

August 30, 2016

**RATIONALE FOR THE PROPOSED REVISIONS TO
HAWAII ADMINISTRATIVE RULES
TITLE 11, DEPARTMENT OF HEALTH
CHAPTER 25, "RULES RELATING TO CERTIFICATION OF
PUBLIC WATER SYSTEM OPERATORS"**

PART I: INTRODUCTION

This rationale document serves to provide an explanation for the changes which are proposed for Chapter 11-25. These changes are administrative in nature; there are no changes to certification requirements. The three most significant changes deal with: 1) Continuing Education Units, 2) the initial certification period after an examination, and 3) certification fees. The first proposed change is to revise the definition of a "Continuing Education Unit" so that it is equal to 10 contact hours instead of eight. The second proposed change would alter the initial certification period after an operator passes an exam. The third proposed change is an increase in the fees for certification. These proposed changes are discussed in more detail in Part III of this rationale document.

Additional information may be obtained by calling 586-4258 or by writing to the following address:

Hawaii Department of Health
Safe Drinking Water Branch
919 Ala Moana Boulevard, #308
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PART II: FORMAT REVISIONS

By direction of the Legislative Reference Bureau (LRB) and pursuant to the procedures established in the Hawaii Administrative Rules Drafting Manual (LRB, June 1994,) parts of Chapter 11-25 have been reformatted. These reformatting changes do not affect the content of the document. Content, or technical changes, are discussed thoroughly in the next part (Part III) of this rationale document.

PART III: CONTENT OR TECHNICAL CHANGES

For clarity, **[deleted text]** has been bracketed and bolded, while all new material has been underlined.

1. §11-25-2 Definitions.

Proposed: "Continuing education unit" or "CEU" means **[eight hours of participation in, and successful completion of, an organized continuing education experience approved by the board.]** a nationally recognized unit of measurement similar to college credits. One CEU is awarded for every 10 contact lecture hours

of participation in, and successful completion of, an organized continuing education experience approved by the board.

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["Wastewater treatment plant operator" means any individual who operates a wastewater treatment plant, or a major segment of a wastewater treatment plant.]

Rationale: It is proposed that one CEU will equal 10 contact hours instead of eight contact hours. This is a bookkeeping change which will bring Hawaii's standards for CEUs into line with the national standard. Although the standard for one CEU is proposed to change, the number of *contact hours* that an operator will need to earn to maintain his or her certification will not change. In addition, this change will simplify the conversion of contact hours to CEUs (one contact hour will equal 0.1 CEU as opposed to 0.125 CEU).

The definition of "wastewater treatment plant operator" is proposed to be deleted because this term is no longer used in these rules. Prior to 2002, an operator with wastewater treatment plant experience could use that experience to qualify as a water treatment plant operator. Since the last rule revision in 2002, the board no longer considers wastewater experience to be a valid substitute for water treatment plant experience. The term "wastewater treatment plant operator" no longer appears in the rules, therefore the definition should be deleted.

2. §11-25-2.50(b)&(d) Public water system operation and management.

Proposed: (b) This chapter applies to all WTPs in community and nontransient noncommunity public water systems and all WTPs serving surface water or ground water under the direct influence of surface water. All WTPs covered by this chapter shall be operated by certified WTP operators. Each WTP shall at all times be under the responsible charge of an operator holding a **[regular]** valid certification equal to or greater than the WTP classification.

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(d) Each DS shall at all times be under the responsible charge of an operator holding a **[regular]** valid certification equal to or greater than the DS classification.

Rationale: The word "regular" is changed to "valid" because an operator with reciprocity certification, a different category than regular certification, is also able to act as the responsible charge operator for a WTP or DS.

3. §11-25-3(2)&(6) Classes of certification.

Proposed: Operators may obtain certification by the following methods provided in this section:

- * * * * *
- (2) Regular certification.
- (A) An applicant meeting the educational and experience requirements of section 11-25-4 may apply for certification with examination.
- (B) An applicant already certified in the State may apply for certification with examination in a higher grade if the applicant meets the following requirements:
 - * * * * *

Rationale: The words "with examination" are added to clarify that regular certification is obtained through passing an examination (as opposed to reciprocity certification which is obtained without passing an examination.)

