

Chapter 70A.120 RCW
PUBLIC WATER SUPPLY SYSTEMS—OPERATORS

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RCW 70A.120.010 Legislative declaration. The legislature declares that competent operation of a public water system is necessary for the protection of the consumers' health, and therefore it is of vital interest to the public. In order to protect the public health and conserve and protect the water resources of the state, it is necessary to provide for the classifying of all public water systems; to require the examination and certification of the persons responsible for the technical operation of such systems; and to provide for the promulgation of rules and regulations to carry out this chapter. [1991 c 305 § 1; 1983 c 292 § 1; 1977 ex.s. c 99 § 1. Formerly RCW 70.119.010.]

RCW 70A.120.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Backflow assembly tester" means a person in charge of inspecting, testing, maintaining, and repairing backflow assemblies, devices, and air gaps that protect the public water system.

(2) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.

(3) "Certified operator" means an individual holding a valid certificate and employed or appointed by any county, water-sewer district, municipality, public or private corporation, company, institution, person, federal agency, or the state of Washington and

who is designated by the employing or appointing officials as the person responsible for active daily technical operation.

(4) "Cross-connection control specialist" means a person in charge of developing and implementing cross-connection control programs.

(5) "Department" means the department of health.

(6) "Distribution system" means that portion of a public water system which stores, transmits, pumps and distributes water to consumers.

(7) "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with:

(a) Significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as giardia lamblia; or

(b) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

(8) "Group A water system" means a system with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

(9) "Nationally recognized association of certification authorities" shall mean an organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and wastewater facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones.

(10) "Operator" includes backflow assembly tester, certified operator, and cross-connection control specialist as these terms are defined in this section.

(11) "Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system.

(12) "Purification plant" means that portion of a public water system which treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards.

(13) "Secretary" means the secretary of the department of health.

(14) "Service" means a connection to a public water system designed to serve a single-family residence, dwelling unit, or equivalent use. If the facility has group home or barracks-type accommodations, three persons will be considered equivalent to one service.

(15) "Surface water" means all water open to the atmosphere and subject to surface runoff. [2009 c 221 § 1; 1999 c 153 § 67; 1995 c 269 § 2904; 1991 c 305 § 2; 1991 c 3 § 369; 1983 c 292 § 2; 1977 ex.s. c 99 § 2. Formerly RCW 70.119.020.]

Part headings not law—1999 c 153: See note following RCW 57.04.050.

Effective date—Part headings not law—Severability—1995 c 269: See notes following RCW 18.16.050.

Public water supply systems to comply with water quality standards:
RCW 70A.130.050.

RCW 70A.120.030 Certified operators required for certain public water systems. (1) A public water system shall have a certified operator if:

(a) It is a group A water system; or
(b) It is a public water system using a surface water source or a groundwater source under the direct influence of surface water.

(2) The certified operators shall be in charge of the technical direction of a water system's operation, or an operating shift of such a system, or a major segment of a system necessary for monitoring or improving the quality of water. The operator shall be certified as provided in RCW 70A.120.050.

(3) A certified operator may provide required services to more than one system or to a group of systems. The amount of time that a certified operator shall be required to be present at any given system shall be based upon the time required to properly operate and maintain the public water system as designed and constructed in accordance with RCW 43.20.050. The employing or appointing officials shall designate the position or positions requiring mandatory certification within their individual systems and shall assure that such certified operators are responsible for the system's technical operation.

(4) The department shall, in establishing by rule or otherwise the requirements for public water systems with fewer than one hundred connections, phase in such requirements in order to assure that (a) an adequate number of certified operators are available to serve the additional systems, (b) the systems have adequate notice and time to plan for securing the services of a certified operator, (c) the department has the additional data and other administrative capacity, (d) adequate training is available to certify additional operators as necessary, and (e) any additional requirements under federal law are satisfied. The department shall require certified operators for all group A systems as necessary to conform to federal law or implementing rules or guidelines. Unless necessary to conform to federal law, rules, or guidelines, the department shall not require a certified operator for a system with fewer than one hundred connections unless that system is determined by the department to be in significant noncompliance with operational, monitoring, or water quality standards that would put the public health at risk, as defined by the department by rule, or has, or is required to have, water treatment facilities other than simple disinfection. [2020 c 20 § 1343; 2009 c 221 § 2; 1997 c 218 § 2; 1995 c 376 § 6; 1991 c 305 § 3; 1983 c 292 § 3; 1977 ex.s. c 99 § 3. Formerly RCW 70.119.030.]

