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State of Maine

Annual Operator Certification Program Report

January 1, 2013 through December 31, 2013

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Maine Drinking Water Program

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The State of Maine, Department of Health and Human Services, Center of Disease Control and Prevention, Division of Environmental Health, Drinking Water Program (DWP) is responsible for regulating public water systems and overseeing compliance with requirements of the Safe Drinking Water Act and Maine's Rules Relating to Drinking Water. In 1995 the Maine State Legislature re-established the Board of Licensure of Water System Operators (Board) to further improve the level of professionalism of water system operators. The Board, comprised of nine appointees from the Governor, in conjunction with DWP assures the content of training, examination and licensing of operators of public water systems in Maine. Operators of Maine's public water systems (PWS) are the first and foremost protectors of the safety of drinking water. Maine's water systems span a spectrum of complexities and sizes with each and every operator responsible for the same end results: safe and adequate drinking water supply. The Board assures that operators meet standards through evaluating experience and education through application review, and performance through successful completion of a nationally verified examination. The Operator Certification Program assists operators in achieving and maintaining this professionalism, through training and assurance of appropriate operator coverage at public water systems.

1. Authorization

Maine's Operator Certification Program has met EPA's Baseline Standards since major changes were implemented in 2000 and continues to meet and implement EPA's *Final Guidelines for the Certification and Recertification of Community and Non-transient Non-community Public Water Systems*.

No changes to statute or operator board rules were made during 2013.

2. Classification of Systems and Operators

A. History

According to Maine Statute the Board is responsible for the establishing the criteria to classify water systems. Short synopsis of the history of system classification:

- 1969 Maine began to classify utility systems based on technologies and population.
    - Utilities self-classified.
    - Distribution classified to match treatment.
- Early 1970's: Existing operators licensed according to system classification.
- Mid 1970's: Examinations of new operators began.
- 2000: Board adopted, Association of Boards of Certification (ABC) point rating systems with minor adaptions. Distribution classifications are based solely on population served. Treatment classifications are based on PWS design capacity, source type and treatment processes. Added Very Small Water System and expanded licensing requirements to include all surface water systems, small community and non-transient-non-community systems.

- 2007: point system updated to include modern technologies assuring that existing classifications and technologies were adequately addressed in the examination process.
- To date during sanitary surveys or PWS visits the DWP evaluates the PWS classification. The objective is to have the PWS classification match the processes in place at the time of inspections. An inspection could reveal process changes that either elevate or lower classification levels. Changing a PWS to a lower classification does not conflict with anti-backsliding as the system classification and operator qualifications are reviewed through examination and experience qualifications. This maintains the protection to public health while keeping the accuracy of the point system. When classification level is raised the PWS is given 90 days to designate an appropriately licensed operator.

B. System Classification:

Table 1 illustrates the basis of classification and the number of systems in each classification. Very Small Water System, VSWS, classification includes both treatment and distribution categories. Class I through Class IV systems are classified according to complexity and population served for treatment and according population served for distribution. Utility operated community PWS that were previously classified as Class I are not reclassified to VSWS even if the population is below 500.

Table 1	**Public Water Systems Classification**		
PWS Classification	**Treatment Points Appendix A Operator Rules**	**Distribution points Population**	**Number of PWS with this classification**
Very Small Water System	19 or less	<500	569
Treatment Class I	19 or less		64
Treatment Class II	20 to 34		73
Treatment Class III	35 to 47		27
Treatment Class IV	48 or more		20
Distribution Class I		1,500 or less	109
Distribution Class II		1501 to 15,000	65
Distribution Class III		15,001 to 50,000	9
Distribution Class IV		>50,000	1

There were twenty new NTNCs mostly daycares; four new community systems and two surface water transient systems. Eleven NTNC systems and 1 community system were deregulated.

C. Operator Classification:

Operators in responsible charge of community, NTNC and surface water transient systems are required to hold licenses that match system

classifications. ABC examinations are designed to review applicable knowledge base for levels of systems matching the ABC point system.

Table 2 describes the breakdown of licensed operators and their respective disciplines. There are 1057 persons holding an active license, 109 persons with an inactive license that may be renewed within 2 years, a total of 1166 licensed persons. In 2013 sixty-one licensed persons permanently expired. This number does not include deceased persons but may include retired operators. Most operators hold licenses in both treatment (T) and distribution (D) disciplines. Operators are classified per discipline according to level of ABC examination successfully (70%) achieved and experience. Added to Table 2, in the interest of looking into the future, are persons who also hold OIT licenses. OIT may not be in responsible charge but have shown the water system or future employers their capability to pass the examination while they are gaining appropriate experience. Often times an individual will hold a full license of a lower level and an OIT license in a higher level while attaining experience. Also added to this table is the number of licenses not renewed as of March 2, 2013.

