**Summary of Comments for KWWOA on Proposed Regulations**

The Kentucky Water and Wastewater Operator’s Association in general opposes the proposed regulatory changes within: 401 KAR 5:010, 401 KAR 8:030, 401 KAR 8:050, 401 KAR 11:001, 401 KAR 11:030, 401 KAR 11:040, 401 KAR 11:050 AND 401 KAR 11:060.

Neither DOW nor DCA have adhered to the intent of KRS 223.170 and 224.73-110 by securing the recommendations of the Certification Boards regarding the content of these regulations. They did not initiate changes to these regulations by first securing their input and failed to provide them with draft copies of all the regulations prior to filing them with Legislative Research Commission (LRC). While DOW is responsible for enforcing these regulations, they have never been the lead with setting the standards, just as DCA does not set the KPDES requirements. None the less, DOW initiated the discussion with their Water and Wastewater Advisory Boards, which KWWOA has representation on, 18 months prior to the proposed regulations being discussed or brought before the Certification Boards.

The Regulatory Impact Analyses and Fiscal Notes for these proposed regulations, refer to an operator shortage as justification for reducing the operator qualifications for testing and broader authority for Operators in Training (OIT’s). If this is the basis for lessening the standards, where is the data to support this position since DOW’s and DCA’s databases are not currently linked. If logistics are not in place how could DOW consistently check and enforce the current requirements on the books and how could they know who is out of compliance? If staffing requirements had always been enforced, systems would have been more proactive about hiring and training staff versus ignoring them and/or waiting until an operator vacancy existed to try and advertise for an operator. The staffing requirements for drinking water treatment systems were enacted in the early 1990’s. We are all aware that baby boomers were aging out. Given that the requirements are not new, why did systems not hire and train new operators? They did not do that because no one was enforcing the regulations, thereby communicating that is was not a priority. Now systems or system representatives want a break in the qualifications because they failed to be proactive in their staff development and have found a regulatory authority to do their bidding. Operator certification has been under fire since the 1990’s. In the wake of the Flint, MI disaster and mounting quality standards, do we really want to dumb down our operators either by allowing under qualified applicants to operate or fast tracking existing operators to higher certification levels?

The DOW has the ability within regulation to approve alternative staffing plans for systems that, due to unforeseen circumstances, have an operator leave and/or pass away. Instead of using the current mechanism available to DOW to approve Alternative Staffing Plans and hold systems accountable for the existing regulations, the Cabinet is advocating that we lessen the standards. Some of the proposed wastewater (WW) qualification changes have no basis other than to match the requirements of same level in the drinking water regulation. Even though DOW and DCA in a joint meeting were told by the Certification Boards that the qualifications for WW are more extensive as it is harder to operate a WW plant. DOW also convened a workgroup in May 2018, to solicit input on the information that should be requested of a facility to secure alternate staffing plan approval, as DOW staff was struggling with this decision given the language within 401 KAR 8:030, Section 1 (2)(c)6. The group appeared to reach consensus on the information to be requested and that all “Alternative Staffing Plans” should be incorporated into an agreed order, if the facility was out of compliance. To date, the group has yet to hear from DOW on how they have changed this process and the language submitted to LRC within 401 KAR 8:030 have not be changed. They also duplicated the existing problematic language in 401 KAR 5:010.

Based on data distributed by DCA, it appears that most of Kentucky’s operators live in areas with a median yearly wage of less than $38,000. If wages are not competitive (which is one of the reasons they cannot hire operators) and/or city and county employees lose pension benefits, what incentive will there be to work for a local government thereby increasing the “shortage”? These regulations increase fees for operators that barely make minimum wage in some systems. Many times the operator is responsible for the payment of these fees and the cost of attending training. Operators with multiple licenses have stated as well as their utilities, that they will only renew their primary license(s). This could put some cities in a greater bind, as they will not have this operator’s certification as a backup in emergency situations. This doesn’t even take into consideration the impact for small business owners that have Class I licenses for campgrounds, apartments, etc.

