

**Chapter 302 Proposed Regulations  
Administration of the Drinking Water and Wastewater Systems  
Operators' Certification Program**

**Summary of Comments  
Proposed Revisions to Fee Structure**

When the regulatory package was being finalized it became evident that the fee structure originally negotiated a few years ago with the State Board for Certification of Water and Wastewater Systems Operators (Certification Board), the Small Systems Technical Assistance Center Advisory Board (TAC) and the Certification Program Advisory Committee (CPAC) would no longer cover program costs. To facilitate the resolution of this issue, the Department met with these three groups on December 1, 2 and 15. A letter was also sent to all the approved Training Providers inviting them to these meetings to provide input. A concept paper describing the pros and cons of three options was shared with the three groups and other attendees:

1. Option 1 – The water and wastewater system owners would pay a flat annual service fee to cover the shortfall. The original fees proposed to be paid by the operator would remain unchanged. This was the option recommended by the Department.
2. Option 2 – The training providers and approved examination providers would be charged either a flat annual service fee (Option 2a) or a fee for each service provided (Option 2b). The original fees proposed to be paid by the operator would remain unchanged.
3. Option 3 – Everyone pays, including the system owners, training providers, approved examination providers and the operators. In this proposal the fees for operators would also increase. Option 3a incorporated a flat fee for the training providers, option 3b proposed a fee for each service provided to a training provider or approved examination provider.

The Department developed Option 3c based on the input received at the December 1 meeting with TAC. This option was also shared with CPAC on December 2. Option 3d was then developed based on the input from both meetings. The final proposed fee structure is a variation of Option 3d based on the input received at the December 15 meeting.

**Small Systems Technical Assistance Center Advisory Board:**

- The Department needs to revisit the wastewater system numbers used in the proposal. In addition, a more equitable way of allocating the fees to system owners needs to be found. The costs to systems should be shared equally across the customer base. After some discussion, we suggest using either a breakdown by population served or flow. By basing the fees on flow, there is

more of a link between operator requirements and the associated workload for state program staff. It can be assumed that there is a direct correlation between the size of the system, the amount of water treated and the number of certified operators needed to adequately operate the system. Information on the number of systems in each category and the associated customer base should be included in the final submittal.

**Response:** The Department took another look at the wastewater system numbers and has revised the proposed fee structure accordingly. The proposed fee structure is now based on the system classification framework used to determine what level of certification an operator must have in order to serve as an available operator for the system. The class of the system is based on the design capacity, or amount of flow at the system.

- Some of our members recommend eliminating the post-presentation application process. Operators need to take on the responsibility to insure the training they take is approved by the Department before taking the course. Other members recognized this as a viable option in some cases and felt the post-presentation approval process should be kept.

**Response:** The post-presentation application process should be kept as a viable option for those operators who would otherwise lose their certificate due to a shortfall in the number of contact hours completed for continuing education. Even though processing these applications takes a significant amount of staff time, the costs to the Department for re-certifying these individuals is somewhat higher than the costs for processing these applications. In addition, there are a few very good courses that the Department has been unsuccessful in convincing the training provider to submit the paperwork to become approved. The post-presentation application process is the only viable option to the operator wanting to take these courses.

- We would like to propose a variation to Option 3B as a suggested framework for the charging of fees. The goal behind this option is to balance the costs equally among those who will be assessed the fees:
  1. Decrease the initial certification and renewal fee to \$50.
  2. Decrease the examination provider fee to \$50.
  3. Decrease the course roster fees to \$40.
  4. Increase the fees to drinking water and wastewater systems from \$575 to \$650 for the larger systems and \$65 for the small systems. We recognize that these proposed fees for the larger systems could change based on the final breakout based on system size.

**Response:** The Department revised the fee proposal using the above framework as a starting point. The \$65 fee for small systems was kept, and the fees for the larger systems adjusted accordingly based on a ratio of

population served. The fees for initial certification and renewal were kept at the original amount based on input from the Certification Program Advisory Committee. The course roster fees are now based on the actual time it takes to process them.

- The Department should solicit information from neighboring states with similar programs on their program budget and fee structure to see if the final proposed fee structure and budget is realistic.

