

Meeting Summary

Wastewater Operator Certification Rulemaking 2024 Advisory Committee Meeting #1

April 19, 2024, virtual meeting (Zoom)



Attendees

Rule advisory committee members

Justine Abrook - Clean Water Services
Jim Baird - Roseburg Urban Sanitary Authority
Nathan Dryden - Jacobs, Wilsonville facility
Matthew Etzel - City of Aumsville
Matt LaForce - Clackamas Community College
Marcus Nichols - Treasure Valley Community College
Monty Norris - Oregon Association of Water Utilities
Tom Stow - Clean Water Services
Kim Symons - City of Culver Public Works
Amy Willman - Clackamas County Water Environment Services
Justin Young - City of Bend

DEQ Staff

Kieran O'Donnell, Tiffany Yelton-Bram, Kimi Grzyb, Mike Pinney, Paula Carson, Brenda Martinez, Melyssa Graeper

Interested parties

Brett Blofsky	Jeremy Stachowski	Ronald Lilienthal
Kyle Willman	Cornelis DeJonge	Mike Morgan
Nate Stice	Jerry Smith	Phil Lawrence
Kyle Stephens	Lance Cravinho Stratton	Robert Tilton
Dawn Russ	Daniel Hall	Gary Kaping
Jesse Wilson	Dwayne Barnes	Nicole Tritten
Andrew Grant	Matt Green	Robert Murray
Robert Murray	Elaine Payne	Greg Shafer
Seth Kelly	Steve Barnhardt	Mark Walter
Chris Camarena	Gabriel Beaudry	Eric Bufkin
Sally Bratton	Edher Estrada	Alex Cam
Dean Keranen	Walter Fenn	

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The materials on the proposed rules were available before the meeting, and are posted at this web page link: [Department of Environmental Quality : Wastewater Operator Certification 2024 : Rulemaking at DEQ : State of Oregon](#), and include these documents:

- Agenda
- Meeting 1 Slides (17 slides)
- Draft Rules
- Draft Fiscal Impact Statement

Agenda

Time	Topic
10:30 a.m.	Welcome, logistics, agenda review
10:35 a.m.	Introduction
10:45 a.m.	Rulemaking overview
11:05 a.m.	Fiscal and economic impacts discussion
11:35 a.m.	Racial Equity Statement
11:40 a.m.	Public Input Period
12 p.m.	Meeting adjournment

Meeting summary

I. Welcome, logistics, agenda review

The meeting agenda was reviewed and the recording of the meeting began.

II. Introductions

The Rules Advisory Committee members introduced themselves and their affiliations.

III. Rulemaking Overview

A. Operator Certification Program background:

The Oregon Revised Statutes 448.405 through 448.430 and 448.992 grant authority to DEQ to create a Wastewater System Operator Certification Program and give DEQ the authority to create rules to implement the statute. The Program is essential for protecting environmental and public health. The Oregon Administrative Rule, Chapter 340 Division 49, require wastewater systems to be under responsible control of certified operators. This statewide program certifies approximately 1,400 operators and classifies approximately 400 systems. The Program staffs two full-time DEQ employees. In March of 2023, the program transitioned from paper applications to Your DEQ Online (“YDO”), DEQ’s online data management system. The last Program rule revisions went into effect March 1, 2013. These new proposed rules have been developed in conjunction with our standing advisory committee and the scope of the rule proposals consider program resources and YDO limitations.

B. Expected Rulemaking timeline (dates subject to change)

- April 19, 2024:

Advisory committee meeting to review the proposed rules, discuss the fiscal impact portion of the rulemaking process.

- **May 2024:**
Optional 2nd committee meeting if needed
- **July 2024:**
Public comment period
- **August 2024:**
Public hearing
- **After close of the Public comment period:** review and response to public comments, preparation of report to DEQ Director Feldon, including the final fiscal impact statement which will incorporate participant feedback. These documents will be added to our Rulemaking webpage at <https://www.oregon.gov/deq/rulemaking/Pages/WasteWater2024.aspx>
- **November 2024:** The Environmental Quality Commission (EQC) meeting. If proposed rules are adopted, these rules go into effect in January 2025.

