter into similar agreements are advised to consult legal counsel.

1. PARTIES

This Contract is entered into this ____ day of _____, 20__ in _____ County, Arizona, by and between [Certified Operator] [Operator ID], hereinafter called "Operator", and [Public Water System Owner], hereinafter called "Owner", to maintain and operate [Name of Public Water System] [PWS ID].

Public Water System Name: _____ PWS ID Number: AZ04_____

Grade and Class of system: Water Distribution D1 D2
Water Treatment T1 T2

Address: _____

Owner: _____

Point of Contact: _____

Business Phone Number: _____ Emergency Phone Number: _____

Email: _____

Certified Operator Name: _____

Operator ID Number: OP_____

Certifications: Water Distribution D1 D2 D3 D4
Water Treatment T1 T2 T3 T4

Address: _____

Business Phone Number: _____ Emergency Phone Number: _____

Email: _____

List of all contracted PWSs: _____

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2. DURATION OF CONTRACT

TERM AND TERMINATION OF CONTRACT

Section 2.1. Term. This Contract shall remain in effect until [DAY], [MONTH], [YEAR], or until terminated by either party as provided in Section 2.2 below.

Section 2.2. Termination.

- 2.2.1 This Contract may be terminated upon mutual agreement of the parties.
- 2.2.2 Either party may unilaterally terminate this Contract by sending a written notice to the other party not less than 30 days prior to the effective date of termination.
- 2.2.3 This Contract may be immediately terminated at the option of [Owner] on the occurrence of any of the following events:
 - 2.2.3.1 Operator fraud.
 - 2.2.3.2 Operator negligence.
 - 2.2.3.3 Operator’s failure to perform their duties under this Contract.
 - 2.2.3.4 Operator’s inability to perform their duties under this Contract.
- 2.2.4 This Contract may be immediately terminated at the option of [Operator] on the occurrence of any of the following events:
 - 2.2.4.1 Public Water System Owner’s failure to perform their duties under this Contract.

3. COMPENSATION

Services	Fees
The operator agrees to perform all duties as agreed in section 4.1 and 4.3 for the term of this contract.	Flat amount \$\$\$
In addition, Operator agrees to perform the additional duties listed below in section 3	
Example: Samples (including lab fees)	\$
Example: Emergency response (per hour of work, determine acceptable response time via phone and in person, etc.)	\$\$
Example: Paperwork	\$\$\$

4. DUTIES AND RESPONSIBILITIES OF EACH PARTY TO THE CONTRACT

Owner shall ensure the performance of the following minimum duties.

4.1 OPERATOR DUTIES

Duty and Associated Rule	Recommendations (Suggested Contractual Provisions)	Operator Initials
An operator who is in direct responsible charge of more than one facility is certified for the class* of each facility and at or above the grade of the facility with the highest grade. A.A.C. R18-5-104-(A)(3)	Operator shall provide a copy of original certificates and upon renewal a copy of renewed certificates to Owner upon request.	

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<p>The remote operator inspects a facility as often as necessary to ensure proper operation and maintenance, but in no case less than: Monthly for a Grade 1 or Grade 2 water treatment or distribution system that produces and distributes groundwater. A.A.C. R18-5-104-(F)(7)(a)</p>	<p>Operator shall use checklists, log books, or equivalent documentation to demonstrate performance of inspections.</p>	
<p>The remote operator provides the onsite representative with a telephone number at which the remote operator can be reached at all times. If the remote operator is not available for any reason, the remote operator shall provide the onsite representative with the name and telephone number of a qualified substitute operator who will be available while the remote operator is not available. A.A.C. R18-5-104-(F)(4)</p>	<p>Provide qualified substitute operator name and phone number here: _____ _____</p> <p>The operator must provide this information to the onsite representative.</p> <p>Not applicable if PWS has an on-site operator.</p>	
<p>A facility owner shall ensure that at all times: An operator makes all decisions about process control or system integrity regarding water quality or water quantity that affect public health; however, an administrator who is not a certified operator may make a planning decision regarding water quality or water quantity if the decision is not direct operational process control or system integrity decision that affects public health. A.A.C. R18-5-104-(A)(2)</p>		
<p>The remote operator instructs, supervises and provides written instructions to the onsite representative in the proper operation and maintenance of each facility and ensure that adequate records are kept. A.A.C. R18-5-104-(F)(3)</p>	<p>Not applicable if PWS has an on-site operator.</p>	
<p>The remote operator resides no more than 200 miles by ground travel from any facility that the remote operator serves. A.A.C. R18-5-104-(F)(5)</p>	<p>Not applicable if PWS has an on-site operator.</p>	
<p>The remote operator operates each facility in compliance with applicable state and federal laws. A.A.C. R18-5-104-(F)(6)</p>	<p>Not applicable if PWS has an on-site operator.</p>	
<p>An operator shall notify the Department in writing within 10 days of the date the operator ceases operation of the facility or commences operation of another facility. A.A.C. R18-5-104-(C)</p>	<p>Call 602-771-0100 or email azopcert@azdeq.gov to notify Operator Certification program representatives.</p>	

*Class – water treatment or water distribution.