The language regarding OIT designation and how these regulations will work have been broken up into 401 KAR 5:010, 401 KAR 8:030, 401 KAR 11:001, 401 KAR 11:030 and 401 KAR 11:050. The drinking water and wastewater regulations have different staffing requirements and would impact a systems ability to use OIT because of the number of required operators. For instance, a Class I system needing relief from losing their only operator would not have an operator working at the system to serve as a mentor. Additionally, an operator could be forced by a system to take on multiple trainees leaving them personally liable for multiple trainees. Mentors need some protection as the system should bear the responsibility of operating with OITs. Regulations require redundancy in treatment processes; we propose staffing redundancy as well.

Water and wastewater regulations used to require a base year of experience after all substitutions for Class II – IV certifications and six months for a Class I. This requirement has been removed at some point and should be added back, as no one should be in responsible charge of a system given the implications without a minimum amount of experience. All of the substitutions for “related” education, “other” education, work related experience, non-work related experience, etc. create a maze to navigate and adds additional work on a taxed DCA staff. With the proposed substitutions, DCA trainers would have a difficult time being consistent.

Bottom line is that reducing the qualifications for operators could ultimately result in illness and/or damage to the waters of the Commonwealth. Is protection of human health and the environment not the real purpose of operator certification? Whatever the outcome of this hearing and LRCs final decision, KWWOA will continue to strive to fulfill our mission statement, “Working Together to Preserve the Environment and the Future of the Water and Wastewater Operator”. We have been on opposite sides of such regulations before. It is only nature for operators, educators, regulators, legislators, etc. to see things differently. Ultimately, we all want the same thing, safe water to drink and clean water in the environment.

**401 KAR 5:010. Operation of wastewater systems by certified operators.**

Page 4, Lines 22-23 and Page 5, Lines 1-8: Operator in Training (OIT) designation: Wastewater facilities only require one certified operator. There are numerous Class I systems in the state that this designation would not help at all as a Class I OIT could not have primary responsibility.

Page 5, Lines 9-19: Alternate staffing: The Division of Water convened a workgroup in May 2018, to solicit input on the type of information that should be requested of a facility to secure approval of an alternative staffing plan, as the language within 401 KAR 8:030, Section 1 (2)(c)6 was insufficient. While the workgroup appeared to reach consensus on the information to be requested and that all “Alternative Staffing Plans” should be incorporated into an Agreed order, the vague language of 401 KAR 8:030 that the DOW staff was struggling with, has been duplicated in 401 KAR 5:010 verbatim.

Regulatory Impact Analysis (RIA)

1. Page 9, (3) – It asks for the type and number individuals affected by this regulation, but no numbers are provided

2. Page 9, (4)(b), Page 10 (7) & (8) – While there is a separate operator certification fee regulation (401 KAR 11:060), it is misleading to say that this regulation will not result in additional costs to wastewater systems, as fees for certification, renewal, etc. are being raised in 401 KAR 11:060 and this regulation requires certified operators. The OIT designation and relaxation of the operator qualifications via the allowance of substitutions is intended to increase the number of operators certified operators. As a result, how can you say that the fees proposed are not going to impact local governments and industries that require operators? The information within the 401 KAR 11:060 Regulatory Impact Analysis should be repeated here.

Fiscal Note

Page 11, (3) - While there is a separate operator certification fee regulation (401 KAR 11:060), it is misleading to say that this regulation will not result in additional costs to wastewater systems, as fees for certification, renewal, etc. are being raised in 401 KAR 11:060 and this regulation requires certified operators. The OIT designation and relaxation of the operator qualifications via the allowance of substitutions is intended to increase the number of operators certified operators. As a result, how can you say that the fees proposed are not going to create additional expenditures for local governments and industries that require operators? The information within the 401 KAR 11:060 Fiscal Note should be repeated here.