C. Meeting purpose

The purpose of the meeting was to provide input on:

- Draft Fiscal and Economic Impact Statement
- Racial Equity Statement
- Proposed Rules
 - 1) Defining full-time and part-time
 - 2) Facilitating operator reciprocity among states
 - 3) Updating pathways to certification
 - 4) Including an OIT option for Small Wastewater System operators
 - 5) Simplifying the way wastewater treatment systems are classified
 - 6) Adding a compliance extension request option for systems whose classification increases

D. Proposed Rules Overview

- 1) Addition of two new terms: “Full-time” and “Part-time” to Definitions section (OAR 340-049-0010).

Rationale: Due to improved technologies, a larger percentage of wastewater operators work remotely or alternate schedules, which is expected to continue. As a result, the terms full-time and part-time work have evolved. This Rule purpose is to clarify expectations regarding designated supervisory operator roles and responsibilities.

Systems with an average dry weather flow of 0.075 MGD or greater are required to be supervised full-time, and systems with average dry weather flow of less than 0.075 MGD must be supervised at least part-time by an operator that is certified at or above the classification of the system. We propose that part-time mean less than 30 hours per week, if employed by the system owner or city. If under contract supervision, part-time would be determined by the signers of the contract. Full-time would mean at least 30 hours a week if employed by the system owner or city, and if under contract supervision again it would be determined by the signers of the contract.

Rules Advisory Committee comments:

How to interpret allowed “remote” supervision, immediate response criteria: travel time, phone response availability, on-site requirements, etc. Are there conflicting citations for compliance requirements, e.g. part-time, full-time, definition of supervision, immediate, and emergency response, contract operator contract language. Kimi stated these comments will be considered.

- 2) Addition of text “DEQ-approved certifying entity”, for certificate issuance eligibility by Reciprocity (OAR 340-049-0050).

Rationale: Unpredictable natural disasters and the potential need for emergency response assistance requires improved portability of operators across state borders. Our current rules state that we can only

accept exam results from an applicant that is certified by another state or province. However, professional operators certified by Water Professionals International take the same nationally standardized exam required by DEQ. Adding the language “DEQ-approved certifying entity” can allow that exam score to be accepted. However, the applicant would still need to meet our education and experience requirements.

3) Updating the Minimum Qualifications for certification – addition of education and experience combinations (“Pathways”) to meet qualifications for the various certificate types and grades. (OAR 340-049-0030)

Rationale: Each type and grade of certificate has a minimum requirement of education and wastewater work experience. Currently, there are options for reducing the amount of time on the job by substituting education. DEQ proposes to expand on the qualifying college education to attract technology-savvy candidates. The proposed rules would also reduce the number of years in the field required, so as to align with the experience requirements used in neighboring states, Washington and Idaho. The 9th slide displays the proposed qualifications matrix in table form.

Rules Advisory Committee comments:

Has DEQ considered that shortening the required years of work experience for a grade III or IV lessens the value of the certification? e.g. for the more complex systems requiring more knowledge and experience to operate them. Would there be an experience exemption for operators working at smaller systems that are increasing in classification? Could the system be bumped up by 2 or 3 levels? Kimi reminded attendees that operators still need to pass an exam for certification, but the proposed rules would qualify them to sit for the exam sooner. Kimi stated that comments would be noted and this discussion continued after remaining proposed rules were presented.

4) Addition of the Operator-in-Training option for Small Wastewater System operator certification (OAR 340-049-0055).

Rationale: Since the addition of the Small Wastewater System classification in 2013, we have seen multiple Collection I / Treatment I systems reclassified to small wastewater systems at permit renewal. This new option provides an entry level pathway to certification for new operators at these systems. Operator-in-training applicants must have a minimum education of high school or GED, and they must enroll in a DEQ approved training program. After passing the exam, the operator has three years to gain the required experience and to submit a post-exam application with signed affidavit and the document verifying completion of the training program, for issuance of their full certification.

