

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 11:040. Water treatment and distribution system operators; classification and
6 qualifications.

7 RELATES TO: KRS 223.160 through 223.220~~[223.160-220]~~, 224.10-100, 224.10-110[,
8 ~~EO-2009-538~~]

9 STATUTORY AUTHORITY: KRS 223.160 through 223.220~~[223.160-220]~~, 224.10-
10 100, 224.10-110~~[,EO-2009-538]~~

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes~~[and~~
12 ~~224.10-110 authorize]~~ the cabinet to promulgate administrative regulations concerning the
13 certification of water operators. KRS 224.10-110 requires the cabinet to establish programs and
14 enforce cabinet regulations for the certification of water plant operators. KRS 223.160 through
15 223.220 authorizes the cabinet to establish qualifications and examinations, and issue
16 certificates for, water plant operators~~[EO-2009-538, effective June 12, 2009, establishes the~~
17 ~~new Energy and Environment Cabinet]~~. This administrative regulation establishes classification
18 of water treatment and distribution operator certifications and establishes the qualifications for
19 certification.

20 Section 1. Classification of Water Operator Certifications. (1) Water treatment

1 certifications.

2 (a) Limited certification.~~[As provided in KRS 223.160(2),]~~ An operator issued a limited
3 certificate may have primary responsibility for a water treatment facility for a school and for a
4 semipublic water supply as established in KRS 223.160.

5 (b) Class IA-D treatment certification.

6 ~~[1.]~~ A Class IA-D treatment operator;

7 1. May be in direct responsible charge for a Class IA-D or Class IB-D water treatment
8 plant as established in 401 KAR 8:030; and~~[, Section 2.]~~

9 ~~2.[A Class IA-D treatment operator]~~ Shall not be in direct responsible charge for a
10 water treatment plant with a larger design capacity.

11 (c) Class IB-D treatment certification.

12 ~~[1.]~~ A Class IB-D treatment operator;

13 1. May be in direct responsible charge for a Class IB-D water treatment plant~~;~~ as
14 established in 401 KAR 8:030; and~~[, Section 2.]~~

15 ~~2.[A Class IB-D treatment operator]~~ Shall not be in direct responsible charge for a water
16 treatment plant with a larger design capacity.

17 (d) Class IIA treatment certification.

18 ~~[1.]~~ A Class IIA treatment operator;

19 1. May be in direct responsible charge for a Class IIA water treatment plant or a
20 Subclass A or B water treatment plant of an equal to or smaller design capacity~~;~~ as established
21 in 401 KAR 8:030; and~~[, Section 2.]~~

22 ~~2.[A Class IIA treatment operator]~~ Shall not be in direct responsible charge for a water
23 treatment plant with a larger design capacity.

1 (e) Class IIB-D treatment certification.

2 [~~1.~~] A Class IIB-D treatment operator;

3 1. May be in direct responsible charge for a Class IIB-D water treatment plant or a
4 Subclass B water treatment plant of a smaller design capacity[~~7~~] as established in 401 KAR
5 8:030; and[~~, Section 2.~~]

6 2.[~~A Class IIB-D treatment operator~~] Shall not be in direct responsible charge for a
7 water treatment plant with a larger design capacity.

8 (f) Class IIIA treatment certification.

9 [~~1.~~] A Class IIIA treatment operator;

10 1. May be in direct responsible charge for a Class IIIA water treatment plant or a
11 Subclass A or B water treatment plant of an equal to or smaller design capacity[~~7~~] as established
12 in 401 KAR 8:030; and[~~, Section 2.~~]

13 2.[~~A Class IIIA treatment operator~~] Shall not be in direct responsible charge for a water
14 treatment plant with a larger design capacity.

15 (g) Class IIIB treatment certification.

