



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Health TITLE-SERIES: 64-04
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 64-04 Public Water Systems Operators

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 16-1-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

16-1-9a mandates the Commissioner of the Bureau for Public Health regulate public water systems as prescribed in that section.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/17/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/16/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule governs the examination and certification of operators of Public Water Systems (PWS), establishes a system for classification of PWS, and specifies certain responsibilities of PWS.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Passage of HB2848 (2023) requires changes to the rule.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			0
Personal Services			0
Current Expenses			0
Repairs and Alterations			0
Assets			0
Other			0
2. Estimated Total Revenues			0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

April L Robertson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 64
LEGISLATIVE RULE
DEPARTMENT OF HEALTH
BUREAU FOR PUBLIC HEALTH

SERIES 4
PUBLIC WATER SYSTEMS OPERATORS

§64-4-1. General.

1.1. Scope. -- This rule governs the examination and certification of operators of Public Water Systems (PWS), establishes a system for classification of Public Water Systems, and specifies certain responsibilities of Public Water Systems. ~~The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.~~

1.2. Authority. -- W. Va. Code §§16-1-4 ~~and 16-1-9~~.

1.3. Filing Date. -- ~~May 2, 2012~~.

1.4. Effective Date. -- ~~May 2, 2012~~.

1.5. ~~Repeal and Replace.~~ -- ~~This rule repeals and replaces Public Water Systems Operator Regulations, 64CSR4, effective April 18, 2007.~~ Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2029.

§64-4-2. Application and Enforcement.

2.1. Application. -- This rule applies to owners, certified operators, and operators-in-training (OITs) of a PWS and to applicants for certification.

2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health.

§64-4-3. Definitions.

3.1. 1D Operator. -- An individual holding a valid 1D West Virginia PWS operator certification issued by the Commissioner.

3.2. Adequate. -- A sufficient amount the Commissioner determines, considering hours of operation of the treatment plant, treatment complexity, distribution extent, source of water, and other factors such as personnel leave.

3.3. Certified Operator. -- An individual holding a valid West Virginia PWS operator certification issued by the Commissioner.

3.4. Chief Operator. -- The certified operator, designated by the owner, who is responsible for managing the daily operational activities of an entire PWS or a water treatment facility, or a distribution system in a manner that ensures meeting state and federal safe drinking water regulations.

3.5. Class I Operator. -- An individual holding a valid Class I West Virginia PWS operator certification issued by the Commissioner.

3.6. Class II Operator. -- An individual holding a valid Class II West Virginia PWS operator certification issued by the Commissioner.

3.7. Class III Operator. -- An individual holding a valid Class III West Virginia PWS operator certification issued by the Commissioner.

3.8. Class IV Operator. -- An individual holding a valid Class IV West Virginia PWS operator certification issued by the Commissioner.

3.9. Class R Operator. -- An individual holding a valid Class R West Virginia PWS operator certification issued by the Commissioner.

3.10. Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

3.11. Community Water System. -- A PWS that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

3.12. Consecutive System. -- A PWS that receives some or all of its finished water from one or more other PWSs.

3.13. Continuing Education Hour (CEH). -- One hour of participation in an organized continuing education experience under responsible sponsorship approved by the Commissioner for renewal of a PWS operator certification.

3.14. Continuing Education Unit (CEU). -- 10 CEHs.

3.15. Distribution System. -- Facilities downstream of the water treatment plant used to convey water for human consumption, and which may include storage tanks, disinfection mechanisms, pumps, valves, hydrants, meters, and other appurtenances.

3.16. Drinking Water. -- Water produced by a PWS that conforms to the requirements of Bureau for Public Health legislative rule, Public Water Systems, 64CSR3.

3.17. Experience. -- Hands-on work performing certified operator duties at a Public Water System.

3.18. Groundwater (GW). -- A source of water under the ground, typically from a well, that is not open to the atmosphere (surface water) or under the direct influence of surface water (groundwater under the direct influence).

3.19. Groundwater Under the Direct Influence (GUDI). -- A source of groundwater determined to be under the influence of a surface water source.

3.20. Non-Transient Non-Community Water System. -- A PWS that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

3.21. Operating Shift. -- That period of time during which operator decisions that affect public health are necessary for proper operation of the PWS.