5) Simplification of Wastewater System Classification (OAR 340-049-0025):

Rationale: DEQ uses design population ranges to determine sewage collection system classification levels I-IV, which will remain unchanged. However, for sewage treatment plants, we use a multi-page classification worksheet to tally points for each feature of a treatment system, and that determines the treatment system classification, levels I-IV. Our DEQ engineers used the state of Washington's classification matrix as a model, in conjunction with the ABC need-to-know criteria and input from our standing advisory committee, to propose a new classification scheme.

Small wastewater systems (in rules text, but not in the table) would need to have one of the first three treatment types listed in the table, and be less than 500 design population or less than 150 connections. For larger systems, if more than one treatment type is used, the highest rated will determine the classification, levels I - IV. We're proposing that plants may be classified differently than the proposed table indicates if: They have characteristics that make operation more or less complex or difficult than other similar plants with the same flow range. Or if: The conditions of flow or the use of the receiving waters require an unusually high degree of plant operational control. Or if: They use an approved method of wastewater treatment that is not included in this section.

Rules Advisory Committee comments:

Clearer definition of the term “wetlands”, e.g. will it include the various natural treatment systems to attain polishing? Mike Pinney, DEQ Engineer, responded that systems will be looked at on a case-by-case basis.

6) Extension of Compliance time request option, for up to 365 days, for supervisory operator if the system classification increases (340-049-0015), upon meeting conditions:

Rationale: Under current Rule, DEQ may grant a time extension of up to 120 days to attain compliance with the requirements of a certified supervisory operator. (Due to a system supervisor being either unavailable, or the position is vacated unexpectedly, and another certified operator is not qualified to assume supervisory responsibility). However, with many higher grade operators retiring and the possibility of the system classification increasing, either with the proposed table or plant upgrades, we are proposing that if the supervisory operator has been employed at that system for at least one year and is certified at no more than one grade lower than the new classification, and there have been no class one violations, then that extension could be granted for up to 365 days, to either allow that operator additional time to upgrade their certification or allow the system owner to find another suitable operator. Examples of class one violations include permit limit violations or failing to monitor. The request must include: date of vacancy, schedule to acquire new designated operator, name/certificate information of interim system supervisor, as currently required to request a 120-day extension.

IV. Fiscal and economic impacts discussion and member input

Fiscal Impact Statement

1. Will the rule have a fiscal impact?
2. What will the extent of that impact will be?
3. Will the rule have a significant adverse impact on small businesses?
4. If the draft rules will have a significant adverse impact on small businesses, provide recommendations about how DEQ can comply with ORS 183.540 to reduce the rule’s economic impact on those businesses.

We are asking the Rules Advisory Committee to evaluate DEQ’s fiscal impact statement which was provided in advance. Because this rulemaking does not involve fees, the fiscal impact is expected to be minimal. However, now we are asking for your feedback.

Rules advisory committee comments:

No comments received from RAC during presentation of the proposed rule, but DEQ will also accept written comments from the Rules Advisory Committee via email to Kimi by next Friday, April 26. The open public comment period includes another opportunity, where the public will be able to provide written comments.

V. Racial Equity Statement

Per Oregon Revised Statute 183.335, state agencies are required to provide a statement identifying how adoption of a rule will affect racial equity in the state. DEQ has drafted the following statement:

“Adoption of the proposed rule would affect wastewater operator certifications 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, which may be particularly important to communities that fish for subsistence, such as indigenous communities.”