16 [~~1.~~] A Class IIIB treatment operator;

17 1. May be in direct responsible charge for a Class IIIB water treatment plant or a
18 Subclass B water treatment plant of a smaller design capacity[~~7~~] as established in 401 KAR
19 8:030; and[~~, Section 2.~~]

20 2.[~~A Class IIIB treatment operator~~] Shall not be in direct responsible charge for a water
21 treatment plant with a larger design capacity.

22 (h) Class IVA treatment certification. [~~1.~~]A Class IVA treatment operator may be in
23 direct responsible charge of any Subclass A or B water treatment plant[~~7~~] as established in 401

1 KAR 8:030[, ~~Section 2~~].

2 (i) Class IVB treatment certification. A Class IVB treatment operator may be in direct
3 responsible charge of any Subclass B water treatment plant, as established in 401 KAR 8:030[,
4 ~~Section 2~~].

5 (2) Water distribution certifications.

6 (a) Class ID distribution certification.

7 [~~1.~~] A Class ID distribution operator;

8 1. May be in direct responsible charge for a Class ID water distribution system[,] as
9 established in 401 KAR 8:030; and[, ~~Section 2.~~]

10 2.[~~A Class ID distribution operator~~] shall not be in direct responsible charge for a water
11 distribution system serving a larger population.

12 (b) Class IID distribution certification.

13 [~~1.~~] A Class IID distribution operator;

14 1. May be in direct responsible charge for a Class IID[~~IHD~~] water distribution system[,]
15 as established in 401 KAR 8:030; and[, ~~Section 2.~~]

16 2.[~~A Class IID distribution operator~~] Shall not be in direct responsible charge for a
17 water distribution system serving a larger population.

18 (c) Class IIID distribution certification.

19 [~~1.~~] A Class IIID distribution operator;

20 1. May be in direct responsible charge for a Class IIID water distribution system[,] as
21 established in 401 KAR 8:030; and[, ~~Section 2.~~]

22 2.[~~A Class IIID distribution operator~~] Shall not be in direct responsible charge for a
23 water distribution system serving a larger population.

(d) Class IVD distribution certification.[1-] A Class IVD distribution operator may be in direct responsible charge of any water distribution system.

(3) Bottled water certification. A bottled water operator may be in direct responsible charge for a bottled water system that bottles water for sale.

(4) Operator in Training certifications. 5. Certifications should be changed to Designation.

(a)[~~Except as provided in paragraph (c) of this subsection,~~] A certified operator with an Operator in Training designation shall not be in direct responsible charge of a water treatment plant or distribution system as established in this subsection and in 401 KAR 8:030.

(b) A Class I Operator In Training shall not be in direct responsible charge of a water treatment, distribution, or bottled water system except as established in 401 KAR 8:030 and paragraph (d) of this section.

(c) A certified operator with an Operator in Training designation shall work under the direct supervision of a certified operator who:

1. Works at the same facility; and

2. Has obtained a certification level that is equal to or greater than the certification level required to serve in direct responsible charge of the facility.

(d) An Operator In Training may have direct responsible charge for a water treatment or distribution system for which the operator holds an active Class II through Class IV certification ^{OIT designation} _{required by section 1 of this regulation.}

~~required for the system as established in 401 KAR 8:030[(e) If a certified operator also has been issued a water treatment, distribution, or bottled water certification without an Operator in Training designation, the operator may serve in direct responsible charge a water treatment plant, distribution system or bottled water system as provided by this Section for the certifications that do not have an Operator in Training designation].~~ Once you have received a certification of class II-IV, why would you still be considered an OIT? There should be a cap as to how long you can be considered OIT.

7. This section needs to state in the introduction or as part of subsection 1a that experience gained through a limited certification, cannot be used to qualify for any type of certificate as specified by KRS 223.160.

1 Section 2. Water Operator Qualifications: Experience, Education, and Equivalencies. An
2 individual desiring to become a certified operator shall meet the~~[following]~~ minimum education
3 and experience requirements established in this section~~[qualifications]~~ prior to the cabinet
4 approving the individual to take a certification examination as established in 401 KAR 11:050.

