



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

Nov. 22, 2024

Rulemaking Action Item L Wastewater Operator Certification 2024

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Translation or other formats

Español | 한국어 | 繁體中文 | Русский | Tiếng Việt | العربية
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DEQ recommendation to the EQC

The Department of Environmental Quality recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

Language of Proposed EQC Motion:

“I move that the Environmental Quality Commission adopt the proposed rule amendments in Attachment A as part of chapter 340 of the Oregon Administrative Rules.”

Introduction

The Oregon Department of Environmental Quality invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

Overview

Trained and certified operators ensure that wastewater systems function in a manner that protects public health, the environment, and the associated equipment. 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. DEQ is proposing changes to the operator certification rules to clarify existing rules and address the growing challenge of ensuring there is a sustainable, certifiable workforce to operate and maintain Oregon's wastewater utilities. This effort includes:

- Defining full-time and part-time supervision.
- Facilitating certification reciprocity among states.
- Expanding pathways to certification.
- Including an operator-in-training option for small wastewater system operators.
- Simplifying the way wastewater treatment systems are classified.
- Adding a compliance extension request option for systems whose classification increases.

Without adoption of these proposed rules, Oregon would likely risk having an insufficient number of appropriately qualified operators and see an increased number of wastewater systems run by uncertified and unqualified operators. In turn, this could lead to an increase in the discharge of untreated or insufficiently treated wastewater, non-compliance, and threats to water quality and public health.

Statement of need

Proposed Rule or Topic	Discussion
Addition of definitions for full- and part-time	
What need would the proposed rule address?	These terms are referred to by other rules regarding the designated supervisory operator requirement but are currently undefined.
How would the proposed rule address the need?	Defining the terms would clarify the requirements for system supervision.
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need if DEQ receives fewer questions about the requirements for system supervision and permitted facilities cite the defined terms in their service contracts.
Acceptance of nationally standardized exam score for reciprocity applicants certified by a DEQ-approved certifying entity	
What need would the proposed rule address?	There is an impending shortage of wastewater operators in Oregon. Currently the rules require a reciprocity applicant be certified by another state or province and we may require them to take an exam. The organization that creates and validates the nationally standardized wastewater exams used by Oregon and over 40 other states, also offers certification. DEQ is proposing to accept certifications by other approved entities if they use the same exam we do.
How would the proposed rule address the need?	Adding DEQ-approved certifying entity would allow and could encourage Professional Operators to become certified in Oregon, because they wouldn't need to pass the exam again. They would still need to meet DEQ's education and experience requirements.
How will DEQ know the rule addressed the need?	DEQ will know the need was addressed if reciprocity applications are received from Professional Operators.
Acceptance of four-year degree and graduate degrees to reduce experience requirement at all grades	
What need would the proposed rule address?	There is currently a limited amount of higher grade (III-IV) certified operators in Oregon, and many of these operators will be retiring.
How would the proposed rule address the need?	Currently, four-year degrees only reduce the experience requirement for Grade IV operators.

	Granting experience credit to applicants with four-year science, math, engineering, and water/wastewater degrees could increase the number of applicants holding a four-year degree, which, in turn, could increase the number of certified operators. These operators could also upgrade faster than those with only high school or general education development (GED) education.
How will DEQ know the rule addressed the need?	If these rules are adopted, Oregon should see more operators certified at higher grades and, consequently, fewer unsupervised or under-supervised systems, resulting in greater protection of public health and the environment.
Addition of Small Wastewater System (SWWS) Operator-in-Training (OIT) Pathway to Certification	
What need would the proposed rule address?	Since 2013, when the SWWS certification and system classification was added to the OARs, multiple combined collection and treatment class I systems have been re-classed to SWWSs. However, there currently is no entry-level pathway for SWWSs like there is for Collection and Treatment grade I certification.
How would the proposed rule address the need?	By adding a SWWS OIT pathway, operators with high school or GED can be approved to take the SWWS exam without the required amount of operating experience, if they enroll in a DEQ-approved training program. Once they pass the exam, they have three years to gain the required one year of experience to be issued their full certification.
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need if DEQ receives SWWS OIT applications.
Simplification and modernization of system classification	
What need would the proposed rule address?	Currently, DEQ uses a multi-page classification worksheet to tally points for each feature of a treatment system to determine the treatment system classification. To make classification clearer and less subject to change, DEQ proposes a simpler system that focuses on the main treatment technology.
How would the proposed rule address the need?	DEQ developed Table A using the State of Washington's classification matrix as a model, along with the nationally standardized exam need-to-know criteria, which is determined by a national