Table 2. Licensed Operator Classification			
Category of License	**Number of Active Licenses- 1057 persons**	**Number of Active OIT Licenses- 3 persons**	**Number licenses not renewed in 2013 total 63 persons**
Very Small Water System	236	none	22
Class I Distribution	166	0	17
Class I Treatment	157	0	13
Class II Distribution	265	1	12
Class II Treatment	269	0	10
Class III Distribution	147	0	2
Class III Treatment	120	1	3
Class IV Distribution	231	1	7
Class IV Treatment	212	1	8

3. Operator Qualifications

Maine operators are evaluated on education, experience and job task knowledge measured through successful ABC examinations. Operators must have high school diploma or equivalent. Relevant post-secondary education may be used for up to two years credit toward experience. On-the job experience may be in a water system or prorated for related professional experience. The level of license is not dependent upon experience in same level of system. OIT licenses are available for all levels of operators. The OIT license requires maintenance through continuing education just as a standard license. An OIT licensee has up to

4 years to complete required experience. Certification from the OIT licensee and the employer(s) is required to obtain full licensure. The number of persons using OIT option seems to be lessening at the entry level but remains stable for individuals at higher levels gaining experience.

A. Operator Preparation

Preparation classes are held by independent trainers and several large utilities are developing their preparation classes. Due to the availability of exams through computer based testing, preparation classes may be offered throughout the year. Maine's Capacity Development set aside established a Capacity Development Training Reimbursement Fund that reimburses trainers for class attendance for approved classes. This has allowed trainers to market directly to systems as well as hold traditional classes. The reimbursement is $25/TCH/student for exam preparation multi-day classes and $15/TCH/student for one day preparation or continuing education classes. Maine maintains a lending library of self-study materials.

B. Examination Options and Success Rates

Maine holds an agreement and contract with Association of Boards of Certification, ABC, for the purchase of paper exams. ABC also holds an agreement with Applied Measurements Professionals, AMP, to proctor computer based testing, CBT. AMP offers CBT in Portland and Holden, Maine. The Board offered paper exams in April 2013 with a limited number of participants (2). Paper exams will be offered once in 2014. CBT has the potential to change the face of operator licensing and bring many improvements to the program.

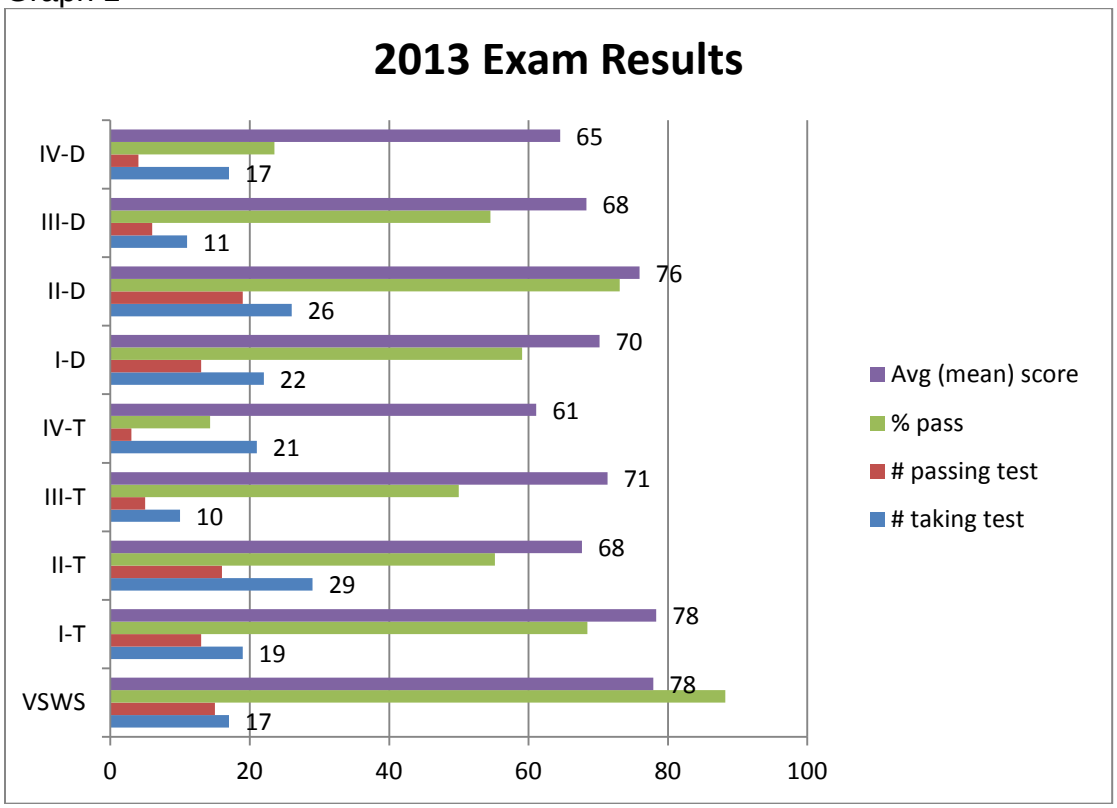
Examination record-keeping has moved to an all-electronic basis. Operators receive results and mastery reports when they take the exam. Reports are submitted to the licensing officer monthly and kept in this format. No personal results are filed by the operator until a license application is received. Then a copy of the result sheet is included in the application, numerical results are entered into SWOCS and the application is imaged.