3.22. Operate. -- To perform the practical work and apply the technical knowledge and operational skills in the treatment, testing, and distribution of drinking water.

3.23. Operator-in-Training (OIT). -- An individual who holds a valid operator-in-training certificate issued by the Commissioner, and who is training under the responsibility of the Chief Operator at a PWS while completing the educational and experience requirements to become a Water Distribution System (WDS) or Class I operator.

3.24. Owner. -- The person legally responsible for the operation of a PWS.

3.25. Person. -- An individual, partnership, association, syndicate, company, firm, trust, corporation, government, institution, department, division, bureau, agency, federal agency, or any other entity recognized by law.

3.26. Population. -- Population served by a PWS as determined by the Commissioner.

3.27. Present. -- To be readily available to perform tasks at the water treatment plant and intake by physically being located on-site unless otherwise determined by the Commissioner in advance in writing.

3.28. Primary Contaminant. -- Any contaminant, other than disinfection for microbiological, that has a maximum contaminant level (MCL) or treatment technique in accordance with Bureau for Public Health legislative rule, Public Water Systems, 64CSR3.

3.29. Public Water System (PWS). -- Any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of 25 individuals per day for at least 60 days per year, or which has at least 15 service connections, and shall include: (1) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system which are used primarily in connection with the system; and (2) Any collection or pretreatment storage facilities not under the control of the owner or operator of the PWS which are used primarily in connection with the system. A PWS does not include a system which meets all of the following conditions: (1) Consists only of distribution and storage facilities and does not have any collection and treatment facilities; (2) Obtains all of its water from, but is not owned or operated by, a PWS that otherwise meets the definition; (3) Does not sell water to any person; and (4) Is not a carrier conveying passengers in interstate commerce.

3.30. Surface Water (SW) and Ground Water Under the Direct Influence of Surface Water. -- A source that has been determined to be open to the atmosphere or subject to surface water runoff.

3.31. Transient Non-Community Water System. -- A PWS that does not regularly serve at least 25 of the same persons over six months per year.

3.32. Water Distribution System (WDS) Operator. -- An individual holding a valid WDS West Virginia PWS operator certification issued by the Commissioner. A water operator certified at the WDS level shall only operate within the water distribution system or conduct distribution system related functions at a Class I or higher PWS.

3.33. Water Treatment Plant. -- A facility to process and treat water for distribution to consumers in accordance with Bureau for Public Health legislative rule, Public Water Systems, 64CSR3.

§64-4-4. Classification of Public Water Systems.

4.1. A PWS is classified on the basis of source water, population, and the complexity of the water treatment processes.

~~4.1.a.~~ 4.1.1. 1D: A transient non-community PWS that has groundwater only as a source and does not use gaseous chlorine or chlorine dioxide as a means of disinfection and does not treat for the removal of nitrate or nitrite, or both. A groundwater source that uses gaseous chlorine, chlorine dioxide as a means of disinfection, or has treatment for removal of nitrate or nitrite, or both is at least a Class I PWS.

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~~4.1.b.~~ 4.1.2. Class R: A non-transient PWS that retreats at the point of entry, with anything other than chlorine, another PWS's finished water for facility use and consumption only. A Class R that provides water to another PWS is at least a Class I PWS.

~~4.1.e.~~ 4.1.3. Water Distribution System (WDS): A PWS that obtains all of its water from another PWS and is not owned or operated by the supplying PWS. A WDS does not have any other source of water other than water from the supplying PWS. A WDS may apply chlorine for supplemental disinfection but otherwise does not treat its water. A WDS that retreats with anything other than chlorine is at least a Class I PWS.

~~4.1.d.~~ 4.1.4. Class I: A community or non-transient non-community PWS with a GW source that serves a population of less than 10,000, including consecutive connection population, and does not treat for an identified primary contaminant. A transient non-community PWS that has a groundwater source that uses gaseous chlorine, chlorine dioxide as a means of disinfection, or has treatment for removal of nitrate or nitrite, or both.

