

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 8:030. Water treatment plant and water distribution system classification and staffing.

6 RELATES TO: KRS 223.180, 223.190, 223.200, 223.210, 223.220, 224.10-110; 42

7 U.S.C. 300g-7, Section 1419

8 STATUTORY AUTHORITY: KRS 223.180 through 223.220~~[223.180-223.220]~~, 224.10-  
9 100, 224.10-110

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 223.180-223.220 authorizes the  
11 cabinet to classify water treatment plants and distribution systems based on size, type, and physical  
12 condition and according to the skill, knowledge, and experience needed by the plant operator. KRS  
13 224.10-110 requires the cabinet to enforce administrative regulations for the regulation and control  
14 of the purification of water for public and semipublic use and for the certification of water plant  
15 operators. This administrative regulation establishes standards for the staffing and classification of  
16 water treatment plants and water distribution systems.

17 Section 1. General Provisions. (1)(a) A public water system shall be operated according  
18 to the provisions of KRS Chapters 223 and 224 and 401 KAR Chapter 8.

19 (b) A certified operator shall not be required for a semipublic water system.

20 (c) Except as provided in subsection (2)(c)1b, 2b, and 4b of this section, a public water

1 system shall be operated by a certified operator, other than an operator-in-training, in direct  
2 responsible charge who holds an active[~~a valid~~] certificate in a class equal to or higher than that  
3 required for the system under supervision.

4 (2) (a) A Class I Operator In Training shall not be in direct responsible charge of a water  
5 treatment, distribution, or bottled water system.

6 (b) A certified operator with an Operator In Training designation shall work under the  
7 direct supervision of a certified operator who:

8 1. Works at the same facility; and

9 2. Has an active certification level that is equal to or greater than the certification level  
10 required to serve in direct responsible charge of the facility.

11 (c) An Operator In Training may have direct responsible charge for a water treatment or  
12 water distribution system for which the operator holds an active certification in a class equal to  
13 or higher than that as required by 401 KAR 11:040.

6. Why would you still be considered an OIT after  
receiving a certification in a equal to or higher field.  
Shouldn't there be a cap on  
how long you can participate in the OIT program?

14 (3) Staffing requirements.

15 (a) Water distribution systems. A water distribution system shall be operated by or under  
16 the supervision of a distribution system operator certified in a class equal to or higher than the  
17 class of the distribution system.

18 (b) Combination water treatment plants and water distribution systems.

19 1. A combination water treatment plant or water distribution system shall be classified as  
20 Class IA-D, Class IB-D, or Class IIB-D.

21 2. A system classified as a combination system in subparagraph 1. of this paragraph shall  
22 be operated by or under the supervision of an operator who:

23 a. Holds an active[~~a valid~~] combination or separate water treatment and distribution

1 system operator certificate of the appropriate class or higher; and

2 b. Who shall be in direct responsible charge of the system.

3 3. A certified operator of a Class IA-D combination system shall be at the water treatment  
4 plant if water is being treated, unless the operator is performing other system-related duties.

5 (c) Water treatment plants.

6 1. Class IIA.

7 a. Except as provided in subparagraph b. of this paragraph, if water is being treated, a  
8 Class IIA water treatment plant shall be operated by a certified water treatment plant operator  
9 who;

10 (i) Holds an active~~[a-valid]~~ certificate in a class equal to or higher than Class IIA who  
11 shall be in direct responsible charge of the plant; and

12 (ii) Shall be present at the water treatment plant or performing system-related duties.

13 b. A Class IIA water treatment plant that treats water during more than one (1) shift per day  
14 may employ a Class IA-D certified operator for one (1) shift per day, other than the shift worked  
15 by the Class IIA operator in direct responsible charge, provided that~~[so long as]~~ the Class IIA  
16 operator in direct responsible charge shall be able to respond on site within thirty (30) minutes.

17 2. Class IIIA.