Proposed: (6) Conditional certification. Operators in responsible charge of a DS, or a WTP treating ground water, and who **[have]** had a minimum of one year of such work experience in the State by June 30, 2001, **[qualify]** qualified for conditional certification. The category of conditional certification **[shall expire]** expired on December 31, 2003. Applications for WTPO conditional certification were accepted until June 29, 1993 for operators operating surface water treatment plants. These conditional certificates expired on December 31, 1994, if not canceled earlier.

- [(A) The board may approve the issuance of a conditional certificate without an initial examination for a WTP operator operating a WTP treating ground water, or a DS operator. The conditional certificate shall be valid for two years. The conditional certification shall be site-specific.**
- (B) The educational requirements are waived by the board for conditionally certified operators for the two-year period that the certificate is valid. If the operator fails the first examination, the operator may take subsequent examination(s) at the same or lower grade level.**
- (C) If the operator is unable to pass an exam within the two-year period, the operator shall no longer perform the duties of an operator after the certificate expires. Also, the operator must then meet the educational and work experience requirements before applying for regular certification with a written examination.]**

Rationale: Conditional certifications were allowed until December 31, 2003, as a means of transitioning in the certification requirements for new Distribution System Operators. The text is proposed to be changed to show that this category of certification has expired.

4. §11-25-5(a)&(b) Continuing education units.

Proposed: (a) Certified operators shall obtain CEUs in order to maintain their certification. **[Eight hours are required for each CEU.]** The CEUs shall be earned in the **[three-year]** certification period prior to certification expiration. Ten contact hours equals one CEU. The number of CEUs required every **[three]** two years to renew Grades 1 through 4 certification are as follows:

TABLE 2
CEU REQUIREMENTS

Operator Classification	CEUs Required
Grade 1 <u>or</u> 2	[1.5] <u>0.8</u>
[Grade 2]	1.5]
Grade 3 <u>or</u> 4	[3.0] <u>1.6</u>
[Grade 4]	3.0]

(b) For operators with less than **[three]** two years of certification in the State prior to the renewal date, the CEU requirements shall be prorated.

Rationale: It is proposed that one CEU will equal 10 contact hours instead of eight contact hours. Although the standard will be changed, the number of contact hours an operator will need to earn to maintain his or her certification will not change. For example, a grade 1 operator currently needs to earn eight contact hours (1 CEU) to maintain certification. Under the revised standard, an operator will still need to earn the eight contact hours, but these contact hours will be designated as 0.8 CEUs. This bookkeeping change is consistent with other states' and continuing education providers' 10-hour standard for CEUs. This change will also simplify the conversion of contact hours to CEUs.

It is also clarified in this section that the certification period is two years and not three years.

5. §11-25-5(c) Continuing education units.

Proposed: (c) If an operator wants to receive CEU credit for a course not previously approved by the board, the operator shall make a written request for approval to the board.

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(2) The board will respond in writing to the operator on its determination on the CEU credit request. **[Approved courses will be assigned a course approval number.]**

(d) If the operator has attended a course pre-approved by the board for CEU credits, when applying for renewal the operator

shall send to the board a confirmation record of attendance, the certification renewal form [**with the course approval number**], and the renewal fee. The courses pre-approved for CEUs include:
* * * * *

Rationale: CEUs are tracked in-house in an Access database; no course approval number is assigned or used.

6. §11-25-6(d)&(e) Application for certification.

Proposed: (d) Application for regular certification with exam:
(1) The applicant shall apply at least three months prior to the exam date, and attach [**a**] separate payments for the application fee and the exam fee.

(e) Application for certification without exam (OIT, reciprocity, temporary, or provisional[, **or conditional**]):
(1) Applications can be submitted throughout the year.
* * * * *

Rationale: It is clarified that two separate payments will be required, one for the application fee and one for the exam fee. Currently, if the applicant sends in only one combined fee and the application is denied, the exam fee cannot be returned. It is proposed that the applicant will be required to send in two separate fees, so that the exam fee can be returned upon a certification denial.