	job analysis, to simplify and modernize the classification of systems.
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need if DEQ receives fewer questions about treatment system classifications.
Designated supervisory operator compliance extension	
What need would the proposed rule address?	With many operators retiring, and the possibility of a treatment system classification increasing through the proposed Table A or upgrades, a system may need additional time to find a suitable operator. This rule would only apply to existing systems whose classification increases.
How would the proposed rule address the need?	The proposed rule would allow the 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 hire a higher-grade operator, or find a contract operator, to be in compliance.
How will DEQ know the rule addressed the need?	DEQ will know that the rule addressed the need if treatment systems that increase classification maintain a compliant designated supervisor.

Rules affected, authorities, supporting documents

Lead division

DEQ's Water Quality Division

Program or activity

The program is DEQ's Wastewater System Operator Certification program as described in the [Oregon Administrative Rules, Chapter 340, Division 049](#).

Chapter 340 action

Amend				
340-049-0015	340-049-0020	340-049-0025	340-049-0030	340-049-0035
340-049-0040	340-049-0045	340-049-0050	340-049-0055	340-049-0065
340-049-0010	340-049-0080			

Statutory Authority - ORS				
468.020	468.065	448.410	468.020	468B.030

Statutes Implemented - ORS				
ORS 448.405 - 448.430	448.992	468B.010 - 468B.020	468B.030	468B.050

Documents relied on for rulemaking

Document title	Document location
State of Washington Operator Certification Education and Experience Requirements and Classification of Wastewater Treatment Plants	Chapter 173-230 WAC:
Idaho Board of Wastewater Professionals License Requirements	IDAPA 24 - Division of Occupational and Professional Licenses.book (idaho.gov)
EPA Water Sector Workforce	https://www.epa.gov/sustainable-water-infrastructure/water-sector-workforce
ABC Testing (including exam development information and need-to-know criteria)	Exceptional Certification Testing Services by Water Professionals International (gowpi.org)

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 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. 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 or upgrades, 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 a permit holder up to 365 days to hire an appropriately certified operator. The proposed rule would 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 a contract operator, to be in compliance. This would also allow retention of the existing operator's institutional knowledge of the system, rather than hiring someone that is unfamiliar with the system, to maintain compliance. Conversely, the proposed rule could reduce or limit contract opportunities for contract operators. 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 for 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. It 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 met with a rules advisory committee on April 19, 2024. The committee was 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, DEQ requested committee members share concerns about potential impacts to small businesses and how impacts can be reduced. A certified operator, who is also the owner of a small business that provides contract operation services, attended the rules advisory committee meeting and commented on the effect of the proposed rules on contract operators, and this notion was included above under local governments.

Documents relied on for fiscal and economic impact

Document title	Document location
National Center for Education Statistics: Degrees Conferred by Race/Ethnicity	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 are stated in the approved minutes dated April 19, 2024.

The committee did not suggest changes to the draft fiscal and economic impact statement, but a comment by a non-committee attendee prompted the inclusion of a statement regarding potential reduction of contract opportunities if proposed rules allow system owners to request a longer extension to attain a suitable supervisory operator. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

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 to communities that fish for subsistence, such as indigenous communities.

The proposed rules adjust the requirements for education and experience to be more appropriate for the work requirements. This includes establishing additional criteria for certification that includes a combination of education and hands-on experience. 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 white students have more access to college education than other racial groups.

