

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2011 JUN 17 AM 9:57

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DHHR - BUREAU FOR PUBLIC HEALTH TITLE NUMBER: 64

RULE TYPE: LEGISLATIVE CITE AUTHORITY: WV CODE §§ 16-1-4, 16-1-9.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: PUBLIC WATER SYSTEMS OPERATORS REGULATIONS


IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON JULY 18 2011 AT 12 NOON ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Ann Goldberg, Director Public Health Regulations Bureau for Public Health 350 Capitol Street, Rm 702 Charleston, WV 25302 ann.a.goldberg@wv.gov (304) 558-2971 phone (304) 558-1033 fax	Walt Ivey, Director Environmental Engineering Division, OEHS 350 Capitol St. Rm. 313 Charleston, WV 25302 walter.m.ivey@wv.gov (304) 558-2981 phone (304) 558-0289 fax
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THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 64CSR4 Public Water System Operator Regulations

Type of Rule: X Legislative Interpretive Procedural

Agency: Health and Human Resources

Address: One Davis Square, Suite 100 East

Charleston, WV 25301

Phone Number: 304-356-4122

Email: Ann.A.Goldberg@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

This update of the Public Water System Operator Regulations is proposed to provide consistency between water and wastewater operator requirements, update due to changes in technology and incorporate new operator certification classification for specific public water systems.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2011 Increase/Decrease (use "-")	2012 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Equipment			
Other			
2. Estimated Total Revenues			

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

There is no anticipated change in revenue or cost associated with the proposed rule changes.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The change is needed to provide consistency between water and wastewater operator requirements, update due to changes in technology and incorporate new operator certification classification for specific public water systems. There is no anticipated change in revenue or cost.

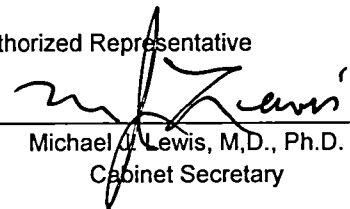
Date

6.16.11

Agency

Department of Health and Human Resources

Authorized Representative



Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

Legislative Rule, 64CSR04
Department of Health and Human Resources
Bureau for Public Health
Office of Environmental Health Services
Public Water Systems Operator Regulations

BRIEF SUMMARY

The proposed repeal and replace rule consists of several small changes made to clarify intent, improve the organizational structure, and meet the U.S. Environmental Protection Agency (EPA) requirements for public water system operators. Class R systems were added to Section 4.1.b. to ensure certified operator coverage at specific types of public water systems as required by the EPA. The experience requirements for Class III and IV operators were reduced by one year to more appropriately reflect the current training needs. The examination score expiration date was increased from two years to five years, which more appropriately reflects changes in technology and examination versions. Clarification on adequate operator coverage for public water systems and exception criteria were also added to improve consistency in implementation and communication of intent.

STATEMENT OF CIRCUMSTANCES

The Bureau for Public Health seeks to amend the rule for Public Water Systems Operators. The changes are needed to provide consistency between water and wastewater operator requirements, update the rules due to changes in technology and incorporate new operator certification classification for specific public water systems.

These proposed changes were discussed with a stakeholder committee that consisted of state regulatory agencies, training providers, and industry related associations during several meetings over a one year period prior to this filing.

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH

SERIES 4
PUBLIC WATER SYSTEMS OPERATOR REGULATIONS

FILED
2011 JUN 17 AM 9:57
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-4-1. General.

1.1. Scope. -- This legislative rule governs the examination and certification of operators of public water systems (PWSs), establishes a system for classification of PWSs, and specifies certain responsibilities of PWSs. The WV Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. -- WV Code §16-1-4 and related §16-1-9.

1.3. Filing Date. -- ~~April 18, 2007.~~

1.4. Effective Date. -- ~~April 18, 2007.~~

1.5. Repeal and Replacement of Former Rules. -- This legislative rule repeals and replaces Public Water Systems Operator Regulations, 64CSR4, effective April 18, 2007.

§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 or his or her designee.

§64-4-3. Definitions.

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

3.4. Chief Operator. -- The certified operator(s) whom the owner designates 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 rules and regulations.

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

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

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

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

3.9. Class R Operator. -- An individual holding a valid Class R West Virginia PWS 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 fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (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 (1) 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). -- Ten (10) CEHs.