~~4.1.e.~~ 4.1.5. Class II: A community or non-transient non-community PWS with:

~~4.1.e.1.~~ 4.1.5.a. A GW source that serves a population of less than 10,000, including consecutive connections, and either treats for an identified primary contaminant, or has a treatment technique as identified in 40CFR141.73;

~~4.1.e.2.~~ 4.1.5.b. A GW source that serves a population of at least 10,000, including consecutive connections that does not treat for an identified primary contaminant; or,

~~4.1.e.3.~~ 4.1.5.c. A GUDI or SW source that serves a population of less than 10,000, including consecutive connections.

~~4.1.f.~~ 4.1.6. Class III: A community or non-transient non-community PWS with:

~~4.1.f.1.~~ 4.1.6.a. A GW source that serves a population of greater than 10,000, including consecutive connections, and either treats for an identified primary contaminant, or has a treatment technique as identified in 40CFR141.73; or,

~~4.1.f.2.~~ 4.1.6.b. A GUDI or SW source that serves a population of at least 10,000, but less than 20,000, including consecutive connections.

~~4.1.g.~~ 4.1.7. Class IV: A community or non-transient non-community PWS with a GUDI or SW source that serves a population of at least 20,000, including consecutive connection population, and has treatment.

§64-4-5. Required Personnel and Conditions of Employment.

5.1. An individual who operates a 1D, Class R, WDS, Class I, Class II, Class III, or Class IV PWS in West Virginia must be certified by the Commissioner.

5.2. A certified water operator shall:

~~5.2.a.~~ 5.2.1. Be responsible for their certification in accordance with all aspects of this rule;

~~5.2.b.~~ 5.2.2. Carry his or her current certification card issued by the Commissioner upon them at all times the operator is operating the PWS;

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~~5.2.e.~~ 5.2.3. Not work in a PWS under the certification of another person; only the person whose name appears on the operator certification is certified by that document. Certifications are not transferable;

~~5.2.d.~~ 5.2.4. Notify the Commissioner at least 30 calendar days in advance of the voluntary termination of his or her employment at a PWS;

~~5.2.e.~~ 5.2.5. Comply with the provisions of Bureau for Public Health legislative rule, Public Water Systems, 64CSR3; and,

~~5.2.f.~~ 5.2.6. Demonstrate data integrity by providing complete, accurate, and true information for the period in which they were responsible for data collection including, but not limited to, records, reports, and lab results.

5.3. 1D, Class R, and the distribution portion only of a PWS under the direct jurisdiction of the treatment plant are not required to designate a Chief Operator.

~~5.3.a.~~ 5.3.1. The owner of a 1D system shall ensure it is operated by a 1D, Class I, or higher water operator.

~~5.3.b.~~ 5.3.2. The owner of a Class R system shall ensure it is operated by a Class R, Class I, or higher water operator.

~~5.3.c.~~ 5.3.3. The owner of a WDS system shall ensure it is operated by a WDS, Class I, or higher water operator.

5.4. The owner of PWS shall:

~~5.4.a.~~ 5.4.1. Employ a Chief Operator with a certification equal to or higher than the system classification, except for 1D and Class R PWSs. A PWS may have more than one Chief Operator if jurisdiction is bifurcated between the distribution system and treatment plant or otherwise approved in writing by the Commissioner based upon a written request;

~~5.4.a.1.~~ 5.4.1.a. In the case of a distribution system not under the direct jurisdiction of the treatment plant Chief Operator, employ an additional Chief Operator with WDS, Class I, or higher certification and an adequate number of certified operators to operate the distribution system.

~~5.4.a.2.~~ 5.4.1.b. Place direct supervision of their PWS, including each treatment facility and distribution system, under the responsible charge of the Chief Operator holding an adequate certification.

~~5.4.b.~~ 5.4.2. Employ an adequate number of certified operators to operate the system;

~~5.4.c.~~ 5.4.3. Not employ more OITs than the number of employed certified operators, unless written permission is granted by the Commissioner;

~~5.4.d.~~ 5.4.4. Notify the Commissioner within 24 hours, in a manner and form approved by the Commissioner, of any certified operator or OIT employment status changes;

~~5.4.e.~~ 5.4.5. Submit a personnel status report as of July 1 by July 15 every year. The report ~~is to~~ shall be in a manner and form approved by the Commissioner and required information includes, at a minimum: a list of all certified operators employed, the Chief Operators, and the system owner; and,

~~5.4.f.~~ 5.4.6. Post a copy of the current certification of all certified operators employed at the PWS in a conspicuous location in the water treatment plant, or, if there is no water treatment plant, the PWS office.