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

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.

Environmental justice analysis

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections. 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. As discussed in the Racial Equity section above, right-sizing criteria for operator certification will support environmental justice and benefit everyone in Oregon.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to adopt rules that correspond with existing equivalent federal laws and rules, when available, unless there are reasons not to do so. In the case of the Wastewater Operator Certification Program, there is no corresponding federal regulation.

What are the scientific, economic, technological, administrative and other reasons for exceeding applicable federal requirements?

The originating legislation is state statute, not federal law. ORS 448.405 through 448.430 and 448.992 give DEQ authority to create rules to set up and implement a certification program.

There are many other states with similar programs, but there is no federal requirement for states to have certification programs for wastewater operators.

What alternatives did DEQ consider and why are you not pursuing them?

DEQ did not consider any alternatives because DEQ is authorized by statute to implement a certification program and has been doing so since 1988.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program, specifically because the Wastewater Operator Certification program certifies people and classifies systems, so there is no impact on the way land is used.

EQC prior involvement

EQC was notified of this rulemaking through DEQ's Rulemaking Plan and DEQ also shared information about this rulemaking with the EQC through an informational item on the September 2024 EQC agenda.

Advisory committee

Background

DEQ convened a wastewater operator certification rules advisory committee. The committee included representatives from all DEQ regions of Oregon, including small and large wastewater system operators and owners, as well as educators, and met one time on April 19, 2024. Ten out of the 11 Rules Advisory Committee members are also current members of the Operator Certification Program’s standing advisory committee, which is required by rule to meet at least twice a year to evaluate effectiveness and recommend needs of the program. DEQ updates the [committee’s web page](#) throughout the rulemaking process.

The committee members were:

Wastewater Operator Certification Advisory Committee	
Name	Representing
Justine Abrook	Clean Water Services
Jim Baird	Roseburg Urban Sanitary Authority
Nathan Dryden	Jacobs
Matt 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	Culver Public Works
Amy Willman	Clackamas County WES
Justin Young	City of Bend

Meeting notifications

To notify people about the advisory committee’s activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists, which included 24,755 recipients:
 - Rulemaking
 - DEQ Public Notices
 - Wastewater System Operator Certification Program
 - Added advisory committee announcements to [DEQ’s calendar of public meetings](#).

Committee discussions

In addition to the required questions about the fiscal and economic impact, DEQ invited committee members and non-committee members to comment on all proposed rules during the April 19, 2024 meeting. Comments are documented and addressed below.

Committee members expressed concern over the requirement for a shift supervisor to “immediately” respond on site during an assigned shift since some contract operators may be located far away from a site. The current rules do not include a definition of “immediately” nor do the proposed rules. In rules, undefined terms default to the dictionary definition. DEQ does not monitor or enforce details of contracts between system owners and contract operators and thus does not have an expectation of what “immediately” means. Instead, DEQ expects system owners to understand the requirements of a designated supervisory operator and determine contract details based on their system needs and features, such as other operators on site, distance between the site and the contract operator’s home or office, and accessible remote communication technology. The committee discussed the option of utilizing video calling for the supervisory operator to assist the operator on site, if needed.

During the presentation of the proposed reduced experience requirement for those with high school only education, a committee member expressed concern over the value of certification if the required amount of experience is reduced. DEQ informed attendees that the proposed rules were developed based on the experience requirement for certification of the neighboring states of Idaho and Washington. An operator’s education and experience qualifies an operator to sit for the exam, but they still need to pass the exam to be certified. The exam is nationally standardized, used by over 40 states, based on a defined set of need-to-know criteria, and developed through a national job analysis and stringent validation process. A non-committee member asked if the minimum education requirement of high school/GED could be waived, but in light of the proposed reduction of required experience for all education levels at various grades, that was not included in the draft rules, because a high school degree or GED indicates a minimum level of necessary literacy and math capabilities. Similarly, a non-committee participant asked why any type of four-year college degree would not count towards reduced experience. Currently, the rules require degrees to be in the fields of engineering, chemistry, water/wastewater technology or physical/biological science to be acceptable, which provides relevant education to wastewater system operation that, for example, a theatre or foreign language degree may not. However, this question prompted DEQ to include in the draft rules a qualifying allowance for any “other subject determined relevant by the Director to wastewater system operation.” Examples include data analysis and computer science degrees, which may be pertinent to modern wastewater system operations.