VI. Public Input Period

1) Questions and answers chat questions

Typed Question	Response
Currently, pre-treatment and laboratory experience has been rejected for qualifying experience. Is this going to change?	Pre-treatment and laboratory experience count as "related" experience, but half of the required experience must be "direct" experience at a classified system that handles domestic sewage.
Why would not all 4 year college degrees count as post high school education? Most are just as relevant as an Engineering degree i.e.: Business management.	Current rules specify the subjects allowed to substitute education for experience, and in light of potentially reducing the experience requirement for applicants with a four-year degree, the Program feels that a degree in specified subjects should be required. However, individual approved courses completed as part of another four-year degree may count towards post-high school education.
If you increase the classification level of the facility, then in turn you are increasing the fees that DEQ is collecting. In Eastern Oregon, without any representation on this committee, they would be more affected by having mostly small communities.	DEQ charges an annual Operator Certification Program Support Fee based on ADWF, not system classification level.
Would you allow someone lacking High School or GED completion, but working in wastewater, to be approved for an exam, prior to completing that?	This was not considered for this rulemaking. Currently if this is requested, we require the operator to attain their GED.
Can we get a copy of the slide show or just an outline of the proposed changes?	These materials are available on the rulemaking web page.
Would a State that doesn't use ABC (California, for example) be considered a "DEQ approved entity" for reciprocity?	No, California would still be considered a state. Currently, we may grant a waiver from the exam at one grade lower if the applicant has passed an exam other than the nationally standardized ABC exam.
Is the fiscal impact to the contract system supervisor businesses going to be considered? Many qualify as small businesses. The supervisor compliance extension from 120 days to 365 days will potentially reduce the number opportunities for contract supervision businesses to propose contracts to serve as interim supervisors; as a negative fiscal impact.	This will be noted in the final fiscal impact statement.
I would just like to lend weight or echo Jim's comment regarding wetlands. That is a key component of the treatment system for nutrient removal in order to maintain permit compliance. The system classification should reflect this, enabling operators to achieve higher classification, benefiting the Statewide operator pool. It also requires certain expertise to operate and maintain.	The proposed rule would allow a system to be classified differently than Table A dictates. Each system is and will continue to be classified on a case-by-case basis in conjunction with DEQ staff and plant owners/operators.

Typed Question	Response
Wouldn't a Contract Supervisor need a designated operator on site if they couldn't be on site or is only available by phone for an on-site, or on-call person?	Each classified system must be supervised by an operator that is certified at or above the classification of the system, but uncertified operators on site may work under remote supervision.
Could you have a provisional license that allows you take the test without required experience and education, then remove the provision once the experience and education is met?	The YDO system does not currently allow for this option other than for Grade I, so this was not considered for this rulemaking.
Can you apply for the next grade level higher than the system you work at?	Operators may apply for the certification type/grade that they qualify for regardless of the level of the system they currently work at.

2) Round table discussion:

RAC member elaborated on possible conflicts or violations, or 3rd party lawsuit, with inability of remote contract supervisor to actually respond to an emergency in a timely manner. Can “immediate” be defined; response time increment or miles maximum be specified, or specific response communication technology be required? Or require certain elements in the supervision contract language? What about if the permanent supervisor is gone on vacation, or out on disability or illness, etc.? What requirements apply then? Kimi reminded attendees that per current rules, a system is not allowed to be without a supervisory operator for more than 30 days, and if additional time is needed, an extension may be requested.

Question from group was asked for clarification on how pre-treatment experience was considered as qualifying “related” experience, (related, but not “direct”) as distinguished from domestic (direct) wastewater treatment experience. Kimi responded that experience is counted as direct if it is at a classified system, and classified systems are those that handle domestic sewage.

RAC member stated that operators working during a plant upgrade will gain valuable experience that could help contribute to their qualifications toward a higher certification level.

Question from the group from a large aerated lagoon system, raised concern with the simplified classification scheme, that if it is currently a Class IV, could it get dropped to a Class II. Does it account for other features e.g. headworks, screening, washer compactor, blower, aerator, odor mitigation, etc. that it may have? Will there be a case-by-case analysis of such? Kimi stated that system classification is currently (and will continue to be) done on a case-by-case basis in conjunction with DEQ staff and system owners/operators.

RAC member asked would it be practical to require a municipality that is going through an upgrade have their operator attend one of the approved community college courses? Another attendee said there may not be time to take a course. Kimi stated these comments will be considered.

RAC member asked if someone wants to upgrade, to base the qualifier not on system class, but on their current grade level, and their time certified at that grade, e.g. their time certified as a Grade III operator, could count similarly to time at a Class III system, such as they are working at a Class II, but not at a Class III, when could they test for the next level up? Kimi summarized the comment for clarity confirmation, stated this feedback will be considered, and thanked attendees.

3) Meeting adjourned at 11:49 am.