**Response:** A review of fees charged by other states where information was available is summarized in Table 1 below. The proposed fees for Pennsylvania are summarized in the first line as a comparison. While the renewal fee is comparable with other states, the initial fees to become certified may be a little higher than most. Keep in mind it is difficult to compare this fee, since it is unclear how the examination fee is assessed by different states. The estimated \$325 fee for Pennsylvania is based on the operator having to register for an average of two examination sessions in order to pass enough examinations to become certified and an average fee of \$50 per examination session charged by the Approved Examination Provider. While other states may only offer one to four different examinations based on the level of certification desired, Pennsylvania's examinations are technology based. This means the operator only needs to be familiar with the technologies utilized at the system they are operating, but requires the operator to pass several different examinations. This examination framework was developed at the request of the operators and developed over a two-year timeframe with assistance from a number of certified operators and system owners.

**Table 1.** Summary of Fees Charged by Other States

State	App. Fee	Exam Fee	Re-Exam Fee	Certification Fee	Renewal Fee	Total (Initial Certification)
Pennsylvania	35 per session	20 to 75, as determined by the examination provider		150	60	Average 325
Texas	111				111	111
California		50, 65, 100, 130, 155	30, 45, 70, 95, 120		70, 80, 120, 140, 140	50 + Courses Fee – 155+ Courses Fee
Ohio	45	35, 60, 75, 85, 100			25, 35, 45, 55, 65	80-145
New York	Course Fee (Progressive)	26-ABC				Course Fee + 26
Arizona		Course Fee				Course Fee
Florida	25, 50	75, 100			25, 50	125-200
North Carolina		50	30		50	50
Colorado	15	45		45	85, 90	105
Illinois	30	10	10		10	40
New Jersey	35			25	20	60
Maryland	75	75	75	75	75	225
Delaware	50	100			50	150
West Virginia		Course Fee				Course Fee

- The system service fee should be assessed based on either the PWSID or NPDES permit. We realize this means some companies with multiple systems will be paying more, based on the number of different systems they have permitted. However, by doing it this way, the fees could be more evenly distributed among a larger number of systems than the numbers the Department is now using and the actual fee per system will be lower.

**Response:** After carefully looking at the easiest way to collect these fees, it was decided to link the collection of the fees to the submittal of the available operator forms. This requirement is linked to the PWSID or NPDES permit.

To insure that any one entity doesn't have to pay an unfair proportion of the total costs, an upper limit of \$10,000 per entity is proposed.

**Certification Program Advisory Committee:**

- We agree with the Small Systems Technical Assistance Center Advisory Board (TAC) that the Department needs to revisit the wastewater system numbers used in the proposal.

**Response:** The Department took another look at the wastewater system numbers and has revised the proposed fee structure accordingly. The proposed fee structure is now based on the system classification framework used to determine what level of certification an operator must have in order to serve as an available operator for the system. The class of the system is based on the design capacity, or amount of flow at the system.

- After considerable discussion, we recommend that the fee structure for systems should be based on a breakdown by flow because of the clear link between flow and the number of operators needed to effectively treat and manage that flow. The Department should look at the feasibility of a further breakout of the very small systems, with the intention of possibly not assessing a fee on these very small systems. A fee for stand alone collection and distribution systems should also be included. Again, size dependent for very small systems.

**Response:** The proposed fee structure is now based on the system classification framework used to determine what level of certification an operator must have in order to serve as an available operator for the system. The class of the system is based on the design capacity, or amount of flow at the system. The \$65 fee for small systems was kept, and the fees for the larger systems adjusted accordingly based on a ratio of population served.

- Some of our members recommend eliminating the post-presentation application process. Operators need to take on the responsibility to insure the training they take is approved by the Department before taking the course. Other members recognized this as a viable option in some cases and felt the post-presentation approval process should be kept.

**Response:** The post-presentation application process should be kept as a viable option for those operators who would otherwise lose their certificate due to a shortfall in the number of contact hours completed for continuing education. Even though processing these applications takes a significant amount of staff time, the costs to the Department for re-certifying these individuals is somewhat higher than the costs for processing these applications. In addition, there are a few very good courses that the Department has been unsuccessful in convincing the training provider to

submit the paperwork to become approved. The post-presentation application process is the only viable option to the operator wanting to take these courses.