18 a. Except as provided in subparagraph b. of this paragraph, if water is being treated, a Class  
19 IIIA water treatment plant shall be operated by a certified water treatment plant operator who;

20 (i) Holds an active~~[a-valid]~~ certificate in a class equal to or higher than Class IIIA who shall  
21 be in direct responsible charge of the plant; and

22 (ii) Shall be present at the water treatment plant or performing system- related duties.

23 b. A Class IIIA water treatment plant that treats water during more than one (1) shift per

1 day may employ a Class IIA operator for one (1) shift per day, other than the shift worked by the  
2 Class IIIA operator in direct responsible charge, provided that~~[so long as]~~ the Class IIIA operator  
3 in direct responsible charge shall be able to respond on site within thirty (30) minutes.

4 3. Class IIIB. A~~[a]~~ Class IIIB water treatment plant shall be operated by or under the  
5 supervision of a certified water treatment plant operator who:

6 (i) Holds an active~~[a valid]~~ certificate in a class equal to or higher than Class IIIB; and

7 (ii) Who shall be in direct responsible charge of the system.

8 4. Class IVA.

9 a. Except as provided in subparagraph b, of this paragraph, if water is being treated, a  
10 Class IVA water treatment plant shall be operated by a certified water treatment plant operator  
11 who:

12 (i) Holds an active~~[a valid]~~ Class IVA certificate who shall be in direct responsible  
13 charge of the plant; and

14 (ii) Who shall be present at the water treatment plant or performing system-related duties.

15 b. A Class IVA water treatment plant that treats water during more than one (1) shift per  
16 day may employ a Class IIIA operator for one (1) shift per day, other than the shift worked by  
17 the Class IVA operator in direct responsible charge, provided that~~[so long as]~~ the Class IVA  
18 operator in direct responsible charge shall be able to respond on site within thirty (30) minutes.

19 5. Class IVB. A Class IVB water treatment plant shall be operated by or under the  
20 supervision of a certified water treatment plant operator who holds an active~~[a valid]~~ certificate  
21 in a class equal to or higher than Class IVB who is in direct responsible charge of the system.

22 6. A public water system may propose an alternate staffing plan to the staffing  
23 requirement established in this paragraph.

1           a. The proposal shall be submitted to the cabinet and shall thoroughly explain the  
2 alternate proposal.

3           b. The proposal shall demonstrate:

4           (i) A necessity for the water system to vary from the requirements~~[requirement]~~ in this  
5 paragraph; and

6           (ii) An equal level of protection of human health and the environment.

7           c. The cabinet shall not approve an alternate proposal that does not propose that a duly  
8 certified operator in direct responsible charge operate a water treatment plant, in accordance with  
9 KRS 223.210.

10          (d) Bottled Water Systems. A bottled water treatment plant shall be operated by or under  
11 the supervision of a certified water treatment plant operator who:

12           1. Holds an active~~[a valid]~~ bottled water certification; and

13           2. Who shall be in direct responsible charge of the system.

14          (e) System-related duties shall be for:

15           1. Class IIA, Class IIIA, and Class IVA water systems, duties related to the operation and  
16 maintenance of the water treatment plant; or

17           2. Class IA-D water systems, duties related to the operation and maintenance of the water  
18 treatment plant and distribution system.

19          (3)(a) A public water system may comply with the staffing requirements of this section  
20 by securing a contract operator or an operations firm.

21          (b) If a public water system secures a contract operator or operations firm to operate a  
22 treatment plant or distribution system, the public water system shall provide the following  
23 information to the cabinet:

1 1. Name, mailing address, and telephone number of the:

2 a. Certified operator or contract operations firm; and

3 b. Principal contact within the firm for certification activities, if different;

4 2. Name, certificate type, and certificate number for each certified operator;

5 3. Facility name, public water supply identification number, and county location of each  
6 system for which the contract or operations firm operator is assuming responsibility;

7 4. Effective date and expiration date of the contract; and

8 5. Duties and responsibilities of each party to the contract.

9 (4) Certificate display. If a public water system office is available at the water treatment  
10 plant or within the distribution system, each operator's certificate shall be prominently displayed.

11 (5) Reporting requirements.

12 (a) A public water system shall notify the cabinet in writing within thirty (30) calendar days  
13 of a certified operator employment change.