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

Page 2, Lines 11-13: Operator in Training (OIT) designation is proposed to be allowed in direct responsible charge if he/she has an active appropriately size classification. If the operator is properly certified there is no need for OIT designation. Additionally, this would have operators paying two renewals: one for certification and one for OIT designation.

Regulatory Impact Analysis

1. Page 12 – (2)(b) – It states that the regulatory changes proposed clarify the role and responsibilities of an OIT which is needed, however, the language here as well as in all the regulations is still very confusing.

The RIA also states that the changes were necessary to accommodate alternative staffing, but there is already language in the regulation to allow facilities to request an alternative staffing plan. The Division of Water convened a workgroup in May 2018, to solicit input on the type of information that should be requested of a facility soliciting an alternative staffing plan, as the language within 401 KAR 8:030, Section 1 (2)(c)6 was insufficient. While the workgroup appeared to reach consensus on the information to be requested and that all “Alternative Staffing Plans” should be incorporated into an agreed order, the vague language of 401 KAR 8:030 that the DOW staff was struggling with, has not been altered at all. This may be due to DOW thinking there is no need to improve this language, as they won’t be issuing Alternative Staffing Plans, now that the substitutions have been expanded such that it will be easier for operators to qualify for certification. As such, why does it state in the RIA that they are changing the Alternative Staffing Language, as the only change made was to correct the spelling of a word in Section 1(3) (c) 6. Also, if DOW staff was struggling to review and approve these documents why did they convene a workgroup, solicit input and then not change the language in question?

2. Page 13, (2) (c) – KRS 224.10-110 says that DOW is to enforce the operator staffing requirements for the purification of water and certification of operators which they have admitted to not doing. Are they going to start enforcing these regulations? The question is asked because why should a water plant properly follow the staffing requirements, if they think the regulatory authority is not going to do anything. In fact, they have already seen this and have even found that DOW will push another agency to reduce their regulatory requirements.

3. Page 13, (3) – This section asks for the type and number of individuals affected by this regulation, but no numbers are provided.

4. Page 13, (4) (a) & (b) – This section requests the number and cost to each entity impacted by this regulation. While they are making it easier for systems to meet the staffing requirements, DOW should have to identify how many systems are currently out of compliance and in need of additional shift operators while the system is treating drinking water.

5. Page 13, (5) – This section wants to know the cost of the regulatory agencies for implementation. If the DOW actively enforces this regulation, what will the extra cost be to the agency?

**401 KAR 8:050. Drinking water program fees.**

Page 4, Lines 3-12: Rather just randomly changing due dates, we suggest changing the due date on water lab certification fees to be consistent with wastewater lab certification fee due dates. This proposed regulation change would make drinking water lab certification fees due 12/31. Wastewater lab certification fees due 11/15. We would also suggest adopting the full fee description from 401 KAR 5:320 Section 8. Additionally, we suggest making these dates post marked by using traceable delivery rather received by.

**401 KAR 11:001. Definitions for 401 KAR Chapters 11.**

Page 1, Line 3: Should be DCA not DOW as DCA implements and enforces 401 KAR Chapter 11.

Page 2, Line 11-17: Certified Training Provider definition should refer to “core content” when describing the type of training.

Page 2, Lines 22-23 and Page 3, Lines 11-14: “Direct responsible charge” should encompass (12) “Primary responsibility” and (12) should be deleted. KY belongs to the Association of Boards of Certification (ABC). The standard language used for both water and wastewater is "direct responsible charge". We should replace primary responsibility and use the phrase "direct responsible charge" for water and wastewater. After all we do use them to mean the same thing.

Page 3, Line 3: should include language as to how an “inactive certificate” is returned to active for example earned lapsed continuing education and pay the remainder of the fee.

General Comment: Definition for OIT designation should be included.