The number of exams administered in 2013 was 169 CBT and 3 paper; 94 exams were successfully passed. The overall average score was 71 and the overall pass rate was 55%. The pass rate peaked in 2012 at 62% from a 2010 and 2011 rate of 41%. Without reviewing the levels of the exams and the number of retakes these percentages cannot be used to draw meaningful conclusions. The pass rates for VSWS and Class IV D were 100% in 2012 while in 2013 the VSWS dropped to 88% and Class IV D to 24%. These are more in line with historical values.

Examinee preparation may have turned to more self-study as there were fewer formal preparation classes. Also persons may have chosen to use the direct entry option and test at a level they were unprepared to sit for. Trainers are now able to offer training for particular levels of exams rather than trying to get all levels trained at the same time of year. Graph 1 illustrates the pass rate of various levels of exams. Class II Treatment and Class III Distribution seem to be the point where more preparation is needed. Repeat examinees are not tracked in this

graph and would take more formal study. Maine does not have a waiting period for examinees to retest.

Graph 1



4. Enforcement

A. System Compliance

System compliance with operator requirements is measured by documentation of persons in responsible charge recorded in SDWIS and assurance of up to date active licenses recorded in Safe Water Operator Certification, SWOCS. This process flows through several DWP teams. Operator compliance is a continual wave of systems in and out of compliance; although all systems out of compliance as of 12-31-2013 can be accounted for and most have come into compliance as of this writing it is normal to have changes that continually keep about two percent of systems in operator limbo. Systems are normally given five days to secure an operator when DWP learns of the lack of an operator in responsible charge.

Table 3 details the number of PWSs that are affected by the State of Maine's Operator Certification Program and their status as of December 31, 2013. In summary, the community system without an operator was referred to enforcement and corrected by March 2014. Of the seventeen NTNC systems listed without licensed operators, twelve have achieved compliance with operator requirements. Eleven are day cares. DWP developed a policy to allow After-The Fact systems (found operating without being recognized as a PWS) previously licensed by

another state agency six months to come into compliance with PWS requirements, one such requirement is having an operator. The five systems without an operator were in that category as of December 2013. All three of the transient surface water systems without an operator are seasonal. Two systems achieved having an operator before opening; the third cannot open without an operator.

Table 3 Systems in Compliance Summary 12-31-2013			
System Type	**Number of PWS**	**Number of PWS with licensed operators**	**Percentage in Compliance**
Community	364	363	99.7
Non-Transient, Non-Community	439	422	96.1
Transient*	21	18	85.7
Total	**824**	**793**	**96.2**
* Transient systems on surface water only.			

Documentation of compliance with operator requirements begins with the PWS submitting a Designated Operator Form (DOF) signed by the operator and the PWS owner. The DOF is the control point to connect a licensed operator with a PWS. The updating of operators associated with systems is an ongoing process performed by the operator licensing staff. Operators and PWSs are expected to notify DWP of changes and the majority does. The DOF also serves as an acknowledgement by the operator of the acceptance of responsibility and the owner of delegation of tasks determined to be “water quality and quantity” related that should be under the operator’s supervision. Operator qualifications and system requirements are confirmed and the Point of Contact is recorded in SDWIS. Licensing staff are responsible for data accuracy, filing and timely reporting. When completed, DWP staff is informed by email of the changes at a PWS. When an operator is no longer responsible for a system the process is similar but no form is necessary. Communication remains the same. On a monthly basis DWP Information Management Team (IMT) produces queries to summarize designated operator changes at systems. Some PWSs or operators may fail to report changes. These systems that fail to self-report are found during annual queries, biennial operator renewals and sanitary surveys.