5 (1) The minimum education and experience requirement for each class of water
6 treatment certification~~[certifications]~~ shall be as established in this subsection.~~[follows:]~~

7 (a) Limited certification The cabinet may issue a limited certificate as established in
8 KRS 223.160 if the applicant demonstrates the knowledge and experience required to properly
9 operate the particular water treatment facility for which the applicant is responsible.~~[:]~~

10 ~~1. Education. A minimum level of education shall not be required.~~

8. This reg used to require that an operator applying for limited certificates had to have a high school diploma or a GED. This needs to be put back in.

11 ~~2. Experience. A minimum level of experience shall not be required.]~~

12 (b) Class IA-D treatment certification.~~[:]~~

13 1.~~[Education.]~~ A high school diploma or general education development (GED)
14 certificate~~[shall be required]~~; and 9. Why would the cabinet delete the word acceptable in this reg?

15 2.~~[Experience.]~~ One (1) year of ~~[acceptable]~~ operation of a Subclass A public water
16 system with any design capacity~~[:]~~ as established in 401 KAR 8:030~~[-, Section 2, with any~~
17 ~~design capacity]~~.

18 (c) Class IB-D treatment certification.~~[:]~~

19 1.~~[Education.]~~ A high school diploma or general education development (GED)
20 certificate~~[shall be required]~~; and

21 2.~~[Experience.]~~ One (1) year of ~~[acceptable]~~ operation of a Subclass A or B public water
22 system with any design capacity~~[:]~~ as established in 401 KAR 8:030~~[-, Section 2, with any~~
23 ~~design capacity shall be required]~~.

1 (d) Class IIA treatment certification.[:]

2 1.~~[Education.]~~ A high school diploma or general education development (GED)
3 certificate~~[shall be required]~~; and

4 2.~~[Experience.]~~ Two (2) years of~~[acceptable]~~ operation of a water treatment plant, with
5 six (6) months in a Class IIA, IIIA, or IVA water treatment plant, as established in 401 KAR
6 8:030~~[, Section 2, shall be required]~~.

7 (e) Class IIB-D treatment certification.[:]

8 1.~~[Education.]~~ A high school diploma or general education development (GED)
9 certificate~~[shall be required]~~; and

10 2.~~[Experience.]~~ Two (2) years of~~[acceptable]~~ operation of a public water system, with
11 six (6) months in a Class IA-D, II B-D, or higher water treatment plant~~[plan]~~, as established in
12 401 KAR 8:030~~[, Section 2, shall be required]~~.

13 (f) Class IIIA treatment certification.[:]

14 1.~~[Education.]~~ A high school diploma or general education development (GED)
15 certificate~~[shall be required]~~; and

16 2.~~[Experience.]~~ Three (3) years of~~[acceptable]~~ operation of a public water treatment
17 plant with one (1) year in a Class IIA, IIIA, or IVA water treatment plant, as established in 401
18 KAR 8:030, Section 2~~[, shall be required]~~.

19 (g) Class IIIB treatment certification.[:]

20 1.~~[Education.]~~ A high school diploma or general education development (GED)
21 certificate~~[shall be required]~~; and

22 2.~~[Experience.]~~ Three (3) years of~~[acceptable]~~ operation of a public water treatment
23 plant with one (1) year in a Class IIA, IIB-D, IIIA, IIIB, IVA, or IVB water treatment plant, as

1 established in 401 KAR 8:030, Section 2[, ~~shall be required~~].

2 (h) Class IVA treatment certification.[:]

3 1.~~[Education:]~~ A baccalaureate degree in engineering, or biological, environmental,
4 physical, or chemical science, or equivalent~~[shall be required]~~; and

5 2.~~[Experience:]~~ One (1) year of~~[acceptable]~~ operation of a Class IIIA or IVA public
6 water treatment plant[, as established in 401 KAR 8:030, Section 2[, ~~shall be required~~].