7. §11-25-8(b) Issuance and renewal of certification.

Proposed: (b) The certificate indicates the operator grade and date the certification was issued. The identification card indicates the grade and expiration date of the certification period. The certification expiration date [for certification] is at least [**two full years**] one full year from the issuance date. The certificate itself cannot represent certification unless a current identification card is produced to substantiate certification. The certificate shall be prominently displayed at the applicant's principal work station.

Rationale: The program is run using a two-year even-odd system. The certification of operators with names starting with A-K expires in odd years. Likewise, the certification of operators with names starting with L-Z expires in even years. Currently, if an operator passes an exam, he/she is given a full two years of certification. By reducing the initial period of certification, after a passed exam, to a minimum of one year, an operator can be "placed" into his or her correct certification year immediately.

For example, in the current system, an operator with a last name of Smith, who took the exam in 2015, would be granted certification to 2017. The branch was then required to issue the next certification for either one year or three years so that Mr. Smith's certification expiration could fall in an even year. It is simpler and more streamlined to place the operator in his/her correct certification expiration year as soon as possible, right after the operator passes the exam. This also reduces confusion for operators with both water treatment plant operator and distribution system operator certifications, because their certification expiration years would be correct as soon as issued.

8. §11-25-8(c) Issuance and renewal of certification.

- Proposed:
- (c) The certified operator shall renew his or her certification by the date two weeks before the expiration date. After the expiration date, the operator certification shall expire. After the date one month after the expiration date, the operator with expired certification shall no longer perform the duties of an operator until he or she has applied for renewal, and the renewal has been approved. OIT, temporary, and provisional **[and conditional]** certifications are not renewable.
 - (1) To renew his or her certification, the operator shall submit the renewal application form, the renewal fee[,] and proof of CEU course attendance[, and the **CEU code number**].
 - (2) For the second through twelfth months following the expiration date, the renewal fee shall **[be doubled.] increase by \$20.** If the operator has not applied for renewal by the date one year after the expiration date, the certification shall not be renewable. The operator shall not be re-certified unless he or she submits the exam **[application]** registration form and exam fee, is accepted for, and passes the exam.

Rationale: Conditional certification is no longer a valid category of certification, so it is proposed to be removed. As previously stated, the CEU course approval number or code number is not used to track CEUs.

The penalty for an operator renewing late is proposed to be changed from "doubled" to \$20. Currently, operators who renew for three years (\$30) are charged \$30 plus a \$30 late fee. Operators who renew for only one year are charged \$10 and a \$10 late fee. Charging one standard late fee (\$20) is fair for all operators.

9. §11-25-10 Schedule of fees for certification.

Proposed: The schedule of fees relating to certification shall be as follows:

- (1) Regular certification. The applicant shall submit the application, application fee [~~(\$20)~~ (\$30), and exam fee [~~(\$30)~~ (\$70)] at least three months prior to the examination date. If the examinee passes the exam, he or she shall be certified through the expiration date at least **[two full years]** one full year from the issuance date **[(a period less than thirty-six months)]**. A person with temporary[,] or provisional[, or conditional] certification, who applies for regular certification at the same grade level, shall submit the application and exam fee, but does not need to submit a new application fee.
- (2) Reciprocity certification. The applicant shall submit the application, **[and application fee (\$50)]** application fee (\$30), and certificate fee (\$70) at the time of application. If the application is not approved, the **[application fee includes the fee for the certificate and I.D. card.]**certificate fee will be returned. The certification is valid through the expiration date at least **[two full years]** one full year from the issuance date **[(a period less than thirty-six months)]**.
- (3) Operator-in-training, temporary, or provisional[, or conditional] certification. The applicant shall submit the application **[and application fee (\$40)]**, application fee (\$30) and certificate fee (\$40) at the time of application. If the application is not approved, the **[fee includes the fee for the certificate and I.D. card.]** certificate fee will be returned. The OIT or temporary[, or conditional] certification shall be valid for twenty-four months.
- (4) Renewal - **[\$10]** \$20 per full year of renewal. The certification shall be renewed for a period no longer than three years and the renewal fee shall be due by the date two weeks before the expiration date.