5.5. The Chief Operator of a PWS shall:

~~5.5.a.~~ 5.5.1. Be responsible for the operation of the PWS;

~~5.5.b.~~ 5.5.2. Be employed on a full-time basis by the PWS owner except in WDS and Class I systems;

~~5.5.c.~~ 5.5.3. Attend a course approved by the Commissioner for training as a Chief Operator ~~within two (2) years of the effective date of this rule.~~ Attendance of the designated course is also applicable for CEH credit for the renewal cycle. A person newly designated by the owner as the Chief Operator after the effective date of this rule shall attend the course within one year. Class R and 1D systems are exempt from the requirements of this subdivision;

~~5.5.d.~~ 5.5.4. Apply to the Commissioner for OIT certification, on behalf of OIT applicants, within 30 days of their hire at the PWS. An OIT's experience gained for certification starts only upon the issued date of the OIT certificate;

~~5.5.e.~~ 5.5.5. Be responsible for training and job duty assignments of OITs and other certified operators and properly document each OIT's or other certified operator's experience towards certification upgrade;

~~5.5.f.~~ 5.5.6. Renew the OIT certification every two years or until all requirements for WDS or Class I certification are met. Submit the renewal application at least 30 calendar days prior to the expiration date, in a manner and form approved by the Commissioner. The OIT shall attempt to pass the WDS or Class I examination at least once during each two-year renewal; and,

~~5.5.g.~~ 5.5.7. Be automatically designated as the Chief Operator if he or she is the only certified operator who meets the requirements of subsection 5.4. of this section for the PWS.

5.6. Adequate Operator Coverage:

~~5.6.a.~~ 5.6.1. Class R PWSs shall have a Class R, Class I, or higher operator present at all times water quality decisions are made to ensure proper operation in accordance with all applicable state and federal laws.

~~5.6.b.~~ 5.6.2. 1D and WDS PWSs shall have an operator with certification equal to or greater than the system classification present at all times water quality decisions are made and present at least once every day to ensure proper operation in accordance with all applicable state and federal laws.

~~5.6.c.~~ 5.6.3. Class I PWSs shall have a Class I or higher operator present at all times water quality decisions are made. A properly certified operator shall be present at least once every day when the plant is operational to ensure proper operation in accordance with all applicable state and federal laws.

~~5.6.d.~~ 5.6.4. Class II PWSs shall have an operator with certification equal to or greater than the system classification present in the primary treatment facility at all times when the plant is operational unless the Commissioner grants a written ~~exception~~ limited waiver to this requirement in response to a written request by the owner of the PWS. If granted, a limited waiver shall permit an operator to perform the tasks of an operator certified one grade higher. All ~~exceptions~~ limited waivers granted will be individual and system specific (not transferable) and may be rescinded immediately if compliance concerns arise.

~~5.6.d.1.~~ 5.6.4.a. Class I operators at Class II PWSs who apply for ~~an exception~~ a limited waiver in writing from the Commissioner to operate without on-site supervision of a Class II operator shall, at a minimum, pass the Class II exam before being considered for an exception.

~~5.6.e.~~ 5.6.5. Class III and IV PWSs shall have an operator with certification no lower than one class below the system classification present in the primary treatment facility at all times when the plant is operational.

~~5.6.f.~~ 5.6.6. Class II, III, and IV PWSs shall have at least one certified operator (except 1D, Class R, or WDS level) in addition to the Chief Operator, unless the Commissioner grants a written ~~exception~~ limited waiver to this requirement in response to a written request by the owner of the PWS. If granted, a limited waiver shall permit an operator to perform the tasks of an operator certified one grade higher. All ~~exceptions~~ limited waivers granted will be individual and system specific (not transferable) and may be rescinded immediately if compliance concerns arise.

§64-4-6. Qualifications for Certification.

6.1. An individual desiring certification shall submit an application for certification to the Commissioner. The application shall be on a form approved by the Commissioner.

