

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED
11/26/2018 10:27 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Improvement of the certification process for operators of public drinking water systems

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/28/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Brittany Hall
503-449-9808
publichealth.rules@state.or.us

800 NE Oregon St. Suite 930
Portland, OR 97232

Filed By:
Brittany Hall
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/18/2018

TIME: 10:00 AM

OFFICER: Staff

ADDRESS: Portland State Office

Building

800 NE Oregon St. Room 1C

Portland, OR 97232

NEED FOR THE RULE(S):

The Oregon Health Authority, Public Health Division (OHA) is amending these rules to allow greater flexibility accepting qualifying education in place of work experience and to charge prorated fees for partial periods of certification.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Administrative Rules chapter 333, division 061 and Oregon Revised Statutes chapter 448 are available for inspection at the Oregon Health Authority, Drinking Water Services, 800 NE Oregon Street, Suite 640, Portland, OR 97232 or by calling 971-673-0405.

Oregon Administrative Rules and Oregon Revised Statutes are also available from the internet at:

- http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_061.html;
- https://www.oregonlegislature.gov/bills_laws/ors/ors448.html.

FISCAL AND ECONOMIC IMPACT:

A small economic benefit for certified individuals is expected from these rule amendments as a percentage of water

system operators will be able to take advantage of prorated fees for their initial year of certification. This benefit will range from \$45 to \$98 depending on the level of certification an individual qualifies for. Other operators may take advantage of operator in training status to obtain employment that may have been otherwise unavailable.

Prorated certification fees are expected to be required during most budget cycles. When prorated fees are charged, OHA expects fewer than 150 individuals to qualify for prorated fees during any biennium, resulting in less than a \$15,000.00 decrease in revenue.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) OHA will not incur additional administrative costs to implement these rule amendments. There is no anticipated cost of compliance impact on other state agencies, units of local government, or the public as a result of the proposed amendments.

(2)(a) Approximately 1,300 certified water system operators are estimated to be subject to these rules and may own or be employed by a small business.

(b) N/A

(c) N/A

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Drinking Water Advisory Committee, which includes representatives for certified water system operators and privately-owned public water systems, reviewed the proposed amendments and related documents.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

333-061-0228, 333-061-0235, 333-061-0245, 333-061-0265

AMEND: 333-061-0228

RULE SUMMARY: OAR 333-061-0228 is amended to repeal the option to pass a written examination to earn small water system certification because only training is required.

CHANGES TO RULE:

333-061-0228

Certification Requirements ~~F~~for Small Water System Operators ~~I~~

(1) ~~In order to apply~~ To qualify for certification as the operator of a water system classified as small as prescribed by

OAR 333-061-0220(1), individuals must:

(a) Have graduated from high school or completed an approved GED program; and

~~(A) Completed an Authority-approved training for small water system operations and water treatment processes; and~~

~~(B) Pass an Authority approved written examination relating to small water system operations and water treatment; and~~

~~(b) Submit~~ Have submitted a certificate demonstrating the completion of the required training ~~or examination specified in paragraphs (1)(a)(A) or (B) specified in subsection (1)(a) of this rule.~~

(2) Certification at the small water system level expires on July 31 three years after the training ~~or examination as specified in paragraphs (1)(a)(A) or (B) specified in subsection (1)(a) was completed.~~

(3) Individuals certified as prescribed by OAR 333-061-0235 through 333-061-0265 at levels 1 through 4 for water distribution or water treatment are qualified to be designated in direct responsible charge of a water system classified as small as prescribed by OAR 333-061-0220(1).

(4) Small water system operator certification as prescribed by this rule is exempt from fees.

Statutory/Other Authority: ORS 448.131, 448.450

Statutes/Other Implemented: ORS 448.450, 448.455, 448.460, 448.465, 448.994

AMEND: 333-061-0235

RULE SUMMARY: OAR 333-061-0235 is amended to allow education to be substituted for all the required work experience for Level 1 certification.

