



Draft Fiscal Impact Statement

Wastewater Operator Certification Rulemaking 2024
Advisory Committee Meeting 1

Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340, division 49 of the Oregon Administrative Rules under the authority of Oregon Revised Statutes 448.405 through 448.430 and 448.992. The proposed rule amendments have been developed to address emerging needs of the Wastewater Operator Certification Program, which include updating pathways to operator certification, modernizing how wastewater systems are classified, streamlining reciprocity for operators among states, and expanding options for attaining compliance when a supervisory operator is not available.

Oregon law requires owners of domestic wastewater systems (public and private) to operate their systems under the responsible control and direction of certified operators. As implemented in National Pollution Discharge Elimination System and Water Pollution Control Facility permit requirements, each wastewater system (collection and treatment) that handles domestic sewage must have one designated supervisory operator that is certified at or above the classification level of the system. Operator certification grades (small wastewater system certificate, collection and treatment certificates grades I-IV, IV being the highest) align with the classification of each system (small wastewater system, collection and treatment system classes I-IV, IV being the highest). Trained and certified operators ensure that the systems function in a manner that protects public health and the environment, and the associated equipment is properly operated and maintained. Certified operators also improve facility operation and compliance, protect the public's investment in the facilities, and instill public confidence in the safety and certainty of services. Oregon operators must meet minimum standards for education and operator work experience, as well as pass an examination, to obtain a renewable DEQ certification.

The statewide, two full time employee Wastewater Operator Certification Program certifies approximately 1,400 operators, classifies approximately 400 systems that handle domestic sewage, and is 100% fee funded. In March 2023, the program transitioned from a paper-based application process to a fully online electronic data management system called Your DEQ Online, which is an agency-wide platform used for most business and financial processes. The proposed rules have been developed while considering the current capabilities of Your DEQ Online and 2.0 FTE.

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

This rulemaking does not involve fees, but indirect fiscal and economic impacts have been analyzed and are described below.

Statement of Cost of Compliance

State and federal agencies

Some federal facilities, for example campgrounds on U.S. Forest Service Land, have DEQ-permitted wastewater systems to manage sewage and thus are required to have DEQ-certified operators. If a state agency operates a facility that manages sewage, they too would need a certified supervisory operator. The impacts to federal and state facilities would be similar to those for local governments, described below.

Local governments

Examples of local government entities include water districts, irrigation districts, cities, towns, ports, sanitary districts, library districts, counties, and school districts. For this fiscal analysis, DEQ considered ports and school districts as separate local governments, even if contained within a city or county government.

Without adoption of these proposed rules, wastewater systems may be increasingly run by uncertified or unqualified operators, or operators certified at inadequate grades. This could lead to improper equipment operation, which would result in inadequate wastewater treatment, excessive pollution, permit non-compliance, and the degradation and breakdown of facility equipment. All of these outcomes may increase facility repair and equipment replacement costs for permittees.

The proposal to change the way wastewater systems are classified may result, on a case-by-case basis, in an increase or a decrease in a system's classification. And, a domestic wastewater system must be supervised by an operator that is certified at or above the classification of the system. Therefore, if a system increases in classification due to adoption of the proposed rule, the permit holder may need to pay a higher salary to hire and retain a higher grade certified operator. However, the proposed rules would also allow a longer extension to attain supervisory operator compliance (for systems employing an operator certified at one grade lower than the required grade for a supervisory operator with no permit violations) to ease this burden on permittees. The proposed rule would allow permit holder up to 365 days to hire an appropriately certified operator. The proposed rule would also allow the existing operator at that system extended time to upgrade their certification and become the supervisory operator, without the permit holder being required to immediately hire a higher grade operator, or find an often costly contract operator, in order to be in compliance. Other positive financial impacts resulting from adoption of the proposed rules could include higher salaries for operators as they upgrade to higher certifications more quickly.

Public

In cases described above under local governments, where compensation, compliance or equipment costs may result in increased expenditures for the permit holder, utility rates could increase for residents to cover those additional costs.