7 (i) Class IVB treatment certification.[:]

8 1.~~[Education:]~~ A baccalaureate degree in engineering, or biological, environmental,
9 physical or chemical science, or equivalent~~[shall be required]~~; and

10 2.~~[Experience:]~~ One (1) year of~~[acceptable]~~ operation of a Class IIIA, IIIB, IVA, or
11 IVB[IV] public water treatment plant~~[shall be required]~~.

12 (2) The educational and experience requirements~~[qualifications]~~ for water distribution
13 certifications shall be as established in this subsection.~~[as follows:]~~

14 (a) Class ID distribution certification.[:]

15 1.~~[Education:]~~ A high school diploma or general education development (GED)
16 certificate~~[shall be required]~~; and

17 2.~~[Experience:]~~ One (1) year of~~[acceptable]~~ operation of a water distribution
18 system~~[shall be required]~~.

19 (b) Class IID distribution certification.[:]

20 1.~~[Education:]~~ A high school diploma or general education development (GED)
21 certificate~~[shall be required]~~; and

22 2. a.~~[Experience:]~~ Two (2) years of~~[acceptable]~~ operation of a water distribution system;
23 and~~[shall be required]~~.

1 b. Six (6) months of the required experience shall be in a water distribution system
2 serving a population greater than or equal to 1,500.

3 (c) Class IIID distribution certification.[:]

4 1.[~~Education.~~] A high school diploma or general education development (GED)
5 certificate[~~shall be required~~]; and

6 2. a.[~~Experience.~~] Three (3) years of[~~acceptable~~] operation of a water distribution
7 system; and[~~shall be required~~].

8 b. One (1) year of the required experience shall be in a water distribution system serving
9 a population greater than or equal to 1,500.

10 (d) Class IVD distribution certification.[:]

11 1.[~~Education.~~] A baccalaureate degree in engineering, or biological, environmental,
12 physical, or chemical science, or equivalent[~~shall be required~~]; and

13 2.[~~Experience.~~] One (1) year of[~~acceptable~~] operation of a water distribution system
14 serving a population greater than or equal to 15,000[~~shall be required~~].

15 (3) Bottled water certification. The educational and experience
16 requirements[~~qualifications~~] for bottled water certifications shall be[~~as follows~~]:

17 (a)[~~Education.~~] A high school diploma or general education development (GED)
18 certificate[~~shall be required~~]; and

19 (b)[~~Experience.~~] One (1) year of[~~acceptable~~] operation of a bottled water system[~~shall~~
20 ~~be required~~].

21 (4) The educational and experience requirements[~~qualifications~~] for Operator in
22 Training designations shall be as established in this subsection.[~~as follows~~]:

10. This needs to address how long an operator is to be considered an OIT.

23 (a) Class IA-D Treatment, Class IB-D Treatment, Class ID Distribution, and Bottled

1 Water certifications.

2 1.~~[Education.]~~ A high school diploma or general education development (GED)
3 certificate~~[shall be required]~~; and

4 2.~~[Experience.]~~ Experience shall not be required.

5 (b) All other applicants for the classifications identified in subsections 1(1) and 1(2) of
6 this administrative regulation:~~[:]~~

7 1. Shall have successfully qualified for and passed the certification exam of the same
8 type classification at one (1) level lower than the Operator in Training designation being
9 pursued; and

10 2. Shall not have been subject to disciplinary action as provided by 401 KAR 11:050,
11 Section 4.

12 (5) Substitutions. The cabinet shall allow~~[the following]~~ substitutions as established in
13 this subsection for education and experience requirements as~~[the qualifications]~~ established in
14 subsections (1), (2), and (3) of this section.~~[:]~~

11. This reg used to state that you could not substitute more than 6 months of experience for a class 1 certification and 1 year for class II-IV certifications. This needs to be added back.