- We are concerned that fees for training providers would limit the development of new classes. We do not want to put the smaller training providers out of business.

**Response:** Agreed. The Department recognizes that the training providers play an essential role in delivering enough courses to meet the demand for training and continuing education. The Department does not have the capability to deliver a sufficient number of different courses without the assistance of all the approved training providers, large and small.

- The fees for courses developed and delivered by the Department should be high enough to cover any associated costs.

**Response:** Agreed. After re-evaluating these costs, the current proposal of \$30 per hour for a web-based course and \$10 per hour for a classroom course more than adequately covers the Department's costs for course development and delivery.

- The Department should solicit information from neighboring states with similar programs on their program budget and fee structure to see if the final proposed fee structure and budget is realistic.

**Response:** Agreed. A summary of other states' fee structure is included in Table 1 above. There are some unique features of Pennsylvania's program that make further comparison difficult at this time. These features include the significantly higher number of certified operators in Pennsylvania and our unique examination delivery framework. Further analysis of neighboring states and other states across the nation with a comparable number of certified operators will be done as part of the program's external program review. This review is an US Environmental Protection Agency requirement that must be completed every three to five years. The Department is proposing to complete this review in 2009 with assistance from the State Board for Certification of Water and Wastewater Systems Operators and the Certification Program Advisory Committee. Recommendations for streamlining the program and minimizing costs will be developed as a result of this program review. Changes in the proposed fee structure might be made as a result of this program review, after appropriate public input.

- Option 3c as developed by TAC has merit. However, we suggest that the initial certification fee for operators be kept at \$150. The cost for initial certification should be higher than the cost of renewal to avoid having

operators letting their license lapse every three years to avoid obtaining the required continuing education credits.

**Response:** The final proposed fee structure took this into consideration and kept the initial fee at \$150 and the renewal fee at \$60 every three years.

**State Board for Certification of Water and Wastewater Systems Operators:**

*NOTE: The State Board for Certification of Water and Wastewater Systems Operators (Op Cert Board) did not take a formal position on the fee structure. The following is a compilation of comments received from the Op Cert Board members and the general public who attended their meeting.*

- Base the ratio for system fees on the average number of operators tied to each class.

**Response:** Based on the data received through the submittal of the available operator forms, the average number of operators for each class is one. There isn't enough variation between classes to base a ration on. As a result, the original concept of basing the fees on flow, weighted by population served was used.

- The fee for systems should be eliminated, or minimized. The systems are facing large costs for needed infrastructure improvements. Charging fees for this program will slow down or prevent these needed improvements. In addition, many systems now pay, or help pay, costs incurred by the operator. If they are charged a fee, they may choose to stop providing this assistance.

**Response:** The general consensus was to have everyone pay their fair share of the costs for this program. Every effort was made to minimize these costs so that no one entity has to pay an unfair portion of the total costs. After conversations with representatives from a couple of the larger system owners, a maximum fee of \$10,000 for any one entity is proposed.

- The costs for the program should be covered through a flat service fee based solely on the number of roster reports submitted by a training provider.

**Response:** The general consensus was to have everyone pay their fair share of the costs for this program. Every effort was made to minimize these costs so that no one entity has to pay an unfair portion of the total costs. The current proposed structure is based on a number of conversations with both large and small training providers, where some level of general consensus was achieved.

- The examination session providers should be charged a flat fee based on the number of examinations offered per year.

**Response:** This concept was incorporated into the final proposed fee structure.

- The initial fee for certification should be \$150, the renewal fee raised to \$100. The fee for an examination session should be raised to \$50 to \$80 per session.

**Response:** The initial fee was kept at \$150, but the renewal fee was left at \$60. This was the original proposed fees for operators. The examination session fee was raised from \$20 to \$35. After careful analysis of the numbers, the Department's costs for the examination sessions can be covered through this \$35 fee, in addition to the proposed fees for the Approved Examination Providers.