6.2. Certification of a PWS operator is based on education, a passing grade on the applicable certification examination, and in some cases experience as an OIT or higher certification. The education and experience requirements for certification are set forth in Table 64-4A of this rule.

6.3. Class R and 1D operator certifications are not sequential towards OIT, WDS, and Class I through IV. A Class R or 1D operator shall begin with application for an OIT if he or she wishes to operate a WDS, Class I, or higher classification system.

6.4. WDS operator certification is not sequential towards Class I certification. A WDS operator shall begin with application for an OIT if he or she wishes to operate a Class I or higher classification system.

6.5. Class I through IV operator certification applicants shall obtain certification for each Class level in sequence.

6.6. An individual seeking certification as a WDS or Class I operator shall begin with an application for OIT certification.

6.7. Applicants for certification shall be 18 years of age or older. This may be waived to a minimum age of 16 upon written request to the Commissioner and in accordance with subsection 7.2. of this rule.

§64-4-7. Education Requirements.

7.1. The education requirements for each certification are listed in Table 64-4A of this rule.

7.2. OIT education requirements may be waived by the Commissioner, in writing, to completion of 10th grade. The student must provide verification each semester he or she is attending school and ~~maintain~~ maintaining a 2.0 average or better on a 4.0 scale towards graduation requirements. The certificate may be revoked for failure to meet these requirements.

7.3. Education requirements may be waived by the Commissioner, in writing, for applicants who are actively working towards a GED. The student must provide verification for each semester that he or she is enrolled in an adult education program and completing graduation requirements. The certificate may be revoked for failure to meet these requirements.

7.4. The Commissioner-approved Class R certification course and passing the Class R exam education requirement can be substituted with a Commissioner-approved manufacturer certification if requested in writing and adequate information is provided.

7.5. The number of CEUs credited for courses and operating experience are in Table 64-4B.

7.6. The Commissioner evaluates all education courses to be considered for CEUs. 100 percent credit will be awarded for those determined to be directly related to water treatment and distribution; examples are mathematics, science, and business courses. If the Commissioner determines the course is not directly related, 50 percent credit will be awarded.

7.7. Class III and IV applicants may substitute up to half of the required CEU education as specified in Tables 64-4A and B of this rule with additional experience upon written request to the Commissioner.

~~7.7.a.~~ 7.7.1. An applicant cannot use experience used as a substitute for the educational requirement to also satisfy the experience requirement.

~~7.7.b.~~ 7.7.2. An applicant may use the Class R, 1D, WDS, Class I, and Class II certification courses towards the educational requirements for a Class III or higher-class level certificate.

§64-4-8. Experience Requirements.

8.1. The experience requirements for each classification are listed in Table 64-4A of this rule.

8.2. Only experience obtained as a valid certified water operator may count towards the experience required by this rule.

8.3. Experience as an operator should be predominantly “hands-on” or necessary skills, knowledge, ability, and judgment acquired from daily operating experience rather than from text book study or supervisory observation. It means the individual has actually operated a water treatment plant or worked in the distribution system and has performed tasks including, but not limited to, routine tests, sample collection, completion of operational reports, and calculations of chemical dosages and subsequent adjustment of chemical feeders or backwashed filters.

8.4. Experience obtained exclusively in distribution, maintenance, and other non-operational or treatment duties may not count for more than 600 hours of the total experience required for Class I through IV certification.

8.5. Class II applicants at Class I systems may obtain 2,000 hours experience at a Class I PWS and successfully complete a Commissioner-approved course instead of obtaining 2,000 hours at a Class II or higher PWS.

8.6. An applicant may substitute the experience requirements with education and training as specified in subdivisions ~~8.6.a~~ 8.6.1. and ~~8.6.b~~ 8.6.2. of this ~~section~~ rule:

~~8.6.a.~~ 8.6.1. Class II, III, and IV applicants may substitute up to half of the required experience with additional education upon written request to the Commissioner.

~~8.6.b.~~ 8.6.2. An applicant may not use education used as a substitute for experience requirements to satisfy education requirements.

§64-4-9. Examination Requirements.