3.15. Conventional Treatment. -- A series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal. Refer to the US EPA definitions for these processes in 40CFR141.3.

3.16. 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.

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

3.18. Experience. -- Hands-on work performing certified operator duties at a PWS.

3.19. Groundwater. -- 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).

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

3.21. Non-Conventional Treatment. -- Any treatment method not considered conventional as determined by the Commissioner.

3.22. Non-Transient Non-Community Water System. -- A PWS that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

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

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

3.25. 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/or experience requirements to become a Water Distribution (WD) or Class I operator.

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

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

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

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

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

3.31. 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 twenty-five (25) individuals per day for at least sixty (60) days per year, or which has at least fifteen (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 such control 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.

3.32. Surface 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.

3.33. Transient Non-Community Water System. -- A PWS that is not a community water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

3.34. Water Distribution (WD) Operator. -- An individual holding a valid WD West Virginia PWS certification issued by the Commissioner. A water operator certified at the WD level shall only operate

within the water distribution system or conduct distribution system related functions at a Class I or higher PWS.

3.35. Water Treatment Plant. -- A facility to process and treat water for distribution to consumers in accordance with Bureau for Public Health 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 complexity of water treatment processes.

4.1.a. 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 considered a Class I PWS.

4.1.b. Class R: A non-transient PWS that retreats with anything other than chlorine another PWSs finished water for facility use and consumption only. If a Class R provides water to another PWS, it is at least a Class I PWS.

4.1.c. Water Distribution (WD): A PWS that obtains all of its water from another PWS, and is not owned or operated by the supplying PWS. A WD system does not have any other source of water other than water from the supplying PWS. A WD system may apply chlorine for supplemental disinfection but otherwise does not treat its water.

4.1.d. Class I: A community and non-transient non-community PWS that uses groundwater only, serves a population of less than ten thousand (10,000) including consecutive connection population, and does not treat for a primary contaminant.

4.1.e. Class II: A PWS serving a population of less than ten thousand (10,000), including consecutive connection population, has conventional treatment and does not have any additional treatment units within the treatment plant for identified primary contaminants in the source water. Treatment installed for removal of Cryptosporidium is considered an additional treatment unit. A PWS serving a population of less than ten thousand (10,000) that uses a groundwater source and treats for a primary contaminant using conventional treatment. A PWS with a groundwater source serving greater than ten thousand (10,000) population that does not treat for a primary contaminant and does not have conventional treatment.

4.1.f. Class III: A PWS serving a population of at least ten thousand (10,000) but less than twenty thousand (20,000) including consecutive connection population, has conventional treatment and/or additional treatment plant for identified primary contaminants in the source water. A PWS serving a population of less than ten thousand (10,000) including consecutive connection population and does have non-conventional treatment for a primary contaminant.

4.1.g. Class IV: A PWS serving a population of at least twenty thousand (20,000) including consecutive connection population and has conventional or non-conventional treatment.

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

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

5.2. All certified water operators shall:

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

5.2.b. Carry their current certification card issued by the Commissioner upon them at all times the operator is operating the PWS;

5.2.c. 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. Notify the system owner at least twelve (12) calendar days in advance of the voluntary termination of his or her employment at a PWS;

5.2.e. Notify the Commissioner at least thirty (30) calendar days in advance of the voluntary termination of his or her employment at a PWS;

5.2.f. Comply with the provisions of *Public Water Systems* (64CSR3); and,

5.2.g. 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 system under the direct jurisdiction of the treatment plant are not required to designate a Chief Operator.

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

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

5.4. The owner of PWS shall:

5.4.a. Employ a Chief Operator(s) 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 (1) Chief Operator if jurisdiction is bifurcated between the distribution system and treatment plant or otherwise approved in writing by the Commissioner based upon written request.

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

5.4.a.2. Place direct supervision of their PWS, including each treatment facility and/or distribution system, under the responsible charge of the Chief Operator(s) holding an adequate certification;

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

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

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

5.4.e. Submit a personnel status report as of July 1 by July 15 every year. The report is to 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(s), and the system owner; and,

5.4.f. 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. Be responsible for the operation of the PWS;

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

5.5.c. 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 within one (1) year. Class R and 1D systems are exempt from the requirements of this subsection.