**401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications.**

Page 1, Line 3: Should be DCA not DOW as DCA implements and enforces 401 KAR Chapter 11.

Page 4, Lines 5-16: OIT language needs to include a maximum duration of an OIT designation.

Page 5, Line 17: Limited certification should require minimum education of high school diploma or GED.

Page 9, Lines 1-23 and Page 10, Lines 1-5: Substitutions in this regulation have been broadened to include all degree fields. The section is comprised of “if, then” statements. If this language is required then a comprehensive chart should be included to clarify.

Page 10, Lines 12-22: Partial education substitutions based on other experience should be capped at some point as with other substitutions. Additionally, the responsibility of proving skills gained in these other fields can be applied to wastewater treatment or collection should be the applicant not the cabinet.

Page 11, Lines 13-21: Experience gained in “not related fields”, what is the basis for the substitution values? They seem too generous.

Page 12, Lines 3-4: Given there is no technical basis for the amount of credit given for “not related fields” the maximum experience granted should be no more than 25%.

Page 12, Lines 5-8: Apprenticeships should refer to Kentucky Department of Labor approved. Any apprenticeship should work under the existing regulations therefore it is redundant to have a specific section.

Page 12, Lines 9-17: Equivalency language should be removed. Under this proposed regulation equivalency would grant a KY certification to an individual from another state or territory that had worked long enough to upgrade their certification but had not done so. Under no circumstances should DCA give free passes to any certification level. The Association of Boards of Certification (ABC) standard language used for equivalency is to compare states regulatory requirements and create a crosswalk for equivalent certification. Reciprocity is given to equivalent certifications when requested and paid for. Additionally, this proposed regulation could impact our reciprocity with other states.

Regulatory Impact Analysis

1. (1)(b) – How are we protecting public health and the waters of the Commonwealth by reducing the experience requirements for Class III and IV operators and/or allowing for a lot of it to be substituted out?

2. (2) (a) – Are the changes meant to “clarify” or reduce the qualifications. It states that the regulation seeks to “expand acceptable experience”, yet in Section 2(4) Substitutions, subsections (a) and (b) 3 & 4 state that contact hours and post-secondary education “in any subject” can be substituted for up to 50% of the required experience.

**401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications. (Continued comments)**

Regulatory Impact Analysis (continued)

(2)(a) References that the regulations establishes a route for the acceptance of Kentucky Labor Cabinet apprenticeship programs, yet Section 2(6) Apprenticeships does not reference the “Kentucky Labor Cabinet” only a “state approved apprenticeship program”. This cannot be implied but must be stated in the regulation.

(2)(a) Reference that the regulation allows the cabinet to enter reciprocal agreements with other states. Reciprocal operator licenses have been issued for at least 30 years. What they are proposing is to lessen the requirements via the “Equivalency” language to go beyond allowing certificate for certificate exchanges, but to recognize additional experience gained for a higher certification. This is not “reciprocity” according to the Associations for the Boards of Certification.

3. (4)(a) – DOW and DCA are stating that there is an operator shortage, yet they have no data to support this as their databases do not talk to one another to allow for the comparison of this data and citing facilities for the lack of operators has not been a priority unless other violations exist. Wastewater systems only need one operator of record and do not have to staff certain shifts. DOW is simply taking the word of drinking water systems and having no clue as to the true need.

4. (4)(b) – This regulation will not result in additional cost unless operators with less experience send improperly treated water out of their plant or fail to properly disinfect lines.

**401 KAR 11:040 Water treatment and distribution system operators: classification and qualifications.**

Page 1, Line 3: Should be DCA not DOW as DCA implements and enforces 401 KAR Chapter 11.

Page 5, Lines 5: OIT should say “designation” not certification.

Page 5, 17-19: OIT language needs to include a maximum duration of an OIT designation.

Page 6, Line 10: Limited certification should require minimum education of high school diploma or GED.

