Final Small Business Economic Impact Statement
Chapter 246-292 WAC, Waterworks Operator Certification
October 2013

Section 1. What is the scope of the rule package?

The primary purpose of the rule revision is to incorporate changes made to chapter 70.119 RCW from Substitute House Bill (SHB) 1283 Chapter 221, Laws of 2009, Public Water System Operators, clarify federal requirements, incorporate Department of Health (department) guidance, incorporate long-standing program practices, and clarify existing rule requirements and procedures.

The rule affects certified operators, Group A public water systems, Cross-connection Control Specialists (CCSs), and Backflow Assembly Testers (BATs).

Rule Revision Background

Revisions are needed to address statutory changes that affect the protection of public health, updates due to program operational changes and current program practices, incorporation of long-standing guidelines into the rule, and rule language clarification and procedure improvements.

1. Statutory Changes

The Legislature adopted SHB 1283, to amend chapter 70.119 RCW. The bill:

- Strengthened the department's authority to take immediate enforcement actions in cases of gross negligence;
- Clarified the department's authority to certify BATs and CCSs;
- Amended the definition of a "Group A public water system" to be consistent with other related drinking water statutes;
- Added a definition of "operator" to include a BAT, certified operator, and CCS; and
- Added a reference to chapter 18.106 RCW for the specialty plumbers licensing requirements that cover some activities performed by BATs.

2. Program Operational Changes

The revisions include program requirements that have been long-standing standard operating procedures, changes include:

- Addressing large public water system recruitment issues to allow broader substitution options for minimum education requirements;
- Adding duties for operators in responsible charge, and duties for CCSs and BATs;

- Revising temporary certification requirements for water treatment plant operators to increase public health protection for these high-risk water systems; and
- Adding minimum requirements for field test and inspection reports completed and submitted by BATs.

3. Program Practices and Guidelines

The Waterworks Operator Program Guideline (Guideline) explains how to comply with the rule requirements for certified operators and Group A public water systems. The revisions include requirements that have been long-standing guidelines and program practice.

- Moves and updates the definition of "available" into the duties of a certified operator section (WAC 246-292-032); and
- Updates most sections to clarify requirements using "plain language" from the Guideline.

4. Rule Clarification and Procedure Improvements

The revisions include plain language clarifications and procedural improvements.

- Clarifies roles and responsibilities of certified operators;
- Specifies requirements for BATs conducting backflow preventer inspections, field tests, maintenance, and reporting the results of such work;
- Modifying procedures and timelines for certification of operators;
- Clarifying existing requirements to make the rule easier to understand and use, reformatting tables to simplify information, and creating new rule sections; and
- Clarifying federal operator certification requirements.

Many requirements for Group A public water systems in chapter 246-290 WAC (Group A rule), obligate certified operators to perform specific functions even though the Group A rule does not directly regulate operators. The revisions to this chapter adopt specific requirements from the Group A rule that apply specifically to certified operators, such as cross-connection control, backflow prevention, and reporting requirements.

Section 2. Which businesses are impacted by the rule package? What are their North American Industry Classification System (NAICS) codes? What is the minor cost threshold?

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll
221310	Water supply and irrigation systems	147	$1307
237110	Water and sewer line and related structures construction	342	$8243

Section 3. What is the average cost per business of the rule?

WAC 246-292-032, Duties of a certified operator in responsible charge

The rule specifies that a certified operator in responsible charge must be available twenty-four hours per day, seven days per week, and able to take action within two hours of contact. Although the rule requires the certified operator in responsible charge or the designee to respond within two hours of contact, it also provides flexibility to allow the operator to determine the "appropriate action." The rule does not obligate a certified operator to be on-site at all times to resolve problems. A certified operator in responsible charge can direct other qualified staff, contractors, or other individuals to make necessary repairs or resolve problems to address an issue.

Costs: Under this section, some water systems will not incur additional costs. For example, their contract operator may be able to enlist individuals that live on the system to be available to complete selected tasks in their absence (such as turning off power or turning on an emergency generator). Other systems may enter into agreements with other systems to provide cross coverage (you cover for me, and I will cover for you). There will be some water systems; however, that will incur costs because they may elect to have staff "on-call" to comply with the proposed requirement. Based on results from a survey the department conducted (see Appendix B of the Significant Analysis), the probable costs under this scenario range between $0 to $432 per month for labor ($0-$5,184 annual), depending on the wage rates and union contract provisions.

WAC 246-292-034, Duties of a BAT

The rule clarifies the specific responsibilities of BATs in detail and requires BATs to meet the following requirements:

- Be properly equipped and capable of using a field test kit, all tools and other equipment needed to conduct inspections and field tests;
- Use proper field test procedures that meet the requirements in WAC 246-290-490(7)(d);
- Use field test kits meeting the standards established in the Manual of Cross-Connection Control published by the University of Southern California (USC Manual), 10th Edition (2009); and
- Have field test kits evaluated, checked for accuracy, and calibrated at twelve month intervals according to the standards in the USC Manual.