- The small training provider would find a flat fee structure burdensome. While it is obvious the end user should pay something, the fees should be based on the amount of work generated. Option 3d as presented would be acceptable.

**Response:** The final fee structure is based on the amount of work generated. The figures shared with the attendees at the December 15 meeting as Option 3d were modified slightly based on the input received at this meeting. To insure no one training provider is punished for delivering more training than others, a ceiling of \$10,000 per year is also proposed.

- A large upfront fee for the training provider will shut the small provider down where the training provided is based on demand and only upon request. Option 3d as presented would be acceptable.

**Response:** The final fee structure is based on the amount of work generated. The figures shared with the attendees at the December 15 meeting as Option 3d were modified slightly based on the input received at this meeting. To insure no one training provider is punished for delivering more training than others, a ceiling of \$10,000 per year is also proposed.

- DEP should look at a bulk rate for providers who generate large numbers of rosters. The fee for the processing of rosters should be capped at some amount based on the amount of training provided.

**Response:** A ceiling of \$10,000 per training provider is proposed.

- The course approval fees should be based on the level of review. The more comprehensive course approval fee should be higher than the brief review done for those providers who went through the effort to become an approved training provider.



**Response:** This adjustment was made. There is now a separate fee, based on the level of review the Department must complete in order to approve a course.

- The operator should be required to pay the examination session fee for up to four or five examination sessions before being allowed to attend any additional examination sessions.

**Response:** The State Board for Certification of Water and Wastewater Systems Operators agrees with this statement. When they became aware that there are a few applicants who have attended 20 or more examination sessions, without passing the examination or paying for any of the costs incurred for administering the examination; they established a policy that those applicants who have attended four or more examination sessions without applying for certification must pay the \$20 per examination session fee now in place before attending any more examinations. This policy will go into effect when the 2009 examinations begin. The Board Secretary will be sending a letter notifying the applicants and the Approved Examination Providers of this change in policy by the end of February. Language to the proposed regulations in Section 302.603 (relating to examination eligibility) has also been added.

- The Department should make every effort to trim costs before assessing any additional fees.

**Response:** The Department went through a very comprehensive analysis of the business processes for this program in 2004 and 2005 and made some significant changes to the business processes in an effort to streamline the program. For example, the costs for the delivery of the examinations were cut by a factor of four by using existing staff to proctor the examinations. In addition, US Environmental Protection Agency program guidelines require the state to complete a comprehensive external review of the program once every three to five years. The Department intends to complete this review with assistance from the Certification Program Advisory Committee and the State Board for Certification of Water and Wastewater Systems Operators in 2009. This comprehensive analysis of the program could result in additional cost saving measures. If so, the fees could be adjusted accordingly before the regulations are finalized.

- We need to consider the impact on the number of operators. In reality there are only two sources of funding through fees, the operator and the systems. The training providers will recover these costs through an increase in attendance fees.

**Response:** Every effort was made to balance the costs fairly.

- Administrative costs for the program and the collection of these fees would be significantly reduced if the Department would go to a method of electronic payment and allow the use of credit cards.

**Response:** Agreed. The Department is looking into establishing the framework to allow for electronic payments through the use of credit cards.

**Written Comments:**

**Eastern Pennsylvania Water Pollution Control Operators Association, Inc. (EPWPCOA)**

- The proposed costs of the program are excessive and the Department should first consider methods to reduce the costs of the program.

**Response:** The Department went through a very comprehensive analysis of the business processes for this program in 2004 and 2005 and made some significant changes to the business processes in an effort to streamline the program. For example, the costs for the delivery of the examinations were cut by a factor of four by using existing staff to proctor the examinations. In addition, US Environmental Protection Agency program guidelines require the state to complete a comprehensive external review of the program once every three to five years. The Department intends to complete this review with assistance from the Certification Program Advisory Committee and the State Board for Certification of Water and Wastewater Systems Operators in 2009. This comprehensive analysis of the program could result in additional cost saving measures. If so, the fees could be adjusted accordingly before the regulations are finalized.