14 (b)1. A certified operator shall notify the cabinet within thirty (30) calendar days of a  
15 change in employment or mailing address.

16 2. Employment change information shall include:

17 a. The name and identification number of the public water system;

18 b. The effective date of the change; and

19 c. Whether the operator is assuming or relinquishing responsibility for the plant or  
20 system.

21 Section 2. Classification of Water Treatment Plants and Water Distribution Systems.

22 There shall be four (4) classes of water treatment plants, Class I, II, III, or IV; two (2) subclasses  
23 of treatment types, A or B; four (4) classes of water distribution systems, Class I, II, III, or IV;

1 and one (1) bottled water class.

2 (1)(a) Class IV is the highest class and subclass A is the highest subclass.

3 (b) Combined treatment and distribution classifications~~[also exist]~~ for Class I and II  
4 systems shall be Class IA-D, Class IB-D, and Class IIB-D.

5 (2) The water treatment plant and water distribution system classifications shall  
6 correspond to the operator classifications established in 401 KAR 11:040.

7 (3) A public water system shall be classified according to the criteria in subsection (4) of  
8 this section.

9 (a)1. The~~the~~ cabinet may change a public water system classification if necessary  
10 because of:

11 a. Complexity of the system due to engineering design;

12 b. Source water quality; or

13 c. Operation conditions.

14 2. Notice of a change shall be given to the owner of the public water system.

15 (b) The cabinet shall reclassify a nontransient noncommunity water system that treats water  
16 primarily for its industrial process with limited employee use if the calculated portion of the water  
17 produced by the water treatment plant not used for the industrial process averages less than ten (10)  
18 percent of the average daily production averaged over the most recent twelve (12) months.

19 (4)(a)1. A water treatment plant or system based on the cabinet-assigned design capacity  
20 for finished water production the treatment plant is able to produce in twenty-four (24)  
21 continuous hours of production, taking into consideration all limiting factors and the treatment  
22 process employed.

23 2. A water treatment plant classification shall be as established in Table 1 of this

1 subsection.

2 (b)1. A water distribution system shall be classified according to population served,  
3 determined as established in 401 KAR 8:200, Section 3.

4 2. A water distribution system classification shall be as established in Table 1 of this  
5 subsection.

TABLE 1		
	Water Treatment Plant (Assigned Design Capacity)	Water Distribution System (Population Served)
Class I	Less than 50,000 gallons per day	Less than 1,500
Class II	50,000 gallons or more per day but less than 500,000 gallons per day	Equal to or greater than 1,500 but less than 15,000
Class III	500,000 gallons or more per day but less than 3,000,000 gallons per day	Equal to or greater than 15,000 but less than 50,000
Class IV	3,000,000 gallons or more per day	Equal to or greater than 50,000

6 (c) Each class of water treatment plan shall be subdivided according to the type of  
7 treatment used by the plant. The subclasses shall be:

8 1. Subclass A: a water treatment plant that treats:

9 a. Surface water or groundwater under the direct influence of surface water; or

10 b. Groundwater not under the direct influence of surface water that uses gravity filtration;

11 and

12 2. Subclass B: a water treatment plant that treats groundwater;

13 a. Not under the direct influence of surface water and uses a filtration process other than  
14 gravity filtration; or



1           b.[Groundwater] Not under the direct influence of surface water that does not use  
2     filtration processes.

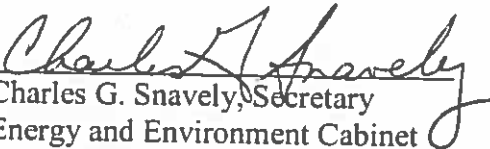
3           (d) A combination treatment and distribution system shall be classified as Class IA-D,  
4     Class IB-D, or Class IIB-D.

5           (e) Each treatment plant comprising a single public water system shall be classified in  
6     accordance with this section, and each plant shall be operated in accordance with Section 1 of  
7     this administrative regulation.

8           (5) A bottled water treatment plant classification shall only apply to a bottled water  
9     system that bottles water for sale.