CHANGES TO RULE:

333-061-0235

Operator Certification Requirements, Levels 1-4 ¶¶

Operator certification, as specified in this rule, ~~applies~~corresponds to each of the levels of water system facility classification specified in OAR 333-061-0220(2) through (4), ~~and does not apply to small water system classification as specified in OAR 333-061-0220(1).~~¶¶

~~(1) In order to,~~¶¶

(1) To receive certification as specified in this rule, applicants must:¶¶

(a) Provide proof of, including the date of graduation or completion, a high school diploma, GED, associate's degree, bachelor's degree, master's degree, or PhD; and¶¶

(b) Successfully complete an examination for the level and type of certification sought by the applicant.¶¶

(2) Minimum qualifications for water treatment (WT) or water distribution (WD) operator certification are identified in Table 46. Experience or a combination of experience and education is required depending on the certification and level sought. For the purposes of this rule, "post high school education" means that education acquired through programs such as short schools, ~~bona fide~~ correspondence courses, trade schools, colleges, universities, formalized workshops or seminars that are acceptable to the Authority and for which college or continuing education credit is issued by the training sponsor.¶¶

(a) Operating experience must have been gained through direct, "hands-on" operation of water system facilities and includes, but is not limited to, decisions related to water quality or quantity that may affect public health. Knowledge gained from the performance of duties as an official, inspector, manager, engineer, or director of public works, and that does not include the actual operation or supervision of water system facilities, does not qualify an individual for certification as prescribed by these rules.¶¶

(A) For water distribution certification, experience in one of the following fields may be accepted, not to exceed one-half of the total experience required: wastewater collection; water treatment; cross connection control; and industrial or commercial process water treatment.¶¶

(B) For water treatment certification, experience in one of the following fields may be accepted, not to exceed one-half of the total experience required: wastewater treatment; wastewater treatment laboratory; water distribution; and industrial or commercial process water treatment.¶¶

(C) One year of experience is equivalent to 12 months of full-time employment with ~~one hundred~~100 percent of the individual's time dedicated to activities directly related to the certification for which they are applying.¶¶

(D) Operating experience earned at a water treatment plant or distribution system is considered qualifying experience for certification up to one classification level higher than that of the water system facility where the experience was earned.¶¶

(b) The Authority may, at its discretion, permit the substitution of post high school education for experience. Acceptable fields of study include, but are not limited to: allied sciences, chemistry, engineering, industrial or commercial water processing, wastewater collection, wastewater treatment plant operations, wastewater laboratory analysis, water distribution, and water treatment plant operations.¶¶

(A) Substituted education may not exceed one-half of the experience required for the certification and level sought except for level 1 certification, where an Authority-approved certificate or degree can substitute for all the required operating experience.¶¶

(B) Any degree or accumulation of college credit hours must be from an educational institution accredited through an agency recognized by the U.S. Department of Education ~~to be acceptable.~~¶¶

(C) The following are considered equivalent to 12 months of post high school education:¶¶

(i) One year of college education;¶¶

- (ii) Thirty semester hours of college education;¶
- (iii) Forty-five quarter hours of college education; or¶
- (iv) Forty-five CEUs.¶
- (D) College credits and post high school education from other sources may be combined to total 45 CEU.¶
- (3) Individuals may request credit for on-the-job training as either experience or education, but not both.¶
- (4) Individuals seeking certification at water distribution and water treatment levels 3 and 4 must possess ~~experience in operational decision-making~~ experience as defined in OAR 333-061-0020(87). Any work experience as specified in subsection (2)(a) of this rule qualifies as operational decision-making experience if it meets the criteria specified in OAR 333-061-0020(87).¶
- (5) To qualify for filtration endorsement certification, as prescribed by OAR 333-061-0220(4), individuals must:¶
 - (a) Possess WT Level 2 certification;¶
 - (b) Have one year of operational decision-making experience at a water treatment plant utilizing conventional or direct filtration treatment; and¶
 - (c) Successfully pass a filtration endorsement examination.

Statutory/Other Authority: ORS 448.131, 448.450

Statutes/Other Implemented: ORS 448.450, 448.455

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

333-061-0235

Operator Certification Requirements, Levels 1–4

Table 46

Certification Type and Level of Certification	Required Combination of Experience and Post High School Education		Operational Decision-Making Experience Required ³
	Experience ¹	Education ²	
WD or WT level 1	12 months	None	None
	6 months <u>None</u>	<u>Associate's Degree in Water Technology 12-month certificate or associate's degree in an Authority-approved water and environmental technology program</u>	None
WD or WT level 2	36 months	None	None
	24 months	12 months	None
WD <u>or</u> WT level 3	96 months	None	30 months
WD or WT level 3	60 months	12 months	30 months
	48 months	24 months	24 months
	36 months	36 months	18 months
WD <u>or</u> WT level 4	120 months	None	36 months
	84 months	12 months	30 months
WD or WT level 4	72 months	24 months	30 months
	60 months	36 months	30 months
	48 months	48 months	24 months

¹ Months of work experience required, as specified in OAR 333-061-0235(2)(a).

² Months of education required ~~for acceptance~~ as a substitution for work experience, as specified by OAR 333-061-0235(2)(b).