Costs: The equipment required to inspect and field test backflow preventers includes, at a minimum, a field test kit, including fittings and connectors, and other tools needed to inspect and field test backflow preventers. The cost of the field test kit meeting the standards in the USC Manual 10th Edition (2009) ranges from $750 to $1,000 for a basic analog model. The cost of the fittings and connectors could be an additional $1,000. Annual verification and recalibration (if needed) costs are between $75 and $90. If a field test kit is found to be inaccurate and must be repaired, the most commonly required field test kit repair typically costs between $40 and $270. Even though the requirements are new, BAT's have been incurring these costs as a standard

business cost since purveyors require this as part of their Quality Assurance/Quality Control programs required by WAC 246-290-490.

Cost Category	Section 032 Availability	Section 034 BAT Equipment	Cost
Reporting			
Record Keeping			
Training			
Professional Services (laboratory testing/repair)		$0-$360 annual cost	
Equipment (field test kit)		$0-$2000 one time cost	
Supplies (type, amount)			
Labor	$0-$432 per month ($0-($5,184 annual)		
Administration			
Lost Sales or Revenue			
Other			
Total Cost (annual and one time costs)			$0-$7,544

Section 4. Does the rule impose more than minor costs on impacted businesses?

Cost per business $7,544
Minor cost threshold- 1% payroll $1,307[1]

Does the cost per business exceed the minor cost thresholds? Yes

Section 5. Does the rule have a disproportionate impact on small businesses?

The costs identified in Section 4 of this SBEIS are related to the size and complexity of the water system regardless of the type or size of the business (purveyor) that owns and operates the water system. Because of this, the department assumes the rules have a disproportionate impact on small businesses.

[1] For the purposes of this analysis, the department's assumption is that water systems (and their customers) will ultimately be responsible for paying for the costs of the required actions. Therefore, the analysis uses the minor cost threshold for water supply and irrigation systems in this section.

Section 6. Did we make an effort to reduce the impact of the rule?

A. Did we reduce, modify, or eliminate substantive regulatory requirements?

Yes, the rule does eliminate and modify existing regulatory requirements:

- The rule eliminates the requirement for Class 1 treatment plants that serve fewer than 1,000 service connections to employ a Basic Treatment Operator (BTO). Instead, the rule allows a Class 1 treatment plant to employ a Water Treatment Plant Operator 1 (WTPO 1) to operate any system with a Class 1 rating. Eliminating this restriction will provide purveyors a larger candidate pool for employment. The rule also provides a pathway to transition BTOs to become certified as a WTPO 1 without charging a fee for the transition.

- The rule allows a purveyor to assign an operator in responsible charge at one level lower than the treatment plant or distribution system rating. In addition, the rule allows a purveyor to assign an operator at one level lower than the operator in responsible charge. These two changes reduce labor costs to purveyors.

B. Did we simplify, reduce, or eliminate record keeping and reporting requirements?

Yes, the rules simplify and clarify record keeping and reporting requirements. Although the current rule does not require BATs to keep records and report results for inspecting and testing backflow preventers, BATs are currently required to perform these duties in accordance with the Group A rule. The rule clarifies in detail the minimum requirements for record keeping and reporting. These requirements are identified in Section 036 to make it easier for a BAT to comply with the Group A rule requirements for record keeping and reporting.

C. Did we reduce the frequency of inspections?

No. This rule does not regulate the frequency of inspections.

D. Did we delay compliance timetables?

No. This rule does not regulate compliance timetables?

E. Did we reduce or modify fine schedules for noncompliance?

No. This rule does not modify fine schedules for noncompliance?

F. Did we create or implement any other mitigation techniques?

The rule includes the following additional mitigation measures:

- The Department considered, but did not include in the rule a requirement for electronic reporting of backflow preventer inspection and field test reports because of the cost to purveyors who do not have electronic systems in place.
- The rule also allows experience to substitute for the minimum education requirement to reduce the educational cost to applicants to become a certified operator.

G. If you answered "No" for all the previous six questions, please explain why it is not "legal or feasible" to implement any of these mitigation techniques.

Not applicable.

Section 7. Did we involve small businesses in the rule development process?

To obtain cost estimates for the rule changes, the department consulted the Waterworks Advisory Committee (see Appendix A of the significant analysis) and other stakeholders to determine the probable costs. Department staff met with stakeholder groups representing:

- Small, medium, and large water systems;
- Certified operators from small, medium, and large water systems;
- CCSs;
- BATs;
- Satellite system management agencies; and
- Contract operators.

Throughout the rule making process, the department gave several presentations to discuss the changes and get feedback from stakeholders (representing small, medium, and large businesses) at conferences and meetings at various locations across Washington for the following groups between Fall 2009 and Fall 2013.

Stakeholder Groups
American Water Works Association-Pacific Northwest Section Trustees & Cross-Connection Control Committee
Association of Boards of Certification
Association of Washington Cities/Counties
Certified operators, BATs, and CCCs
Evergreen Rural Water of Washington
Group A public water systems
Rural Community Assistance Corporation
Spokane Regional Cross-Connection Control Chapter
U. S. EPA – Region 10 (Alaska, Idaho, Oregon, and Washington)
Washington Association of Sewer and Water Districts
Washington Certification Services
Washington Environmental Training Center
Washington Operator Workshop
Washington Public Utility District Association
Washington Water Utility Council
Water and Wastewater Operators of Washington
Western Washington Cross-Connection Prevention Professionals (The Group)

Section 8. Will businesses have to hire or fire any employees because of the requirements in the rule?

The department's analysis concludes that that there may be jobs created as a result of the rule.