During the presentation of the proposed criteria for classifying wastewater treatment systems, Table A, committee members asked questions regarding the definition of wetlands and whether the term includes both natural and artificial wetlands. After additional discussion with DEQ Water Quality managers from Northwest, Western, and Eastern regions of the state, DEQ removed wetlands from Table A. The proposed rules referencing Table A state that wastewater treatment systems may be classified differently if they use an approved method of wastewater treatment that is not included in Table A, so wetland type and use, if applicable, will be considered on a case-by-case basis during the classification process. In addition, the proposed table guidance states that if more than one treatment type is used, the highest rated will determine the classification.

A committee member asked what would happen regarding the class-qualifier requirement if a system happened to increase more than one class with the proposed Table A. Grade III and IV operators must have half of their experience occur at a Class II or Class III system, respectively, to qualify to take the exam. So, if a system were to increase more than one class, for example from a Class II to a Class IV, an operator working at that system for decades still could not apply for Grade IV certification according to current rules. Although DEQ engineers did a sampling of how the proposed Table A would affect the classification of existing systems and did not see a

system increase more than one grade, there is the possibility this could occur. It could also occur if a smaller plant does major upgrades. A discussion ensued about options to address this potential scenario, which included ideas about additional education requirements or experience exemptions, as well as mention of the approximately two or more years it can take for DEQ design approval and construction completion for planned upgrades. As a result, DEQ edited the draft rules to include "Operators that attain a higher grade certification than the classification of the system they are employed at may receive experience credit for working at a system corresponding to their certification level." 340-048-0030(8). This proposed rule would not only address this potential issue for classification increases due to the proposed Table A or upgrades, but it could also encourage or motivate operators to upgrade their certifications when they qualify, instead of just maintaining their current grade certification.

DEQ received no comments about the draft fiscal impact statement from the committee. However, DEQ updated the statement since the committee meeting, based on a comment by a participating operator who is also the owner of a small business for contract operation. Lastly, there was some expressed confusion about fees increasing if a system is classified higher based on the proposed rules, but that is not the case because the Operator Certification Program determines the annual program support fee based strictly on Average Dry Weather Flow and not the system's classification.

Public engagement

Public notice

- DEQ provided notice of the proposed rulemaking and rulemaking hearing by:
- On July 23, 2024 filing notice with the Oregon Secretary of State for publication in the August 2024 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the [webpage for this rulemaking](#);
- Emailing approximately 24,755 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Wastewater System Operator Certification Program
- Emailing the following key legislators required under [ORS 183.335](#):
 - Jeff Golden, Chair Senator, Senate Interim Committee on Natural Resources
 - Fred Girod, Vice-Chair Senator, Senate Interim Committee on Natural Resources
 - Janeen Sollman, Chair Senator, Senate Interim Committee on Energy and Environment
 - Lynn Findley, Vice-Chair Senator, Senate Interim Committee on Energy and Environment
 - Ken Helm, Chair Representative, House Interim Committee on Agriculture, Land Use, Natural Resources and Water
 - Mark Owens, Vice-Chair Representative, House Interim Committee on Agriculture, Land Use, Natural Resources and Water
 - Annessa Hartman, Vice-Chair Representative, House Interim Committee on Agriculture, Land Use, Natural Resources and Water
 - John Lively, Chair Representative, House Interim Committee on Climate, Energy and the Environment
 - Bobby Levy, Vice-Chair Representative, House Interim Committee on Climate, Energy and the Environment
 - Emerson Levy, Vice-Chair Representative, House Interim Committee on Climate, Energy and the Environment
 - Michael Dembrow, Co-Chair Senator, Joint Ways & Means Subcommittee on Natural Resources
 - Khanh Pham, Co-Chair Representative, Joint Ways & Means Subcommittee on Natural Resources
- Emailing advisory committee members; and
- Posting on the [DEQ event calendar](#).