10          (6) Limited. A limited classification is available to a water treatment facility serving a  
11     school or a semipublic water system.

401 KAR 8:030 Water treatment plant and water distribution system classification and staffing 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 the Department for Environmental Protection, Training Room B, 300 Sower Boulevard, 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  
Internal Policy Analyst, RPPS,  
Division of Water, 3<sup>rd</sup> Floor  
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Frankfort, Kentucky 40601  
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Email: water @ky.gov (Subject line: "Chapter 11 regulations")

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 8:030

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 standards for the staffing and classification of water treatment plants and water distribution systems.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure that water treatment plants, distribution, and bottled water systems are staffed by operators who have passed a certification examination by the cabinet and have obtained the appropriate level of certification for the type of plant or system being operated.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 223.180-223.220 authorizes the cabinet to classify water treatment plants and distribution systems based on size, type, and physical condition and according to the skill, knowledge, and experience needed by the plant operator. KRS 224.10-110 requires the cabinet to enforce administrative regulations for the regulation and control of the purification of water for public and semipublic use and for the certification of water plant operators.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs water treatment plants, distribution, and bottled water systems of the staffing requirements for each class of system or plant.

(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 corrects regulatory language to meet KRS 13A requirements, clarifies that Class I Operators In Training shall not be in direct responsible charge of water treatment, distribution, or bottled water systems, clarifies that operators in direct responsible charge of water treatment, distribution, or bottled water systems must hold an active certification for the system, and establishes staffing requirements when Operators In Training are working in those systems to accommodate alternative staffing.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to clarify the role and responsibilities of Operators In Training and operators in direct responsible charge of water treatment, distribution, and bottled water systems, and to accommodate alternative staffing. 1. There is already language in this reg that allows facilities to request an alternative staffing plan.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 223.180 through 223.220 authorizes the cabinet to classify water treatment plants and distribution systems based on size, type, and physical condition and according to the skill, knowledge, and experience needed by the plant operator. KRS 224.10-110 requires the cabinet to enforce administrative regulations for the regulation and control of the purification of water for public and semipublic use and for the certification of water plant operators. 2. Is this reg being properly enforced by DOW as is?

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist to inform water treatment plants, distribution, and bottled water systems of the staffing requirements for each class of system or plant for operators in direct responsible charge of those systems and when Operators In Training are working.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Certified water operators, Operators In Training, and state or local governments that operate drinking water plants are affected by the amendment. 3. No types or numbers are provided.

(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: The regulated entities will not need to take additional actions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation will not result in additional costs. 4. You should show how many systems are currently out of compliance and in need of additional shift operators while the systems are treating water?

(c) As a result of compliance, what benefits will accrue to the entities identified in question

(3): The regulated entities will benefit from the clarification the amendment provides regarding staffing requirements for operators in direct responsible charge of water treatment, distribution, or bottling systems, and when Operators In Training are working at the facility and for alternative staffing.

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

(a) Initially: The amendment to this administrative regulation will not result in additional costs.

(b) On a continuing basis: The amendment to this administrative regulation will not result in additional costs. 5. If this is actively enforced, how much more will it cost the agency?

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division uses federal funds to administer the Safe Drinking Water Act.

(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: No increase or changes in funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) Yes, tiering is applied dependent upon the type, size, and classification of water system being operated.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 8:030

Contact Person:

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Phone: (502) 782-6914

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? There are approximately 436 public water systems, and 52 semipublic water systems. Public water systems are often owned by city governments or organized under county governments, and other districts may also have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 223.180 through 223.220, 224.10-100, 224.10-110.

(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 generate 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 generate revenue.

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

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not increase 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 generate revenue or increase costs.

## FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 8:030

Contact Person:

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

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 300g-7, Section 1419
2. State compliance standards. KRS 223.180 through 223.220, 224.10-100, 224.10-110
3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 300g-7, Section 1419 establishes minimum standards for operator certification.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No, this administrative regulation does not impose stricter, additional, or different requirements or responsibilities than those required by federal law.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter, additional, or different requirements or responsibilities than those required by federal law.