Page 10, Lines 12-23 and Page 11, Lines 1-19: Substitutions in this regulation have been broadened to include all degree fields. The section is comprised of “if, then” statements. If this language is required then a comprehensive chart should be included to clarify.

Page 12, Lines 3-14: Partial education substitutions based on other experience should be capped at some point as with other substitutions. Additionally, the responsibility of proving skills gained in these other fields can be applied to water treatment or distribution should be the applicant not the cabinet. Additionally, the “shall” statements in this regulation regarding experience substitutions for education are proposed to be “may” in 401 KAR 11.030.

Page 13, Lines 4-16: Experience gained in “not related fields”, what is the basis for the substitution values? They seem too generous. Given there is no technical basis for the amount of credit given for “not related fields” the maximum experience granted should be no more than 25%.

Page 13, Lines 17-20: Apprenticeships should refer to Kentucky Department of Labor approved. Any apprenticeship should work under the existing regulations therefore it is redundant to have a specific section.

Page 13, Lines 21-23 and Page 14, Lines 1-6: Equivalency language should be removed. Under this proposed regulation equivalency would grant a KY certification to an individual from another state or territory that had worked long enough to upgrade their certification but had not done so. Under no circumstances should DCA give free passes to any certification level. The Association of Boards of Certification (ABC) standard language used for equivalency is to compare states regulatory requirements and create a crosswalk for equivalent certification. Reciprocity is given to equivalent certifications when requested and paid for. Additionally, this proposed regulation could impact our reciprocity with other states.

Regulatory Impact Analysis

1. (1) (b) – How are we protecting public health by allowing most of the required experience to be substituted out, sometimes with education that is not industry related?

2. (2) (a) – Are the changes meant to “clarify” or reduce the qualifications. It states that the regulation seeks to “expand acceptable experience”, yet in Section 2(5) Substitutions, subsections (a) and (b) 3 & 4 state that contact hours and postsecondary education “in any subject” can substituted for up to 50% of the required experience.

**401 KAR 11:040 Water treatment and distribution system operators: classification and qualifications. (continued comments)**

Regulatory Impact Analysis (continued)

(2)(a) References that the regulation establishes a route for the acceptance of Kentucky Labor Cabinet apprenticeship programs, yet Section 2(6) Apprenticeships does not reference the “Kentucky Labor Cabinet” only a “state approved apprenticeship program”. This cannot be implied but must be stated in the regulation.

(2)(a) Also reference that the regulation allows the cabinet to enter reciprocal agreements with other states. Reciprocal operator licenses have been issued for at least 30 years. What they are proposing us do is to lessen the requirements, via the “Equivalency” language, to go beyond allowing certificate for certificate exchanges, but recognize additional experience gained for a higher certification. This is not “reciprocity” according to the Associations for the Boards of Cerification.

3. (4)(a) – DOW and DCA are stating that there is an operator shortage, yet they have no information to support this, as their databases do not talk to one another to allow for the comparison of inspection data against the facilities listed by operators on their applications for certification. In addition, citing facilities for the lack of operators has not been a priority unless other violations exist. DOW is simply taking the word of outside parties and having no clue as to the true need. They also do not ask Public Water systems when they make this claim what they have done to hire, train and retain operators, how their salaries compare to surrounding systems and if their rates consider the true cost of their water production and distribution. We can only hope that the increased “substitutions” will ultimately solve this “operator shortage”, although it is doubtful that people with a Master’s degree will want to work for a utility making just above minimum wage, with little or no pension.

4. (4)(b) – This regulation will not result in additional cost unless operators with less experience send improperly treated water out of their plant or fail to properly disinfect lines.

**401 KAR 11:050. Operator and training provider certification.**

Page 1, Line 3: Should be DCA not DOW as DCA implements and enforces 401 KAR Chapter 11.