Public hearing

DEQ held one public hearing. DEQ received one comment at the hearing. Later sections of this document include a summary of the seven additional comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding officers' record

Hearing 1

Date	Aug. 15, 2024
Place	Virtual and by teleconference only
Start Time	3 p.m.
End Time	3:31 p.m.
Presiding Officer	Kimi Grzyb

Presiding officer

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

Eight people attended by teleconference or webinar. One person commented orally at the hearing.

Summary of public comments and DEQ responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from July 23, 2024 until 4 p.m. on Aug. 21, 2024.

For public comments received by the close of the public comment period, the following table organizes comments into eight categories with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ and shown below.

DEQ changed the proposed rules in response to comments described in the response sections below. Instead of proposing that the renewal notices will be solely emailed, the proposed rule was edited based on these comments to state that the notices will be emailed and/or sent to the last mailing address of record. This will allow for both manners of communication until all affected parties have regular access to email.

Comment 1

Tony Martin, AJ's Auto Repair

This sounds like a good idea but don't we already have a responsible [sic] unit to do this. If not then why hasn't this been thought of earlier being the importance [sic]. Where is the training coming from? How does the certification process work?

Response

Thank you for your comment. Please refer to the [DEQ Wastewater System Operator Program webpage](#), or contact Kimi Grzyb at 503-229-5349 if you have additional questions.

Comment 2

Chantal DesJardin, City of Mt. Vernon

I expressed my concern to OAWU that the committee lacked representation from smaller systems or those in eastern Oregon. When I reviewed the proposed changes, I did not find meaningful changes that would improve certification challenges for small and rural systems. Rulemaking that does not take into consideration the conditions and needs of these communities, undermines our resilience and threatens our futures. The proposal to require email-only notices highlights this disregard for inadequately represented communities. With many unserved and underserved communities, who continue to lack adequate digital access, capital, and training, it is another example of increasing repercussions of continued ignorance and dismissal regarding the rulemaking inequity across Oregon. I urge you to consider the lack of redundancy, access to resources (including higher education), and impacts of rulemaking without representation. Please consider the threat to public health when single operator systems continue to struggle because focus and priority was placed on higher system needs. Any additional understanding of conversations which have been held around alternatives or more creative solutions to the requirements for provisional certificates would be welcome. Considerations regarding the ever declining availability of certified operators to supervise or the challenge for operators who struggle to gain the experience during the 12 month period to pass the exam would also be appreciated.

Response

Thank you for your comment. The Rules Advisory Committee for this rulemaking included a representative from the [Oregon Association of Water Utilities](#), which is a state affiliate of the National Rural Water Association, as well as a representative from Treasure Valley Community College, located on the eastern border of Oregon. Please refer to this ^[OBJ]HYPERLINK "https://www.oregon.gov/deq/permits/Documents/YDOIvestmentFS.pdf" [fact sheet about DEQ's implementation of Your DEQ Online^{\[OBJ\]}](#), an agency-wide web-based platform. Additionally, the Wastewater Operator Certification Program will continue to mail renewal notices, in addition to sending them via email through YDO.

Your other comments regarding provisional certificate requirements and operators struggling to gain experience were addressed in the posted Notice of Proposed Rulemaking, where an Operator-in-Training pathway and reduced experience requirement for those with an acceptable college degree have been proposed for small wastewater system certification. Because your comment mentions inadequate digital, capital, and training access for small, rural systems, which is not specific to the proposed Wastewater Operator Certification rules, DEQ has shared your comment with our Chief Information Officer and the Governor's Office.