- In anticipation of the need for qualified operators and the reality that many certified operators will be retiring in the next 10 years, it is our belief that the following objectives must be considered when evaluating various fee structure proposals: (1) the approved fee structure must not discourage new operator certifications or maintaining the existing operator certifications, (2) the fee structure must not discourage new training/examination providers or maintaining existing training/examination providers and (3) all certified operators should share in the cost.

**Response:** Agreed. Every effort was made to develop a final proposed fee structure with these objectives in mind.

- In Option 1, all certified operators do not share in the cost of the certification program. Certified operators who are not employed by a system owner will not pay at all. Certain Regional Authorities may have more than one NPDES permit and also have several different water systems. They would pay a

significantly higher annual service fee for the same number of employed certified operators.

**Response:** Option 1 proposed a fee for system owners. This fee is in addition to the fees to be paid by the operator to become certified and maintain that certification. Any operator wanting to become certified and maintain that certification would pay these fees, regardless of where they are employed. In order to insure no one authority or owner has to pay an unfair amount of the costs of the program due to the fact they own multiple systems, a ceiling of \$10,000 per system owner is proposed.

- Option 2a will potentially reduce the number of new or existing training providers resulting in less training opportunities. The small training providers may not be able to absorb the \$3250 annual cost. Option 2b will discourage training courses which only offer 1 contact hour or offer free contact hours. Paying \$900 for a course approval is detrimental to the small time training providers.

**Response:** These were concerns that the Department also raised with this option and the reason why Option 2 was not identified as the one favored by the Department.

- While Option 3 is the most equitable with spreading the costs among system owners, training/examination providers, certified operators and potential certified operators, this option may discourage new certified operators and may reduce the existing number of certified operators.

**Response:** This is a concern that was taken into consideration. Every effort was made to distribute the costs equitably among those entities that generate the workload for the Department.

- The EPWPCOA does not recommend Option 1, 2 or 3 as presented, but recommends a fee structure that collects the fees from a combination of system owner and training/examination providers. It is recommended that the majority of the cost be born by the system owners and nominal fees for the training/examination providers as follows:

Provider Approval Application	\$50
Annual Fee	\$ 0
Course Approval	\$25
Course Rosters	\$15
Exam Session	\$5 per tester

This option will not discourage operators from becoming certified or the retention of existing certified operators. This option will also not discourage new or existing training providers or exam providers. This option will also require certified operators not employed by system owners to share in the

costs when taking the exam or obtaining contact hours because the training or exam provider will include their costs in the contact hour fees.

**Response:** The fees proposed here would not cover all the program costs, but do come close. These numbers were considered when the final proposed fee structure was done.

- The drinking water and wastewater systems annual service fee be limited to one fee per entity, regardless of the number of systems they operate.

**Response:** Based on input from other groups, the Department based the fees on the size of the system as identified by the certification class and the associated classification needed by the available operators who are making the process control decisions for each system. Of all the possible measurements available, this is the easiest method to assess fees equitably while keeping the administrative costs for collecting the fees to a minimum. A maximum of \$10,000 per entity is proposed to help minimize the costs to those system owners who own more than one system.

### **Pennsylvania Rural Water Association**

- Although Pennsylvania Rural Water Association understands the need for a fee structure to help support the Drinking Water and Wastewater Systems Operator Certification and Training Program and are more than willing to pay their fair share, we also believe we should not be punished for being the largest provider of training and certification exams. The Pennsylvania Department of Environmental Protection ask for training providers and exam providers to fulfill the need to provide training and certification exams to the operators of the state and Pennsylvania Rural Water Association stepped up and provided that service. The Department also approved 180 other training providers and 40 other exam providers who had the same opportunity to provide the service. We understand that the other providers do not have the same federal and state funding that Pennsylvania Rural Water has; however, the cost of their trainings should have been set to fit their operating costs therefore making them a business entity. As business entities there are costs associated with doing business. We also understand that we create over 70% of the workload in both the certification and training departments, which is why we favor the flat annual fee structure in which Pennsylvania Rural Water Association proposed costs (\$7,000) are seven (7) times higher than most of the other training providers. We feel this is our fair share.

**Response:** After further discussions, a maximum flat fee for training providers such as Pennsylvania Rural Water Association of \$10,000 per year is proposed.