15 (a) Education in~~[environmental]~~ engineering,~~[; environmental technology; and]~~ or
16 biological, environmental, physical, or chemical science~~[sciences]~~, or equivalent shall be
17 substituted if the substitution does not exceed fifty (50) percent of the required experience.

18 1. An associate degree shall be considered equivalent to two (2) years of experience.

19 2. A baccalaureate degree shall be considered equivalent to four (4) years of experience.

20 3. Ten (10) contact hours, one (1) Continuing Education Unit, or one (1) postsecondary
21 education quarter hour in any subject with a passing grade of C or higher shall substitute for
22 0.022 years of experience.

13. Within the entire substitution's section the cabinet has applied a multiplier and the maximum that can be applied, but not within 5(2)a starting on line 3. The regulations should be consistent.

23 4. One (1) postsecondary education semester hour in any subject with a passing grade of

1 C or higher shall substitute for 0.033 years of experience.

2 (b)[3.] Education that did not result in a degree in engineering or biological,
3 environmental, physical, or chemical science, or equivalent[a-related field] may be substituted
4 if the substitution does not exceed twenty-five (25) percent of the required experience.[for the
5 required experience as follows:

6 a.] 1. An associate degree may substitute for a maximum of one (1) year of experience.

7 2. A baccalaureate degree may substitute for a maximum of two (2) years of experience.

8 3. Ten (10) contact hours, one (1) Continuing Education Unit, or one (1) post-secondary
9 education quarter hour in any subject with a passing grade of C or higher shall be considered
10 equivalent to 0.011[0.022] years of experience.

11 4.[b.] One (1) postsecondary education semester hour with a passing grade of C or
12 higher in any subject shall be considered equivalent to 0.016[0.033] years of experience.

13 5. Ten (10) contact hours, one (1) Continuing Education Unit, or one (1) postsecondary
14 education quarter hour in engineering, mathematics, or biological, environmental, physical, or
15 chemical science with a passing grade of C or higher shall substitute for 0.022 years of
16 experience.

17 6. One (1) postsecondary education semester hour in engineering, mathematics or
18 biological, environmental, physical, or chemical science with a passing grade of C or higher
19 shall substitute for 0.033 years of experience.

20 (c)[4.] Education applied to the experience requirements established[specified] in
21 subsections (1) and (2) of this section shall not be applied to the education requirement.

22 (d)[(b)] Treatment and distribution experience may be substituted for the educational
23 requirement as established in this paragraph.[follows:]

1 1. One (1) year of operational experience at a water system may substitute for one (1)
2 year of education.

3 2. a. The cabinet may allow partial substitution of the education requirement by
4 experience in:

5 i. Maintenance;²₇

6 ii. Laboratory analysis;²₇ or

7 iii. Other work related to the collection, treatment, or distribution of drinking water or
8 wastewater.

9 b. To establish the amount of~~[how much]~~ experience that shall be accepted, the cabinet
10 shall determine the degree of:

11 i. Technical knowledge needed to perform the work; and~~[the degree of]~~

12 ii. Responsibility the applicant had in the operation of the system.

13 3. Experience applied to the education requirement specified in subsections (1) and (2)
14 of this section shall not be applied to the experience requirement.

15 ~~(c)[(e)]~~ Water treatment,²_{and} distribution and collection experience may be substituted
16 as established in this paragraph.~~[follows:]~~

17 1. Two (2) years of distribution system experience may~~[shall]~~ be considered equivalent
18 to one (1) year of treatment experience.

19 2. One (1) year of treatment experience may~~[shall]~~ be considered equivalent to one (1)
20 year of distribution system experience.

21 3. One (1) year of collection experience may be considered equivalent to six (6) months
22 of distribution experience.

23 4. Substitutions under this paragraph shall not account for more than fifty (50) percent

1 of the experience requirement.

2 (f) Experience that is not related to water collection, treatment, or distribution may be
3 substituted as established in this paragraph.