Comment 3

Greg Brittle

I feel like the Wastewater Operator and Treatment certifications need to be completely separated. My personal opinion is that the Operator test as it sits now asks too many treatment related questions. I recently passed my WW3 by the skin of my teeth with a score of 71. Had the treatment questions been removed and replaced with collections questions I feel I feel my score would have been much higher. This is not just my opinion. Having spoke with multiple operators in the Tri-County area they all feel the same about this topic.

Response

Thank you for your comment. For certification, DEQ requires an operator to pass the same nationally standardized exams that are required by over 40 other states and Canadian provinces. Depending upon the certification type a person is seeking, they may take a Treatment or a Collections exam. There is a little overlap in the questions for both types of exams because the work of an operator requires some understanding of both treatment and collections. The development of these exams includes: a national job analysis, preparation of a list of need-to-know criteria that is available to operators and covers topics acceptable for the exam, exam item creation by certified subject matter experts who have at least 10 years of operating experience in the discipline for which they are writing questions, and a thorough validation process, including a psychometric analysis to determine each question's appropriateness to appear on a certification exam designed to assess the competence of an operator. For more information about the rigorous exam development process, please visit the [Water Professionals International website on testing](#).

Comment 4

John Angus, Sr. Public Utility Worker, City of Gresham

I have been in the Wastewater industry for about 19 years. I have in that time obtained my 1,2, and now my 4 certifications for collections. I believe it should be required to obtain at a minimum, provisional by 6 months. It's not required so in the municipal world you're no different than a parks employee. Not that they are not as important. But the two should not be paid the

same. It would help justifying more pay for a job that requires more skill and training. This would make wastewater jobs more sought after and desirable to the working person.

Response

Thank you for your comment. Per the current Wastewater Operator Certification rules, DEQ requires at least one Designated Supervisory Operator certified at or above the classification of the system, for each system that handles domestic sewage. DEQ does not have the authority to enforce mandatory certification for every operator within six months of employment. Additional certification requirements and pay incentives is the responsibility of the municipality, employer/permit holder, or system owner. Furthermore, previous discussions separate from this rulemaking with the regulated community and Operator Certification Program's standing advisory committee have revealed opposing views of mandatory certification, due to the cost of obtaining and maintaining a certification.

Comment 5

Brian Kimball, NW Natural Water Services

My experience with struggling to get certified, or to increase my certification is the hands on time requirement. Most WW systems don't require a lot of time to operate day to day. This often means an under-certified operator may work less than an hour on a WW system per day. This would require 8 years for a single person. 4 years if you substitute half the experience. Can we entertain the idea of using the years being responsible for a system, opposed to hands on hours? I've been the operator of a system for 10 years. DEQ allowed me to test for the Level 1 WW operator even though I didn't have the time. This was through the OIT program. I have other employees who perform the daily monitoring and required treatment. I have been the only one to have Operational Decision Making. I know many other WW systems need operators, and I can't offer my services if they are higher than a grade 1. I cannot increase my certification higher because of this requirement. I primarily work in the drinking water side of our industry. I have level 3s for treatment and Distribution.

Response

Thank you for your comment. Per the current OARs, "Operating Experience" means the routine performance of duties, tasks and responsibilities at a wastewater treatment system or wastewater collection system that affect wastewater system performance or effluent quality, and "Operator" or "Wastewater System Operator" means any person engaged in the routine on site performance of duties, tasks and responsibilities in the operation of a wastewater treatment system or a wastewater collection system. This term does not include officials, managers, and engineers, directors of public works or equivalent whose duties do not include the actual "hands-on" operation or supervision on site of wastewater system facilities or operators. Based on these definitions, being responsible for operational decision making would count as qualifying experience towards certification. The Operator Certification Program determines qualifying time based on your application, which indicates what percentage of your time is spent in different areas, including drinking water, wastewater, stormwater, pre-treatment, and miscellaneous duties. Your comment states that you work primarily in the drinking water industry, which counts as related experience towards certification, but the percentage of time you are working as the operational decision maker for a wastewater system would count as direct wastewater experience, so you are encouraged to apply for a higher grade certification when you have attained the required experience.