- 9.1. Examination requirements for each level of certification are listed in Table 64-4A of this rule.
- 9.2. Examinations shall not be administered until the Commissioner-approved certification course requirements are first met, unless the Commissioner grants a written exception based on a written request.
- 9.3. An applicant for operator certification shall submit an application for examination in a form and manner approved by the Commissioner with proof of education and, if required, separate proof of work experience.
- 9.4. The Commissioner shall schedule examinations for water operator certification applicants meeting the requirements of this rule and notify the applicants before the examination date.
- 9.5. An individual shall make a score of 70 percent or better on the examination in order to pass the examination.
- 9.6. The results of certification examinations are valid for five years. If the applicant has not met the requirements for education, experience, or both within those five years, the applicant shall reapply for examination and regain a passing score.
- 9.7. An applicant who fails an examination shall wait a minimum of 60 days from the date he or she took the examination before reapplying for the examination.

§64-4-10. Renewal Requirements.

- 10.1. All certified operators must submit the appropriate renewal application at least 30 calendar days prior to the expiration date, but no earlier than 60 calendar days prior to the expiration date of their certificate.
- 10.2. The Commissioner shall approve continuing education hour (CEH) courses based on their relevance to PWSs.
- 10.3. The number of CEHs required by each classification each renewal period is as follows:
 - ~~10.3.a.~~ 10.3.1. Class R: A minimum of one CEHs required for renewal;
 - ~~10.3.b.~~ 10.3.2. OIT: A minimum of six CEHs required for renewal;
 - ~~10.3.c.~~ 10.3.3. WDS: A minimum of six CEHs required for renewal;
 - ~~10.3.d.~~ 10.3.4. Class I: A minimum of 12 CEHs required for renewal;
 - ~~10.3.e.~~ 10.3.5. Class II, III, and IV: A minimum of 24 CEHs required for renewal; and,
 - ~~10.3.f.~~ 10.3.6. 1D: No CEHs required for renewal.
- 10.4. Operators may not use the same CEH course in consecutive renewal periods.
- 10.5. Operators may not carry over additional CEHs completed during the two-year period to satisfy the CEH requirements for the next certification renewal period.
- 10.6. The Commissioner may extend the time requirements for obtaining CEHs upon written request by the applicant.

10.7. The Commissioner may specify certain courses an operator shall attend in order to qualify for renewal.

§64-4-11. Expiration.

11.1. A PWS operator certification expires two years from the date of issuance. An individual with expired certification shall not operate a PWS in West Virginia.

11.2. An applicant seeking reinstatement of his or her previous certification shall pass the examination at the certification level previously held if his or her certification has been expired for more than one year.

11.3. If an individual holds a Class R, 1D, or WDS certification in addition to a Class I or higher certification, the Class R, 1D, or WDS will not expire if the Class I or higher certification is properly maintained.

~~§64-4-12. Grandfathering.~~

~~12.1. The specifications in this section only apply to grandfathering or facilitated implementation of the newly revised rule to currently certified operators.~~

~~12.2. Current 1D, OIT, WDS, Class I, Class II, Class III and Class IV certificates will expire in accordance with the terms of the current certificate two years from date of issuance.~~

~~12.3. Upon classification as Class R PWS in accordance with this rule, individuals currently employed in Class R systems shall obtain Class R certification within two years.~~

~~12.4. A passing score received on a certification examination valid as of the effective date of this rule will not expire until five years from date of exam administration.~~

~~§64-4-13~~ **§64-4-12. Certification from Another Jurisdiction.**

~~13.1.~~ 12.1. The Commissioner shall grant certification to a PWS operator certified by another jurisdiction if the applicant:

~~13.1.a.~~ 12.1.1. Is actively seeking, has been offered, or has accepted employment in West Virginia which requires a certified operator;

~~13.1.b.~~ 12.1.2. Submits a completed application in a manner and form approved by the Commissioner;

~~13.1.c.~~ 12.1.3. Meets the educational and work experience requirements of this rule; and,

~~13.1.d.~~ 12.1.4. Passes a West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner. Demonstrates he or she has successfully passed an examination in another jurisdiction substantially equivalent to the certification level sought, as determined by the Commissioner.

12.1.4.a. If the Commissioner determines the other jurisdiction's examination is not substantially equivalent, he or she must pass the West Virginia certification examination equivalent to the certification level of the other jurisdiction.