Findings—1997 c 218: "The legislature finds and declares that:

(1) The provision of safe and reliable water supplies to the people of the state of Washington is fundamental to ensuring public health and continuing economic vitality of this state.

(2) The department of health, pursuant to legislative directive in 1995, has provided a report that incorporates the findings and recommendations of the *water supply advisory committee as to progress in meeting the objectives of the public health improvement plan, changes warranted by the recent congressional action reauthorizing the federal safe drinking water act, and new approaches to providing services under the general principles of regulatory reform.

(3) The environmental protection agency has recently completed a national assessment of public water system capital needs, which has identified over four billion dollars in such needs in the state of Washington.

(4) The changes to the safe drinking water act offer the opportunity for the increased ability of the state to tailor federal requirements and programs to meet the conditions and objectives within this state.

(5) The department of health and local governments should be provided with adequate authority, flexibility, and resources to be able to implement the principles and recommendations adopted by the *water supply advisory committee.

(6) Statutory changes are necessary to eliminate ambiguity or conflicting authorities, provide additional information and tools to consumers and the public, and make necessary changes to be consistent with federal law.

(7) A basic element to the protection of the public's health from waterborne disease outbreaks is systematic and comprehensive monitoring of water supplies for all contaminants, including hazardous substances with long-term health effects, and routine field visits to water systems for technical assistance and evaluation.

(8) The water systems of this state should have prompt and full access to the newly created federal state revolving fund program to help meet their financial needs and to achieve and maintain the technical, managerial, and financial capacity necessary for long-term compliance with state and federal regulations. This requires authority for streamlined program administration and the provision of the necessary state funds required to match the available federal funds.

(9) Stable, predictable, and adequate funding is essential to a statewide drinking water program that meets state public health objectives and provides the necessary state resources to utilize the new flexibility, opportunities, and programs under the safe drinking water act." [1997 c 218 § 1.]

***Reviser's note:** The "water supply advisory committee" was eliminated pursuant to 2010 1st sp.s. c 7 § 120.

Effective date—1997 c 218: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 25, 1997]." [1997 c 218 § 6.]

Findings—1995 c 376: See note following RCW 70A.100.060.

RCW 70A.120.040 Exclusions from chapter. Nothing in this chapter shall apply to:

(1) Industrial water supply systems which do not supply water to residences for domestic use and are under the jurisdictional

requirements of the Washington Industrial Safety and Health Act of 1973, chapter 49.17 RCW, as now or hereafter amended; or

(2) The preparation, distribution, or sale of bottled water or water similarly packaged. [1977 ex.s. c 99 § 4. Formerly RCW 70.119.040.]

RCW 70A.120.050 Rules and regulations—Secretary to adopt. The secretary shall adopt such rules and regulations as may be necessary for the administration of this chapter and shall enforce such rules and regulations. The rules and regulations shall include provisions establishing minimum qualifications and procedures for the certification of operators, criteria for determining the kind and nature of continuing educational requirements for renewal of certification under RCW 70A.120.100(2), and provisions for classifying water purification plants and distribution systems.

Rules and regulations adopted under the provisions of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW. [2020 c 20 § 1344; 1995 c 269 § 2905; 1983 c 292 § 4; 1977 ex.s. c 99 § 5. Formerly RCW 70.119.050.]

Effective date—Part headings not law—Severability—1995 c 269:
See notes following RCW 18.16.050.