5.5.d. Apply to the Commissioner for OIT certification, on behalf of OIT applicants, within thirty (30) days of their hire at the PWS. Experience gained for certification starts only upon the issued date of the OIT certificate;

5.5.e. Be responsible for training and job duty assignments of OITs and other certified operators and properly document the experience towards certification upgrade;

5.5.f. Renew the OIT certification every two (2) years or until all requirements for WD or Class I certification are met. Submit the renewal application at least thirty (30) calendar days prior to expiration date, in a manner and form approved by the Commissioner. The OIT shall attempt to pass the WD or Class I examination at least once during each two (2) year renewal; and,

5.5.g. Be automatically designated as the Chief Operator if they are the only certified operator who meets the requirements of Section 5.4 for the PWS.

5.6. Adequate Operator Coverage:

5.6.a. Class R PWSs shall have a Class R, Class I or higher operator present at all times water quality or quantity 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.b. 1D and WD PWSs shall have an operator with certification equal to or greater than the system classification present at all times water quality or quantity 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. Class I PWSs shall have a Class I or higher operator present at all times water quality or quantity 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. Class II, III, and IV 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 to this requirement in response to a written request by the owner of the PWS.

5.6.d.i. Class I operators at Class II PWSs who apply for an exception in writing from the Commissioner to operate without on-site supervision of a Class II shall pass the Class II exam prior at a minimum.

5.6.d.ii. Class II operators at Class III PWSs who apply for an exception to operate without on-site supervision of a Class III shall pass the Class III exam prior at a minimum.

5.6.d.iii. Class III operators at Class IV PWSs who apply for an exception to operate without on-site supervision of a Class IV shall pass the Class IV exam prior at a minimum.

5.6.e. Class II, III, and IV PWSs shall have at least one (1) certified operator (except 1D, Class R or WD level) in addition to the Chief Operator.

§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 certified operator (Table 64-4A).

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

6.4. WD certification is not sequential towards Class I certification.

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

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

6.7. Applicants for certification shall be eighteen (18) years of age or older. This may be waived to a minimum age of sixteen (16) upon written request to the Commissioner and in accordance with Section 7.2.

§64-4-7. Education Requirements.

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

7.2. OIT education requirements can be waived by the Commissioner, in writing, to completion of tenth (10th) grade. Minimum requirements are verification each semester the student is currently

attending school and maintaining a 2.0 average on a 4.0 scale towards graduation requirements. Failure to meet the above requirements will be grounds for revocation of the certificate.

7.3. Education requirements can be waived by the Commissioner, in writing, to actively working towards a GED. Minimum requirements are verification each semester the student is currently enrolled in an adult education program and completing graduation requirements. Failure to meet the above requirements will be grounds for revocation of the certificate.

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

7.5. All education courses for CEUs will be evaluated by the Commissioner. One hundred percent (100%) credit will be awarded for those deemed to be directly related to water treatment and distribution (examples are mathematics, science, and business courses). If the Commissioner deems the course not directly related, fifty percent (50%) credit will be awarded.

7.6. 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.

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

7.6.b. An applicant may use the Class R, 1D, WD, 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 shall count towards experience required for the purposes of 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/treatment duties shall not count more than six hundred (600) hours of the total experience required for Class I through IV certification.

8.5. Class II applicants at Class I systems may obtain two thousand (2,000) hours experience at a Class I PWS and successful completion of a Commissioner approved course instead of obtaining two thousand (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 below:

8.6.a. 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. An applicant cannot use education used as a substitute for experience requirements to satisfy education requirements.

§64-4-9. Examination Requirements.

9.1. Examination requirements for each certification are listed in Table 64-4A.

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 that meet requirements and notify them before the examination date.

9.5. An individual shall make a score of seventy (70%) or better on the examination in order to be considered a passing grade.

9.6. The results of certification examinations are valid for five (5) years. If the applicant has not met the requirements for education, experience, or both within those five (5) years, the applicant shall reapply for examination and regain a passing score.

9.7. Applicants who fails an examination shall wait a minimum of sixty (60) days from the date they took the examination before reapplying for the examination.

§64-4-10. Renewal Requirements.

10.1. Ensure renewal applications are submitted at least thirty (30) calendar days before expiration and no earlier than sixty (60) calendar days prior to expiration in a manner and form approved by the Commissioner.

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 as follows:

10.3.a. Class R: A minimum of three (3) CEHs required for renewal;

10.3.b. OIT: A minimum of six (6) CEHs required for renewal;

10.3.c. WD: A minimum of six (6) CEHs required for renewal;

10.3.d. Class I: A minimum of twelve (12) CEHs required for renewal.