Rationale: The existing fees for certification application (\$20), the exam (\$30), and renewal (\$10 per year) have not increased since the program was initiated in 1993, 20 years ago. It is proposed to implement fee increases as follows: application fee (\$20 to \$30), exam fee (\$30 to \$70), renewal fee (\$10 per year to \$20 per year).

The number of certified operators and workload has increased dramatically since 1993. In 1993, the operator certification program began with 12 certified Water Treatment Plant Operators (WTPOs). In 2001, following EPA's mandate, the state was required to also certify Distribution System Operators (DSOs).

As of June 30, 2016, there are 566 certified operators (219 WTPOs and 509 DSOs).

The current Hawaii public water system operator program fees are much lower than other similar certification fees in Hawaii. Current and proposed fees, and similar certification or licensing fees in Hawaii (for a wastewater treatment plant operator (WWTPO) and electrician or plumber) are summarized below:

	Current Hi.	Proposed Hi.	Hi WWTPO	Hi. Electrician or plumber
App fee	\$20	\$30	\$25	\$40
Exam fee	\$30	\$70	\$50	\$95
License fee				\$75
Total (1st time)	\$50	\$100	\$75	\$210
Reciprocity	\$50	\$100	\$75	
Renewal	\$10/yr.	\$20/yr.	\$25/yr.	\$75/yr.

Similarly, Hawaii's current public water system operator fees are significantly lower than other state water system operator certification fees. These fees are summarized below.

	Current Hi.	Proposed Hi.	Ca. grade 1	Ca. grade 3	Colo.	Wa. State
App fee	\$20	\$30			\$15	\$87
Exam fee	\$30	\$70	\$50	\$100	\$45	\$87
Cert fee			\$70	\$120	\$55	
Total (1 st time)	\$50	\$100	\$120	\$220	\$115	\$174
Reciprocity	\$50	\$100	\$70	\$120	\$85	\$177
Renewal	\$10/yr.	\$20/yr.	\$70/3 yrs.	\$120/3 yrs.	\$85/3 yrs.	\$42/yr.

Hawaii's current fees, and especially the renewal fee, are significantly lower than the fees in these other states. Hawaii's fees do not accurately reflect the time and effort that maintaining the operator certification program entail.

It is proposed to increase the exam fee from \$30 to \$70. It is justified to raise this fee because the fees that the state pays to a private certification exam provider (Association of Boards of Certification) for exam creation and scoring have increased to \$40 per exam, plus additional costs for membership, shipping, review exams, unreturned exams, and expedited requests.

It is proposed to increase the renewal fee from \$10 per year to \$20 per year. Operators who apply for renewal must earn Continuing Education Units (CEUs) in order to maintain their certification. Program staff must review operators' individual

course requests for CEU approval, and also review each operator's CEU earned in order to determine if the operator has met his/her renewal requirement. Colorado charges a "Training Unit Approval Fee" of \$50 per request, while Hawaii does not charge a separate fee. Hawaii also provides a valuable service to each operator of maintaining a record of the operator's earned CEUs. Some operators have asked if Hawaii could provide a copy of this record to other states so that these operators could renew their certifications in these other states.

It is proposed to increase the reciprocity fee (\$50), to separate fees for the application (\$30) and the reciprocity certificate (\$70). The reciprocity fee has always been equivalent to the certification fee for an operator taking the exam (i.e. the application fee plus the exam fee). It is also clarified that the application fee and certificate fee payments should be made separately, so that if an operator is denied reciprocity, the certificate fee (\$70) can be returned to him/her.

It is proposed to increase the operator-in-training, temporary or provisional certification fee from \$40 to \$70. These fees have always been calculated as equivalent to the application fee plus the fee for two years of certification. If the application fee is increased to \$30, and the certification (renewal) fee is increased to \$20 per year, it is consistent to increase the operator-in-training, temporary or provisional certification fee to \$70.