RCW 70A.120.060 Public water systems—Secretary to categorize. The secretary shall further categorize all public water systems with regard to the size, type, source of water, and other relevant physical conditions affecting purification plants and distribution systems to assist in identifying the skills, knowledge and experience required for the certification of operators for each category of such systems, to assure the protection of the public health and conservation and protection of the state's water resources as required under RCW 70A.120.010, and to implement the provisions of the state safe drinking water act in chapter 70A.125 RCW. In categorizing all public water systems for the purpose of implementing these provisions of state law, the secretary shall take into consideration economic impacts as well as the degree and nature of any public health risk. [2020 c 20 § 1345; 1991 c 305 § 4; 1977 ex.s. c 99 § 6. Formerly RCW 70.119.060.]

RCW 70A.120.070 Secretary—Consideration of guidelines. The secretary is authorized, when taking action pursuant to RCW 70A.120.050 and 70A.120.060, to consider generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities and commonly accepted national guidelines and standards. [2020 c 20 § 1346; 1983 c 292 § 5; 1977 ex.s. c 99 § 7. Formerly RCW 70.119.070.]

RCW 70A.120.080 Ad hoc advisory committees. The secretary, in cooperation with the director of ecology, may establish ad hoc advisory committees, as necessary, to obtain advice and technical assistance regarding the development of rules implementing this

chapter and on the examination and certification of operators of water systems. [1995 c 269 § 2909. Formerly RCW 70.119.081.]

Effective date—Part headings not law—Severability—1995 c 269:
See notes following RCW 18.16.050.

RCW 70A.120.090 Certificates without examination—Conditions.

Certificates shall be issued without examination under the following conditions:

(1) Certificates shall be issued without application fee to operators who, on January 1, 1978, hold certificates of competency attained under the voluntary certification program sponsored jointly by the state department of social and health services, health services division, and the Pacific Northwest section of the American water works association.

(2) Certification shall be issued to persons certified by a governing body or owner of a public water system to have been the operators of a purification plant or distribution system on January 1, 1978, but only to those who are required to be certified under RCW 70A.120.030(1). A certificate so issued shall be valid for operating any plant or system of the same classification and same type of water source.

(3) A nonrenewable certificate, temporary in nature, may be issued to an operator for a period not to exceed twelve months to fill a vacated position required to have a certified operator. Only one such certificate may be issued subsequent to each instance of vacation of any such position. [2020 c 20 § 1347; 1991 c 305 § 5; 1983 c 292 § 7; 1977 ex.s. c 99 § 9. Formerly RCW 70.119.090.]

Effective date—1977 ex.s. c 99: See RCW 70A.120.900.

RCW 70A.120.100 Certificates—Issuance and renewal—Conditions.

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70A.120.090, a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee as established by the department under RCW 70A.120.160, and has met the requirements specified in the rules and regulations as authorized by this chapter.

(2) Every certificate shall be renewed annually upon the payment of a fee as established by the department under RCW 70A.120.160 and satisfactory evidence is presented to the secretary that the operator has fulfilled the continuing education requirements as prescribed by rule of the department.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants. [2020 c 20 § 1348; 1993 c 306 § 1;

1991 c 305 § 6; 1987 c 75 § 11; 1983 c 292 § 8; 1982 c 201 § 13; 1977 ex.s. c 99 § 10. Formerly RCW 70.119.100.]

Savings—1987 c 75: See RCW 43.20B.900.

RCW 70A.120.110 Certificates—Grounds for revocation. The secretary may revoke or suspend a certificate: (1) Found to have been obtained by fraud or deceit; (2) for fraud, deceit, or gross negligence involving the operation or maintenance of a public water system; (3) for fraud, deceit, or gross negligence in inspecting, testing, maintenance, or repair of backflow assemblies, devices, or air gaps intended to protect a public water system from contamination; or (4) for an intentional violation of the requirements of this chapter or any lawful rules, order, or regulation of the department. No person whose certificate is revoked under this section shall be eligible to apply for a certificate until the completion of the revocation period. [2009 c 221 § 5; 1995 c 269 § 2906; 1991 c 305 § 7; 1983 c 292 § 9; 1977 ex.s. c 99 § 11. Formerly RCW 70.119.110.]

Effective date—Part headings not law—Severability—1995 c 269: See notes following RCW 18.16.050.

RCW 70A.120.120 Secretary—Authority. To carry out the provisions and purposes of this chapter, the secretary is authorized and empowered to:

(1) Receive financial and technical assistance from the federal government and other public or private agencies.