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4.2 OWNER DUTIES

Duty and Associated Rule	Recommendations (Suggested Contractual Provisions)	Owner Initials
A facility owner shall ensure that at all time a facility has an operator in direct responsible charge who is certified for the class* of the facility and at or above the grade of the facility. A.A.C. R18-5-104-(A)(1)	Special attention should be paid to this if the facility is re-graded.	
Per A.A.C. R18-4-106 , the supplier of water shall report to the State the results of any test measurement or analysis required by A.A.C. Title 18, Chapter 4.	Owner is responsible. Owner, operator, system representative, or laboratory may do this task. Indicate below who will complete this task: _____	
Any owner or operator of a public water system shall retain on its premises or at a convenient location near its premises for the following records: Microbiological analyses and turbidity analyses, chemical analyses, laboratory reports, any action taken by the system to correct violations of primary drinking water regulations, written reports, summaries, or communications relating to sanitary surveys**, records concerning a variance or exemption granted to the system, public notices, and monitoring plans. A.A.C. R18-4-106 40 C.F.R. §141.33	If Operator is keeping records, Owner must have access at all times including following termination of this Contract.	
If the owner of a facility replaces an operator in direct responsible charge with another operator, the facility owner shall notify the Department in writing within 10 days of the replacement. A.A.C. R18-5-104-(B)	Call 602-771-0100 or email azopcert@azdeq.gov to notify Operator Certification program representatives.	

**Site Inspections

4.3 OWNER OR OPERATOR DUTIES

Owner shall ensure the performance of the following minimum duties. The duties in Section 4.3 could be performed by any of the following: Owner, Operator, or another individual selected by the PWS.

Duty and Associated Rule	Recommendations (Suggested Contractual Provisions)	Owner (Initial If Responsible)	Operator (Initial if Responsible)
The water supplier shall develop necessary sampling plans. 40 C.F.R. §141.853/A.A.C. R18-4-126 40 C.F.R. §141.90(a)(i)/A.A.C. R18-4-111 40 C.F.R. §141.622/A.A.C. R18-4-124	Plans include: 1. Microbiological Sample Siting Plan 2. Lead and Copper Sampling Plan 3. Disinfectant By Product Sample Siting Plan		

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<p>The water supplier for a community water system shall develop and keep an emergency operations plan in an easily accessible location. A.A.C. R18-4-204</p>	<p>Emergency Operations Plans should be updated annually.</p>		
<p>The public water system shall collect required samples. A.A.C. R18-4-105</p>	<p>Could be performed by any of the following: Owner, Operator, system representative, or MAP (Monitoring Assistance Program). Define which samples are being collected and include this in the final contract.</p>		
<p>The public water system shall create and distribute notifications to customers and provide a copy of the notice to the regulatory agency. A.A.C. R18-4-117 A.A.C. R18-4-111 A.A.C. R18-4-119</p>	<p>Required notifications include: 1. Confidence Consumer Reports (Community Water Systems only), 2. Lead Consumer Notice (Community and Non-transient Non-community systems only) and 3. Public Notices.</p>		
<p>A public water system representative shall be onsite for all regulatory agency inspections.</p>	<p>Could be performed by any of the following: Owner, Operator, or system representative.</p>		

5. GOVERNING LAW

This Contract has been executed and will be performed in the State of Arizona, and Arizona law shall govern its interpretation.

6. BINDING ON SUCCESSORS AND ASSIGNS

The terms and provisions of this Contract shall inure to the benefit of and shall be binding upon the successors and assigns of the parties hereto.

7. NONASSIGNABILITY

Neither party shall have the right to assign its respective duties and obligations hereunder to any other party without first obtaining the written consent of the other party to this Contract.

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8. SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on the date and year first set forth above.

Printed Name of Public Water System Owner: _____

Signature of Public Water System Owner: _____

Date: _____

Printed Name of Certified Operator: _____

Signature of Certified Operator: _____

Date: _____

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9. RESOURCES

1. [Water System Owner Roles and Responsibilities: A Best Practices Guide](https://nepis.epa.gov/Exe/ZyPDF.cgi/2000ZZBC.PDF?Dockey=2000ZZBC.PDF)
<https://nepis.epa.gov/Exe/ZyPDF.cgi/2000ZZBC.PDF?Dockey=2000ZZBC.PDF>
2. [Water System Operator Roles and Responsibilities: A Best Practices Guide](https://nepis.epa.gov/Exe/ZyPDF.cgi/2000ZZBE.PDF?Dockey=2000ZZBE.PDF)
<https://nepis.epa.gov/Exe/ZyPDF.cgi/2000ZZBE.PDF?Dockey=2000ZZBE.PDF>
3. [Hiring/Contracting Certified Water Operator Guide](https://static.azdeq.gov/opcert/pws_hiring_op1.pdf)
https://static.azdeq.gov/opcert/pws_hiring_op1.pdf
4. [Distribution Systems: A Best Practices Guide](https://www.epa.gov/sites/production/files/2015-09/documents/epa816f06038.pdf)
<https://www.epa.gov/sites/production/files/2015-09/documents/epa816f06038.pdf>
5. [Certified Operator Monthly Inspection Form](https://static.azdeq.gov/opcert/opcert_monthly_insp.pdf)
https://static.azdeq.gov/opcert/opcert_monthly_insp.pdf
6. [Arizona Administrative Code \(A.A.C\) Title 18, Chapter 4 – Safe Drinking Water](https://apps.azsos.gov/public_services/Title_18/18-04.pdf)
https://apps.azsos.gov/public_services/Title_18/18-04.pdf
7. [A.A.C Title 18, Chapter 5, Article 1 – Rule for the Operator Certification Program](https://apps.azsos.gov/public_services/Title_18/18-05.pdf)
https://apps.azsos.gov/public_services/Title_18/18-05.pdf
8. [Code of Federal Regulations](https://www.ecfr.gov/)
<https://www.ecfr.gov/>