4 1. Two (2) years of experience in laboratory analysis may be considered equivalent to
5 one (1) year of treatment experience or six (6) months of distribution experience.

6 2. Two (2) years of experience in the construction trades, construction management,
7 engineering, plumbing, or electronics may be considered equivalent to one (1) year of
8 distribution experience or six (6) months of treatment experience.

14. How is experience in the construction trades related to water treatment?

9 3. Work experience in an area or specialty unrelated to those established in this paragraph
10 may be substituted for up to six (6) months of collection or treatment experience.

11 4. To establish the amount of experience that shall be accepted, the cabinet shall
12 determine the degree of:

13 i. Technical knowledge needed to perform the work; and

14 ii. Responsibility the applicant had in performing the work.

15 4. Substitutions under this paragraph shall not account for more than fifty (50) percent of
16 the experience required by this administrative regulation.

17 (6) Apprenticeships. An applicant who completes a state-approved treatment or
18 distribution apprenticeship program may be eligible for treatment or distribution certification if
19 the applicant also achieves a passing score of seventy percent (70%) or above on a cabinet-
20 administered examination.

15. The regulatory impact statement references Kentucky Labor Cabinet approved apprenticeships, but this is not specified here. As stated, it could be a DEP or KRWA approved apprenticeship program. The language should read "Completes a Kentucky Labor Cabinet approved treatment or distribution apprenticeship program".

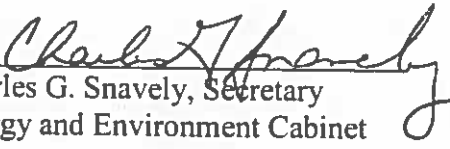
21 (7) Equivalency. An operator who has received water operator certification in a state,
22 territory, or possession of the United States may be given an equivalent certification in
23 Kentucky based on the:

13 The wording within this section also appears to forgive all experience requirement. Does this mean that a two year apprenticeship program such as the one being touted at the Big Sandy Community program, which is part college work and part time utility work, could with passage of an exam qualify someone for a class IV exam or would they still have to meet the qualifications.

- 1 1. Level of certification obtained in the other state, territory, or possession of the United
- 2 States;
- 3 2. Number of years of water operator experience obtained while holding valid
- 4 certification from another state, territory, or possession of the United States; and
- 5 3. Type, size, and capacity of the water plant or plants at which the certified operator
- 6 obtained experience.
- 7 (8) Reciprocity. The cabinet may establish a reciprocal agreement for operator
- 8 certification with any other state, territory, or possession of the United States if the cabinet
- 9 determines that operator certification requirements of the other state are at least as stringent as
- 10 those established in this administrative regulation.

16. Page 13 line 21, subsection 7 entitled "Equivalency"- Kentucky has always worked with other states to grant reciprocal licenses as provided for in 401 KAR 11:050, Section 1(8). With each request, you must compare the other state's regulatory requirements for the certificate held to identify the "equivalent" license in Kentucky. However, it appears that in this section DCA is looking to expand this practice to consider the additional years of experience gained while holding the specific license. If an operator tested for a Class II WW license in another state, could he/she receive our class IV license with the additional experience? How does this demonstrate their class IV knowledge? Once again, it appears these regulations are doing anything to certify operators with no regard to the education and experience required. The qualifications for each level of certification are either right or wrong. We should not be looking at any and every way to get around them. If this is the case, simply do away with the qualifications and program itself. The "Reciprocity" language found on page 14, line 7, subsection 8 should remain and subsection 7 be removed in its entirety.

401 KAR 11:040 Water treatment and distribution system operators; classification and qualifications is approved for filing.


Charles G. Snavely, Secretary
Energy and Environment Cabinet

5/9/2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2019 at 6:00 p.m. Eastern Time at 300 Sower Boulevard, 1st Floor, Training Room B, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2019. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person.