(2) Participate in related programs of the federal government, other state, interstate agencies, or other public or private agencies or organizations.

(3) Assess fees determined pursuant to RCW 70A.120.160 on public water systems to support the waterworks operator certification program. [2020 c 20 § 1349; 1993 c 306 § 2; 1977 ex.s. c 99 § 12. Formerly RCW 70.119.120.]

RCW 70A.120.130 Violations—Penalties. Any person, including any operator or any firm, association, corporation, municipal corporation, or other governmental subdivision or agency who, after thirty days' written notice, operates a public water system which is not in compliance with RCW 70A.120.030(1), shall be guilty of a misdemeanor. Each month of such operation out of compliance with RCW 70A.120.030(1) shall constitute a separate offense. Upon conviction, violators shall be fined an amount not exceeding one hundred dollars for each offense. It shall be the duty of the prosecuting attorney or the attorney general, as appropriate, to secure injunctions of continuing violations of any provisions of this chapter or the rules and regulations adopted under this chapter. [2020 c 20 § 1350; 2009 c 221 § 6; 1991 c 305 § 8; 1983 c 292 § 10; 1977 ex.s. c 99 § 13. Formerly RCW 70.119.130.]

Effective date—1977 ex.s. c 99: See RCW 70A.120.900.

RCW 70A.120.140 Certificates—Reciprocity with other states.

Operators certified by any state under provisions that, in the judgment of the secretary, are substantially equivalent to the requirements of this chapter and any rules and regulations promulgated hereunder, may be issued, upon application, a certificate without examination.

In making determinations pursuant to this section, the secretary shall consult with the *board and may consider any generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities. [1977 ex.s. c 99 § 14. Formerly RCW 70.119.140.]

***Reviser's note:** RCW 70.95B.070, which created the water and wastewater operator certification board of examiners, was repealed by 1995 c 269 § 2907, effective July 1, 1995.

RCW 70A.120.150 Waterworks operator certification account.

The waterworks operator certification account is created in the general fund of the state treasury. All fees paid pursuant to RCW 70A.120.100, 70A.120.120(3), and any other receipts realized in the administration of this chapter shall be deposited in the waterworks operator certification account. Moneys in the account shall be spent only after appropriation. Moneys from the account shall be used by the department of health to carry out the purposes of the waterworks operator certification program. [2020 c 20 § 1351; 1993 c 306 § 3; 1977 ex.s. c 99 § 15. Formerly RCW 70.119.150.]

RCW 70A.120.160 Fee schedules—Certified operators—Public water systems.

The department of health certifies public water system operators and monitors public water systems to ensure that such systems comply with the requirements of this chapter and rules implementing this chapter. The secretary shall establish a schedule of fees for operator applicants and renewal licenses and a separate schedule of fees for public water systems to support the waterworks operator certification program. The fees shall be set at a level sufficient for the department to recover the costs of the waterworks operator certification program and in accordance with the procedures established under RCW 43.70.250. [2009 c 221 § 7; 1993 c 306 § 4. Formerly RCW 70.119.160.]

RCW 70A.120.170 Certification of backflow assembly testers and cross-connection control specialists. (1) Backflow assembly testers and cross-connection control specialists must hold a valid certificate and must be certified as provided by rule as adopted under the authority of RCW 70A.120.050.

(2) Backflow assembly testers who maintain or repair backflow assemblies, devices, or air gaps inside a building are subject to certification under chapter 18.106 RCW. [2020 c 20 § 1352; 2009 c 221 § 3. Formerly RCW 70.119.170.]

RCW 70A.120.180 Examinations. (1) Any examination required by the department as a prerequisite for the issuance of certificate under this chapter must be offered in both eastern and western Washington.

(2) Operators not required to be certified by this chapter are encouraged to become certified on a voluntary basis. [2009 c 221 § 4. Formerly RCW 70.119.180.]

RCW 70A.120.900 Effective date—1977 ex.s. c 99. This act shall take effect on January 1, 1978. [1977 ex.s. c 99 § 17. Formerly RCW 70.119.900.]