Page 2, Lines 12-23 and Page 3, Lines 1-2: An OIT mentor has a great deal of responsibility and could possibly risk their own certification. One OIT per mentor should stay and there should be some transfer of risk from the certified operator to the system employing both parties.

Page 3, Line 5: Disagree with restricting board reviews to only Class IV applications. There could be a time when board members are needed as additional reviewers.

Page 4, Lines 5-7: Strongly disagree with “equivalent certification”. It is not a certification level. Additional experienced gain should be considered and allow the applicant to take an exam at a higher level but as proposed it would be handing out certifications for levels never tested for in either state or territory. This language could also impact KY’s reciprocal agreements with other states.

Page 6, Line 1: Specify cabinets website as KY’s One Stop Business Portal and provide clarification in the regulatory language.

Page 6, Lines 2-10: Need to add language to specify how long an operator can hold and OIT designation.

Page 6, Lines 18-19: There is no mention of duration of neither inactive status nor how to return to active status if not in a renewal cycle.

Page 7, Line 5: We feel it would in the benefit of every system or operator personally paying fees to allow hours earned in the initial certification period to be counted for renewal purposes. The applicant is entered into DCA’s database when registering, there should be no problem tracking the hours since the Agency Interest (AI) number is assigned in that testing process which is the link between the operator and continuing education credits.

Page 7, Lines 14-16: What is the basis for a two year waiting period or past participation?

Page 7, Line 18; Page 8, Lines 10-11, Lines 16-17: When will the form be available for review?

Page 8, Line 2: It would be beneficial to the DCA staff to have a set CTP term based on a calendar year with fees dues prior to the annual renewal much like the lab certification fees and keep CTP’s on a different schedule than certification renewals.

Page 8, Lines 4-6: Would you require every speaker ever used to go through cabinet training or just the program administrators?

Page 8, Line 15: Given that continuing education must be earned in the renewal period of two year in the proposed regulation, what is the purpose of maintaining records for five years? Even if five year old data was audited and found to be inadequate the CEU’s would have already been used for renewal.

**401 KAR 11:050. Operator and training provider certification. (Continued comments)**

Page 9, Lines 2-4: There is no reference to a signed roster, stamp sheet, etc. for confirmed operator attendance yet you list a summary of participant evaluations. Are you suggesting that every course have a written evaluation?

Page 9, Lines 5-21: The CTP program needs to be addressed more clearly and inclusively. Required forms need to be reviewed as well.

Page 10, Lines 13-14: Is the extension request form new and where can it be found? Extensions have always been submitted on the same form as an initial CE request.

Page 10, Lines 17-19: Language needs to be included for OIT designation disciplinary action.

Page 10, Line 21: Multiple regulations need to be listed including 401 KAR Chapter 5, 6, 8 and 10.

Regulatory Impact Analysis

1. (4) (b) – The statement that this regulation will not result in additional cost is somewhat misleading. This regulation introduces new applications and updates others that will now have a fee attached, as identified in 401 KAR 11:060. Training providers have never had to pay a fee in the past to have a continuing education program reviewed. We also have not had to pay DCA to approve training hours we have entered into the operator certification database.

Fiscal Note

State or Local Governments in Section 3(c). Many utilities provide their own operator training and they will now incur a cost to have their training programs reviewed and the hours entered.

Materials Incorporated by Reference: Where can the forms incorporated by reference are seen?

**401 KAR 11:060. Operator and training provider certification fees.**

Page 1, Line 3: Should be DCA not DOW as DCA implements and enforces 401 KAR Chapter 11.

Page 1, Lines 17-18: The fee increases will be detrimental to the goal of these proposed regulations of attracting additional people to the profession and keeping the certified operators already employed. How are these fee justified? Could they be tiered based on the size of system? If justified, could they be implemented over a two to four year period?

Page 2, Line 2: Equivalency should be removed.

Page 2, Line 3: The inactive fee should include a time frame. Would it be per renewal cycle or a one-time fee?