Contact person: Carole J. Catalfo
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 11:040

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 11 regulations")

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes qualifications and classifications for water treatment and distribution system operators.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to protect public health by ensuring that water treatment and distribution system operators have and maintain adequate education, experience, and training. 1. How are we protecting the public health by allowing most of the required experience to be substituted out, sometimes in unrelated fields?

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 authorizes the cabinet to promulgate administrative regulations concerning the certification of water operators. KRS 224.10-110 requires the cabinet to establish programs and enforce cabinet regulations for the certification of water plant operators. KRS 223.160 through 223.220 authorizes the cabinet to establish qualifications and examinations, and issue certificates for, water plant operators.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the administration of the statutes by establishing specific education, experience, and training qualifications and criteria for operators of water treatment and distribution systems as required by the authorizing statutes.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies the education and experience requirements for water system operators, allows non-related college degrees to substitute for up to twenty-five (25) percent of the experience requirement, expands acceptable experience, establishes equivalency requirements for certified out-of-state operators who wish to obtain Kentucky certification, allows the cabinet to enter agreements with other states, territories, and possessions of the United States for reciprocal operator certification, and make grammatical corrections to comply with KRS 13A.

2. Are the changes meant to clarify or reduce the qualifications?

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify education and training requirements for drinking water operators, allow non-related college degrees to substitute for up to twenty-five (25) percent of experience requirements, expand acceptable experience, establish routes for equivalent and reciprocal operator certification which should assist in easing the shortage of qualified drinking water operators, and to correct language to comply with KRS 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 authorizes the cabinet to promulgate administrative regulations concerning the certification of water operators. KRS 224.10-110 requires the cabinet to establish programs and enforce cabinet regulations for the certification of water plant operators. KRS 223.160 through 223.220 authorizes the cabinet to establish qualifications and examinations, and issue certificates for, water plant operators.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the statutes by allowing some required education and experience substitutions for some classes of operators to help ease the current shortage of water system operators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Certified drinking water operators, operator-candidates, and state or local governments that operate drinking water plants will be affected by the amendment.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will not need to take additional actions. 3. DOW and DCA are stating that there is an operator shortage, where is the data to support this?

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation will not result in additional costs. 4. This reg could result in additional cost if an inexperienced operator sends improperly treated water out of their plant.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment should assist in easing the shortage of drinking water operators by allowing an additional substitution of non-related college degrees for required experience, expanding acceptable experience, and establishing routes for equivalent and reciprocal operator certification.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This amendment will not result in additional costs.

(b) On a continuing basis: This amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Certification fees and state general funds. The amendments to

this administrative regulation will not require a change in funding sources.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendments to this administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly. Fees for operator certification are established in 401 KAR 11:060.

(9) TIERING: Is tiering applied? (Explain why or why not) Yes, tiering is applied in this administrative regulation. Drinking water operator education, training, and experience differ depending on the type and size of the system the operator is responsible for. Larger systems require a more extensive combination of education, training, and experience.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 11:040

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Email: water@ky.gov (Subject Line: "Chapter 11 regulations")

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation will impact the Division of Water and Division of Compliance Assistance, both within the cabinet's Department of Environmental Protection, and state or local governments that operate drinking water or wastewater facilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 224.73-110.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not result in increased revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not result in additional revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not result in additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation will not result in additional revenue or increased costs.

FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 11:040

Contact Person:

Carole J. Catalfo

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1. Federal statute or regulation constituting the federal mandate. There is no federal statute or regulation that mandates certified operators, however, state drinking water revolving funds can be withheld by the federal government if the state does not have a acceptable certified operator program.
2. State compliance standards. KRS 224.10-100, 224.10-110, 224.73-110
3. Minimum or uniform standards contained in the federal mandate. There are federal guidelines, but no minimum or uniform federal standards, for certified operators.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No. There is no federal mandate for certified operators.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate for certified operators.