³ Months of operational decision-making experience required, as specified in OAR 333-061-0235(4). This experience may also count as general work experience.

AMEND: 333-061-0245

RULE SUMMARY: OAR 333-061-0245 is amended to allow OHA to recognize operators in training when individuals do not meet the experience requirements for Level 1 certification.

CHANGES TO RULE:

333-061-0245

Applications For Certification Levels 1-4 ¶¶

- (1) An applicant for certification must submit documentation with any application demonstrating that their qualifying experience and education meets the minimum requirements as specified in OAR 333-061-0235.¶¶
- (2) To obtain initial certification or certification at a higher level by examination, individuals must:¶¶
 - (a) Submit complete, original, signed copies of their application for the examination, and affidavit of experience;¶¶
 - (b) Meet the minimum qualifications for the certification sought as prescribed by OAR 333-061-0235;¶¶
 - (c) Pay the applicable examination fee as prescribed by OAR 333-061-0265 for the certification sought and examination applied for; and¶¶
 - (d) Successfully pass the examination for the certification sought.¶¶
- (3) To obtain certification by reciprocity, individuals must:¶¶
 - (a) Possess current, valid certification in another state or province which has a recognized certification program substantially equivalent to the requirements set forth in these rules;¶¶
 - (b) Submit a complete, original, signed reciprocity application and an affidavit of experience;¶¶
 - (c) Pay the applicable reciprocity application fee as prescribed by OAR 333-061-0265 for each certificate desired; and¶¶
 - (d) Pay the exam fee as prescribed by OAR 333-061-0265, for any examination as prescribed by OAR 333-061-0250, if required by the Authority.¶¶
- (4) All applications for exams must be accompanied by the appropriate fee(s) and documentation, and must be submitted to the Authority 60 days prior to the desired examination date.¶¶
- (5) Operating experience earned at a water treatment plant or distribution system is considered qualifying experience for examinations up to one classification level higher than that of the water system where the applicant gained their experience.¶¶
- (6) The Authority may waive the education or experience requirements for Level 1 certification if the applicant meets the education requirements and possesses at least three months of operating experience, three months of water-related experience or 30 hours of relevant water system training (three CEUs or three college credits). Upon passing an examination, the Authority will recognize the applicant as an operator in training (OIT) for a period not to exceed 36 calendar months, unless a longer period is approved by the Authority in writing.

Statutory/Other Authority: ORS 448.131

Statutes/Other Implemented: ORS 448.450, 448.455, 448.460, 448.465, 448.994

AMEND: 333-061-0265

RULE SUMMARY: OAR 333-061-0265 is amended to allow OHA to prorate initial certification fees.

CHANGES TO RULE:

333-061-0265

Fees ¶¶

- (1) All fees must be paid to the Oregon Health Authority or its designee.¶¶
- (2) Application fees are not refundable unless:¶¶
 - (a) The Authority has taken no action on a certification application; or¶¶
 - (b) The Authority determines the wrong application has been filed.¶¶
- (3) Applicants for certification by exam must submit the exam fee and application fee, along with an original signed and complete application. Examination fees may be refunded if:¶¶
 - (a) The application is denied; or¶¶
 - (b) The applicant notifies the Authority no less than one week in advance of the exam that the applicant is unable to sit for the exam.¶¶
- (4) Applications will be accepted for processing only when accompanied by the appropriate fees as indicated in the fee schedule below:¶¶
 - (a) Certification Renewal - \$140.¶¶
 - (b) Combination Certification-each additional - \$70.¶¶
 - (c) Application Fee:¶¶
 - (A) Level 1 Distribution or Treatment - \$90.¶¶
 - (B) Level 2 Distribution or Treatment - \$125.¶¶
 - (C) Level 3 Distribution or Treatment - \$160.¶¶
 - (D) Level 4 Distribution or Treatment - \$195.¶¶
 - (E) Filtration Endorsement - \$90.¶¶
 - (d) Reciprocity Review (each certification) - \$100.¶¶
 - (e) Reinstatement - \$50 + Certificate Renewal Fee.¶¶
 - (f) Document Replacement Fee - \$25.¶¶
 - (g) Initial certification fees may be prorated to the nearest year for the remainder of the two-year certification period.¶¶
- (5) Filtration endorsement certification is an extension of an operator's water treatment certification, and no additional annual fee is required to maintain the endorsement.¶¶
- (6) A document replacement fee must be paid at the time of request for a replacement document.

Statutory/Other Authority: ORS 448.131, 448.450

Statutes/Other Implemented: ORS 448.131, 448.450, 448.465