Comment 6

Ron Polach

I believe 6 years for the grade 3 and 8 years experience for the grade 4 is adequate.

Response

Thank you for your comment.

Comment 7

Kayla Boylan, Environmental Manager, Lamb Weston, Hermiston

I have a question regarding the updated classification for domestic wastewater treatment systems under Table A. Currently the Lamb Weston Hermiston system is a C1/T2 system under our WPCF permit #102295. With the updated classification on the proposed rulemaking, I wanted to confirm if there was going to be any changes to our classification level for our permit? If you could please let me know, that would be great.

Response

Thank you for your comment. Because the proposed Table A is not finalized unless adopted by EQC, we will await their decision before reviewing the classification of systems using Table A. If adopted, system classifications will be reviewed when permits are renewed, unless requested outside of the regular permit renewal cycle, as in your case, so someone from the program will contact you when EQC has made its decision about proposed Table A.

Comment 8

Marcus Brenden

The new Rules sound good. Does it mean that an operator can become a Grade 4 while working at a Class 2 facility?

Response

Thank you for your comment. Based on a discussion during the Rules Advisory Committee meeting in April 2024, DEQ proposed in the Notice of Rulemaking that "Operators that attain a higher-grade certification than the classification of the system they are employed at may receive experience credit for working at a system corresponding to their certification level." If adopted by EQC as proposed, a Grade II operator working at a Class II system, who is self-motivated and attains a Grade III certification, may gain experience credit for working at a Class III system. Passing the Grade III nationally standardized exam indicates this operator has mastered the need-to-know criteria for a Grade III operator. If that operator continues working at that Class II system as a Grade III operator for long enough to attain the required experience at a Class III system for a Grade IV certification, then an operator could become certified at Grade IV while working at a Class II system.

List of Comments		
Comment #	Comment Summary	Commenter Numbers
1	Supportive of proposed rules, had general questions about existing program training and certification	1
2	Concerns about lack of representation from smaller, rural communities and lack of digital access and other resources for these communities	2
3	Issues with content of required nationally standardized certification exams	3
4	Suggestion to require mandatory certification by six months of employment	4
5	Issues with “hands-on” experience requirement for certification	5
6	In favor of reduced experience requirement for Grades III and IV	6
7	Specific question asking whether their system classification would change using the proposed Table A	7
8	Clarifying question regarding details of the proposed rule that would allow an operator who upgrades to a higher-grade certification to gain qualifying experience for working at a system that corresponds to the grade of their certification	8

List of Commenters				
#	Name	Organization	Comment Number	Hearing #
1	Tony Martin	AJ's Auto Repair	1	1
2	Chantal DesJardin	City of Mt. Vernon	2	1

List of Commenters				
#	Name	Organization	Comment Number	Hearing #
3	Greg Brittle	Self	3	1
4	John Angus	City of Gresham	4	1
5	Brian Kimball	NW Natural Water Services	5	1
6	Ron Polach	Self	6	1
7	Kayla Boylan	Lamb Weston, Hermiston	7	1
8	Marcus Brenden	Self	8	1

Implementation

If adopted, the proposed rules would become effective upon filing on approximately Jan. 1, 2025. DEQ would notify affected parties by:

- Posting an announcement on the DEQ Operator Certification web page.
- Sending a notification to GovDelivery and Your DEQ Online subscribers interested in wastewater operator certification updates.
- Announcing rule adoption in-person at 2025 operator conferences and short school presentations by DEQ staff.
- Emailing advisory committee members and relevant DEQ staff (permit writers, engineers, and subject matter experts that classify wastewater treatment systems, and DEQ's Office of Compliance and Enforcement).

Systems

An announcement, adopted rules, and updated program information and guidance documents will be posted to [DEQ's website](#)

The current classification worksheet and instructions will be removed from the Tools for Permit Writers internal DEQ guidance document and replaced with new documents.

Training

Training regarding adopted rules will be provided for DEQ staff as needed.

Five year review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).