10.3.e. Class II, III, and IV: A minimum of twenty-four (24) CEHs required for renewal;

10.3.f. No CEHs are required for 1D renewal.

10.4. CEHs cannot be repeated in consecutive renewal periods.

10.5. Operators shall not carry over additional CEHs completed during the two (2) year period to satisfy the CEH requirements for the next certification renewal period.

10.6. The Commissioner may grant extensions 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. All PWS operator certifications expire two (2) 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 their certification has been expired for more than one (1) year.

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

§64-4-12. Grandfathering.

12.1. The below specifications only apply to grandfathering or facilitated implementation of the newly revised rule to currently certified operators.

12.2. Current 1D, OIT, WD, Class I, Class II, Class III and Class IV certificates will expire in accordance with the terms of the current certificate (two (2) 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 (2) 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 (5) years from date of exam administration.

§64-4-13. Certification from Another Jurisdiction.

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

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

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

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

13.1.d. Passes a West Virginia certification examination equivalent to the certification level of the other jurisdiction, as determined by the Commissioner.

§64-4-14. Suspension and Revocation.

64CSR4

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

14.1.a. Used fraud or deceit in obtaining certification;

14.1.b. Failed to comply with this rule. Failure to notify the Commissioner of voluntary termination of employment in accordance with Subsections 5.2.d. and 5.2.e. of this rule, even though the failure shall not subject the certified operator to the penalties of Section 16 of this rule.

14.1.c. Performed the duties of a water operator in a negligent or incompetent manner;

14.1.d. Knowingly or negligently submitted misleading, inaccurate, or false reports to the Commissioner; or,

14.1.e. Violated, or caused to be violated, any portion of *Public Water Systems* (64CSR3) or *Cross-Connection Control and Backflow Prevention* (64CSR15).

14.2. 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, and the length of time of the proposed action.

14.3. The suspension of an operator's certification is effective for an initial period of not more than one (1) year, during which time the certification is not valid and the individual cannot operate a PWS. The individual shall obtain the CEHs required for that certification level, as if the revocation had not occurred.

14.4. The revocation of an operator's certification is for a period of not less than one (1) year during which time the certification is not valid and the individual cannot operate a PWS. After the period of ineligibility (caused by the revocation) has expired, the formerly certified operator may apply for examination for certification at the former certification classification held by the operator.

§64-4-15. Penalties.

15.1. 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. A person who violates any provision of this rule or any rules or orders of the Division of Health is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$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. Administrative Due Process.

16.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with *Rules of Procedures 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.
WD	HS diploma or GED, Commissioner-approved WD certification course & passing the WD exam.	One-thousand (1,000) hours (6 months full-time) at a WD or higher PWS.
Class I	HS diploma or GED, Commissioner-approved Class I certification course & passing the Class I exam.	Two-thousand (2,000) hours (1 year full-time) at a PWS.**
Class II	HS diploma or GED, Commissioner approved Class II certification course & passing the Class II exam.	Four-thousand (4,000) hours (2 years full-time) at a PWS with at least two-thousand (2,000) of those hours at a Class II or higher PWS.**
Class III	HS diploma or GED and successfully completing ninety (90) CEUs*** and passing the examination in accordance with subsection 6.4.	Eight-thousand (8,000) hours (4 years full-time) at a Class I or higher PWS with at least two-thousand (2,000) of those hours at a Class II or higher PWS.*
Class IV	HS diploma or GED and successfully completing one hundred eighty (180) CEUs** and passing the examination in accordance with subsection 6.4.	Ten-thousand (10,000) hours (5 years full-time) at a Class I or higher PWS with at least two-thousand (2,000) of those hours at a Class III or higher PWS.*

*, **, and *** Refer to Sections 7, 8, and 9.

Table 64-4B
CEUs FOR COURSES AND OPERATING EXPERIENCE

Ten (10) CEHs	1 CEU
One (1) College Semester Credit Hour	1.5 CEU
One (1) College Quarter Credit Hour	1 CEU
Two-thousand (2,000) hours of experience	45 CEU

Note Section 7.5: All courses will be evaluated by the Commissioner and 100% credit will be awarded for those deemed to be directly related to water treatment and distribution (examples are mathematics, science, and business courses). If the Commissioner deems the course not directly related, 50% credit will be awarded.