~~§64-4-14~~ **§64-4-13. Suspension and Revocation.**

~~14.1.~~ 13.1. The Commissioner may suspend or revoke the certification of an operator if the individual:

~~14.1.a.~~ 13.1.1. Uses fraud or deceit in obtaining certification;

~~14.1.b.~~ 13.1.2. Fails to comply with this rule. Failure to notify the Commissioner of voluntary termination of employment in accordance with subdivision ~~5.2.4~~ 5.2.4. of this rule, even though the failure shall not subject the certified operator to the penalties of section ~~46~~14 of this rule.

~~14.1.c.~~ 13.1.3. Performs the duties of a water operator in a grossly negligent or incompetent manner;

~~14.1.d.~~ 13.1.4. Knowingly or negligently submits misleading, inaccurate, or false reports to the Commissioner; or,

~~14.1.e.~~ 13.1.5. Violates, or causes to be violated, any portion of Bureau for Public Health legislative rules, Public Water Systems, 64CSR3, or Cross-Connection Control and Backflow Prevention, 64CSR15.

~~14.2.~~ 13.2. The Commissioner shall notify the certified operator and the employer via certified mail of a proposed suspension or revocation. The notification shall set forth the action proposed, the effective date, the reason for the suspension or revocation, and the length of time of the proposed action.

~~14.3.~~ 13.3. The suspension of an operator's certification is effective for an initial period of not more than one year, during which time the certification is not valid, and the individual may not operate a PWS. The individual shall obtain the CEHs required for that certification level, as if the suspension had not occurred.

~~14.4.~~ 13.4. The revocation of an operator's certification is for a period of not less than one year during which time the certification is not valid, and the individual may not operate a PWS. After the period of ineligibility caused by the revocation has expired, the formerly certified operator shall, at a minimum, pass the examination at the certification level previously held to regain certification.

~~§64-4-15~~ **§64-4-14. Penalties.**

~~15.1.~~ 14.1. A person subject to the provisions of this rule shall comply fully with them and shall not direct or assist another person to violate this rule.

~~15.2.~~ 14.2. A person who violates any provision of this rule or any rules or orders of the ~~Division of Health~~ Bureau for Public Health is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than \$500, as provided under W. Va. Code §16-1-18. Each day there is a failure to comply with a provision of this rule may be a separate offense.

~~§64-4-16~~ **§64-4-15. Administrative Due Process.**

~~16.1.~~ 15.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with Bureau for Public Health procedural rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.

**Table 64-4A
OPERATOR EDUCATION AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION**

CLASS	EDUCATION REQUIRED	EXPERIENCE REQUIRED
Class R	HS diploma or GED, Commissioner-approved Class R certification course & passing the Class R exam.*	No experience required.
1D	Commissioner-approved 1D certification course & passing the 1D exam.	No experience required.
OIT	HS diploma or GED.*	No experience required.
WDS	HS diploma or GED, Commissioner-approved WDS certification course & passing the WDS exam.	1,000 hours (six months full-time) at a WDS or higher PWS.
Class I	HS diploma or GED, Commissioner-approved Class I certification course & passing the Class I exam.	2,000 hours (one year full-time) at a PWS.**
Class II	HS diploma or GED, Commissioner approved Class II certification course & passing the Class II exam.	4,000 hours (two years full-time) at a PWS with at least 2,000 of those hours at a Class II or higher PWS.**
Class III	HS diploma or GED and successfully completing 90 CEUs** and passing the Class III exam.	8,000 hours (four years full-time) at a Class I or higher PWS with at least 2,000 of those hours at a Class II or higher PWS.**
Class IV	HS diploma or GED and successfully completing 180 CEUs** and passing the Class IV exam.	10,000 hours (five years full-time) at a Class I or higher PWS with at least 2,000 of those hours at a Class III or higher PWS.**

* and ** Refer to sections 7 and 8 of this rule.

Table 64-4B
CEUs FOR COURSES AND OPERATING EXPERIENCE

10 CEHs	1 CEU
1 College Semester Credit Hour	1.5 CEU
1 College Quarter Credit Hour	1 CEU
2,000 hours of experience	45 CEU

See subsection 7.6.