Page 2: Lines 4-6: Will all new forms be available on the ecommerce website prior to proposed regulation implementation?

Page 3, Line 1: What criteria were used to establish the $2000.00 fee for a certified training provider? Will it be the same for in person training versus online training providers?

Page 3, Line 6: There needs to be clarification on this fee. Is it for DCA staff manually entering a roster or is it for DCA accepting hours submitted by a provider through the eportal?

Page 3, Line 7: Why are extension request charged differently than initial request given that it requires the same input by DCA to get the application before the board?

Page 3, Lines 8-10: Will all new forms be available on the ecommerce website prior to proposed regulation implementation?

Regulatory Impact Analysis

1. Page 7, Section 2(b) – So the Division of Compliance Assistance is projected to have a deficit in FY20 of $144.566, but they are instituting fees that are projected to raise $426,600 to $461,850. That is a nice little bonus! It has been stated that the KY Division of Compliance Assistance is drafting language to potentially contract out the training of operators to a third party. Are fees being raised to facilitate this?

2. Page 7, Section 4(b) – This section states that renewal fees will increase by $150 ($50 to $200). Many utilities do that pay this fee for operators and a 300 percent increase seems unreasonable especially if they have multiple licenses to renew. Hopefully the increase will compensate for the number of licenses that will no longer be renewed. At the present time, DCA’s database already records the continuing education hours earned by operators and the renewal application is online as well. Given this automation, how much time does it take DCA to process a license renew? In other words, what is the basis for this increase?

**401 KAR 11:060. Operator and training provider certification fees. (Continued comments)**

Regulatory Impact Analysis (continued)

This section also says that all training providers will pay $50 for the entry of training hours earned by operators at their training events. The “Continuing Education Activity Reports” can already be entered via the DEP portal. This includes the course name, number, operator name, Agency Interest No, Certificate and number of hours earned. Once approved, DCA has to approve the information for it to appear on the operators account. If the data is entered by the training provider, what is this $50 fee based upon?

3. Page 8, Section 5(b) – This sections references that there will not be any additional costs incurred by this regulation. That is not accurate as there will be a cost to the development of all the new papers forms proposed, as well as creating these online. What is the cost of this work estimated at?

Fiscal Note

Page 10, Section 3 asks what the impact will be on state and local expenditures and revenue. While the response talks about the impact to the state, it never mentions the impact on local governments who will be paying, in some cases, a 300 percent fee increase.

General Comment: The proposal places the burden for supporting a state program on the certified operators (and their employers) that keep the drinking water and wastewater systems operating and maintained per a myriad of federal and state regulation. It is an established fact that KY public water systems and publicly owned treatment works struggle to hire and retain qualified (i.e. certified) staff and are looking at a significant loss of seasoned employees over the next 5-10 years. Increasing or adding fees for initial certification or renewals and in-house training, plus penalties for non-electronic submittal will be a detriment both to individuals considering water operations as a career or to utilities attempting to retain or hire. As both drinking water and wastewater operations directly impact public health, they do not have the luxury of “shutting down” if staff are not available.

**401 KAR 11:060. Operator and training provider certification fees. (Continued comments)**

General Comment: (continued)

Systems that struggle with meeting day-to-day expenses and infrastructure needs will now have to deal with increased costs for certification. From a public water system perspective, KY is a “small system” state—the majority of its drinking water systems serve less than 10,000 in population. Those systems are primarily located in rural or depressed areas.

Alternate Proposal #1:

* Phase in the application and renewal fee increases over a period of 4 years
* Eliminate the $50 fee for Continuing Education Activity Report entry

Alternate Proposal #2:

* Retain the proposed application and renewal fee increases for systems serving populations greater than 10,000
* Propose lower fees for those systems serving populations less than 10,000
	+ Certification application fee--$175
	+ Renewal application fee--$100
	+ Eliminate the $50 fee for Continuing Education Activity Report entry