Large businesses - businesses with more than 50 employees

DEQ estimates less than 10 large businesses are owners of regulated wastewater systems and impacts on large businesses would be similar to the impacts on small businesses, as described below.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

Some small businesses, such as homeowners' associations, recreational vehicle camps, mobile home parks, and resorts, have wastewater systems where they manage their sewage and are required to have a certified supervisory operator. There are currently approximately 50 businesses in this category subject to Wastewater Operator Certification rules.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules do not require any additional activities unless a system's classification increases and a higher grade certified supervisory operator is needed. This scenario is addressed above under Local Governments.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rules will not require any additional resources unless a system's classification increases, and a higher grade certified supervisory operator is needed. This scenario is addressed above under Local Governments.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ's Operator Certification Program's standing Advisory Committee has been involved in developing these proposed rules. The committee consists of large and small system operators, owners, and educators and also includes a representative from the Oregon Association of Water Utilities, which interacts regularly with the smaller, rural systems that are sometimes owned by small businesses. Additionally, the Operator Certification Program will meet with a rules advisory committee on April 19, 2024. The committee is composed of the program's standing advisory committee, plus an additional member from Eastern Oregon, which represents certification holders and affected parties state-wide. During and after this meeting, committee members' input will be requested concerning potential impacts to small businesses and how impacts can be reduced. During the public comment period, the Operator Certification program may request input on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact, if any, on small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
Oregon Administrative Rules, Chapter 340, Division 049 -	https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1466

Certification of Wastewater Personnel	
Program databases	https://www.oregon.gov/deq/wq/wqpermits/Pages/Wastewater-Operator-Certification.aspx
Degrees Conferred by Race	https://nces.ed.gov/FastFacts/display.asp?id=72

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement, and its findings will be stated in the approved minutes dated April 19, 2024.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because this rulemaking does not involve fees.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state. Adoption of the proposed rule would affect wastewater operator certification statewide, across various sectors, both public and private. Since the rules will apply to all certified operators and owners of classified wastewater systems, and there are no expected changes to practical implementation of the program activities as a result of this rule adoption, there is no major expected impact on racial equity in the state. Adoption of proposed rules will help maintain program services critical to protecting public health and the environment (such as permit compliance), which may be particularly important in BIPOC or historically underserved communities.

Proposed rules would allow operators with a four-year college degree to attain certification with less hands-on wastewater experience than those without a college degree. DEQ recognizes the systemic barriers to education for Black, Indigenous and People of Color in Oregon and across the country. These barriers are reflected in the data from the [National Center for Education Statistics](#), which show that in the United States almost 60% of Bachelor’s degrees were conferred

to white students, whereas the percentage of people with four-year degrees in other racial groups is much lower: American Indian/Alaska Native (0.5%), Asian/Pacific Islander (8.6%), Black (10.5%), Hispanic (16.5%), mixed race (4.1%).

The proposed rules also include reduction of required experience for those with GED/high school only education as well. This is appropriate for the work and could make the job market more accessible to folks with these skills.

The percentage of degrees conferred by race/ethnicity and sex varied by level of degree in 2020–21.

Associate's, bachelor's, master's, and doctor's degrees conferred by postsecondary institutions, by race/ethnicity and sex of student: 2020–21							
Level of degree and sex	Total	American Indian/Alaska Native	Asian/Pacific Islander	Black	Hispanic	White	Two or more races
		Percentage distribution of degrees conferred to U.S. citizens and permanent residents					
Associate's degree	1,014,492	0.8	6.7	12.2	26.2	50.2	3.9
Male	373,627	0.7	7.6	10.2	24.6	52.9	3.9
Female	640,865	0.9	6.2	13.4	27.2	48.5	3.8
Bachelor's degree	1,963,737	0.5	8.6	10.5	16.5	59.7	4.1
Male	806,554	0.4	9.4	8.9	15.3	61.9	4.1
Female	1,157,183	0.5	8.1	11.6	17.4	58.2	4.2
Master's degree	737,363	0.5	7.9	13.3	12.7	62.4	3.1
Male	260,307	0.4	9.3	11.2	12.0	64.0	3.1
Female	477,056	0.6	7.2	14.5	13.0	61.6	3.2
Doctor's degree ¹	170,580	0.4	13.2	10.0	9.7	63.4	3.4
Male	71,253	0.4	13.2	7.7	9.3	66.1	3.2
Female	99,327	0.4	13.2	11.6	9.9	61.4	3.5

¹ Includes Ph.D., Ed.D., and comparable degrees at the doctoral level, as well as such degrees as M.D., D.D.S., and law degrees that were classified as first-professional degrees prior to 2010–11.

NOTE: Data in this table represent the 50 states and the District of Columbia. Data are for postsecondary institutions participating in Title IV federal financial aid programs. Race categories exclude persons of Hispanic ethnicity. Reported racial/ethnic distributions of students by level of degree, field of study, and sex were used to estimate race/ethnicity for students whose race/ethnicity was not reported. Detail may not sum to totals because of rounding.

Source: <https://nces.ed.gov/FastFacts/display.asp?id=72>

Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by including opportunities for community engagement and input, which helps incorporate the perspectives of those directly impacted by the proposed rules. The Wastewater Operator Certification Program is a statewide program, and proposed rules would apply to all areas of Oregon and all classified wastewater systems that require the supervision of at least one certified operator.

Alternative formats

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