- Pennsylvania Rural Water Association does not favor separate costs for each

course approval, conference approval and roster report. We feel a fee for each course approval will result in fewer new courses being approved and the fee for each roster report will result in fewer courses given. Also if we are going to pay for each course approval the current amount of time the Department takes to approve the courses is unacceptable (9 weeks for the last 2 approvals). We also feel the fee to become a training provider is too low. If the fee was much higher (at least \$500.00) the training providers who paid it would be more inclined to actually do training.

**Response:** Based on input from other training providers who do not deliver the same number of courses as Pennsylvania Rural Water Association, these fees could put some of the on-site and on demand trainers out of business. These training providers provide a service in certain areas where larger training providers can't go. The current fee structure is a compromise developed from input from both parties.

- We also favor a flat annual fee for the exams. Many of the October 2008 exams had to be cancelled because of lack of registrations. Rural Water also combined two of our exams and helped American Water Works Association with two of their exams by taking their registrations for one exam and giving them enough people to fill another exam. A large group of the other exam providers only offer the exam at their annual conferences. Those that offer more would only schedule exams they knew they could fill at least 30 seats saving the certification department the additional work associated with cancelled exams. Exams could also be more effectively scheduled in the areas that needed them the most.

**Response:** This framework was incorporated into the final proposed fee structure.

- As for certification fees, we feel that a potential operator should pay at least \$50 to \$80 to sit for the exam. We also feel once an operator has sat at least three (3) times and has not applied for certification they should receive an invoice for their current balance due and should not be allowed to sit for another exam until that invoice is paid. We are all concerned by the future operator shortage this state faces, but we also want quality operators that understand the value of their certification. A fee of a little over \$18 a year for an operator certification is not enough; therefore we would like to see the renewal fee be set at a higher rate. We all talk about the lack of professionalism in this industry and possibly increasing the fees to become and remain a certified operator could help.

**Response:** After careful analysis of the numbers, the Department's costs for the examination sessions can be covered through a \$35 fee, in addition to the proposed fees for the Approved Examination Providers. When the State Board for Certification of Water and Wastewater Systems Operators became

aware that there are a few applicants who have attended 20 or more examination sessions, without passing the examination or paying for any of the costs incurred for administering the examination; they established a policy that those applicants who have attended four or more examination sessions without applying for certification must pay the \$20 per examination session fee now in place before attending any more examinations. This policy will go into effect when the 2009 examinations begin. The Board Secretary will be sending a letter notifying the applicants and the Approved Examination Providers of this change in policy by the end of February. Language to the proposed regulations in Section 302.603 (relating to examination eligibility) has also been added.

- Pennsylvania Rural Water Association agrees 100% with the Post Presentation Credit Fee of \$250.00.

**Response:** This fee is incorporated into the final proposed fee structure. Since the goal behind this fee is more as a deterrent rather than a realistic source of funding, the money collected from this fee was not factored into the overall budget.

- Pennsylvania Rural Water favors the following fee structure. We feel this would be the simplest to administer and the accounting would be easier for both the Department and the Providers.

	<b>Training Provider</b>	
<u>Annual Service Fee</u>	100 Rosters and Above	7,000
Includes course approvals, conference approval, course	49-99 Rosters A Year	5,000
Also must include a faster course approval time	13-49 Rosters a Year	2,500
If a provider does not do any training or pay the fee for a period of time, they are dropped from the books	0-12 Rosters a Year	1,000
<u>Provider Approval Application</u>		1,500
	<b>Exam Provider</b>	
	10 or More Exams	1,500
	5 to 10 Exams	1,000
	2 to 5 Exams	500
	1 Exam a Year	250

**Response:** The proposed fee structure for the training providers is based more on generated workload for the services provided. Based on input from other training providers, the option proposed by the Department is more equitable. To address Pennsylvania Rural Water Association's concerns about the amount of money they will have to pay based on the Department's proposal, a maximum fee for any one training provider of \$10,000 per year is proposed. The framework for examination provider fees was incorporated into the final proposal. The amounts were reduced, based on the actual costs incurred to administer the examinations.