System compliance with operator requirements is handled by the Field Inspection Team (FIT) from the IMT query notifications. FIT staff review IMT notifications to assure systems have one designated operator, now referred to as the Primary Designated Operator. Systems needing a designated licensed operator are required to immediately hire a contract operator or have a qualified operator in responsible charge of water quality and quantity decisions. The 2013 compliance numbers are based on each system having one licensed operator. Prior to 2012

the report based on Class I-IV systems having two operators. DWP often found the second operator to not be fully acquainted with the system leading to a false sense of security of system coverage. This was particularly true of the small to medium sized utilities.

New systems or those found to be in need of licensed operators are referred by FIT to operator licensing staff for assistance in becoming licensed or finding a contract operator.

B. Operator Compliance

The Board and the DWP continued to work on an operator competency review process to assure and improve accountability to the operator for system violations. After several attempts to review quarterly system violations as sorted by operator, the Board felt the process of selecting the operator with the most violations might not accurately address the most significant threat to public health or relate to operator inadequacy. The Board felt that DWP, especially the FIT staff, are in a position to review the guidelines for filing a complaint against an operator and submit information making a case for the complaint. DWP has drafted a policy and procedure to perform such reprimands. The policy is included in Amendment A.

C. System/Operator Issues

System –Operator communication has improved through the use of the Primary Operator designation. The DWP developed an operator responsibility and system communication process that has improved operator acknowledgement of DWP communication and system owner accountability to the operator. Each system designates one operator as the Primary Designated Operator, PO. This person must have the authority and appropriate licensure for both treatment and distribution disciplines and will receive copies of compliance related communications. The policy was put into place in January of 2013. Each system now receives all compliance and enforcement related correspondence to both the Administrative Contact and the PO. Systems may have multiple designated operators, DO, in responsible charge of quality and quantity. Many operators were very interested in the added information and thankful to know the compliance of the systems they tend to. This is a great improvement to system communication to lead operators. This has been especially helpful under contract operator situations.

During sanitary surveys and other DWP communication, it is reinforced to operators and system owners that DWP requires written documentation for processes delegated to non-licensed individuals. The 2011 DWP rule adoption requiring the development of emergency response plans is also reinforced and improves operator –system communication

5. Certification Renewal

Maine requires relevant continuing education training for the two-year license renewal period according to highest level of license held. Training is applied to both disciplines of licensure.

Relevant training is defined as:

- The training shows a direct link to water quality, water supply, or protection of public health; **and**
- The training is relevant to managing the operation or maintenance of public water systems; or
- The training is relevant to the operation or maintenance of public water systems.

Operators must submit proof of training through copies of attendance certificates. The Board accepts attendance logs from trainers to expedite the tracking of operator training and simplify the renewal process. The SWOCS program and clerical effort to document training has greatly streamlined the renewal process. There is a time commitment. An automated process is being reviewed. On an annual basis over 10,000 hours of training is expected of water operators. During 2013 most training providers including many in-house utility training processes submitted attendance records minimizing the need for operators to send copies of certificates at renewal time. The time burden of reviewing the training record is distributed throughout the year instead of at renewal time.

A. Training Providers

Maine training providers present excellent training to operators. Operators participate in surveys, workshops and serve on committees to address training needs. Regulators also address needs according to compliance and field experiences. This participation assures training topics are pertinent to needs and timely to advances in the profession. Renewal requirements do not allow for the same topic to be taken twice in a renewal period so operators must have a variety of topics in the two year cycle. In 2013 One hundred fifteen new and different training opportunities were approved for TCH. This included classes, conferences, seminars, webcasts, online training and in-house (utility) training.

The most difficult group to provide training for is the VSWS operators. For many of these operators the water system is not their primary employment, and sites are remote. Online training and CD courses are requested by many operators. Use of the Montana State University Courses has been very helpful for exam preparation and licensing renewal credits. The Board would like to see more variety of free web-based training pertinent to these operators.

Present training costs vary but could be $15-$50 per training hour for in-person courses and on-line training might be $50-$125 per hour per person. Webcast training is improving as far as participation tracking is concerned. Advertisement lead time for many fee-based webcasts is too short to have training

providers develop a proctored site and potentially a discussion forum related to the topic.

Capacity Development Funds were used to supplement continuing education training in a defined set of topics (Appendix D). The funding process of reimbursement to the provider for attendee hours earned has reinforced the need for providers to have a good business plan for developing, planning, locating and facilitating training services. The funding is open to all providers offering accepted relevant training on annually selected topics. Topics are determined by DWP staff and the scope is technical, managerial or financial capacity. This has worked much better than a contract process awarded to one provider. The program in its third year is gaining use and acceptance by providers. The process also improves the submittal of attendance forms in a timely manner.

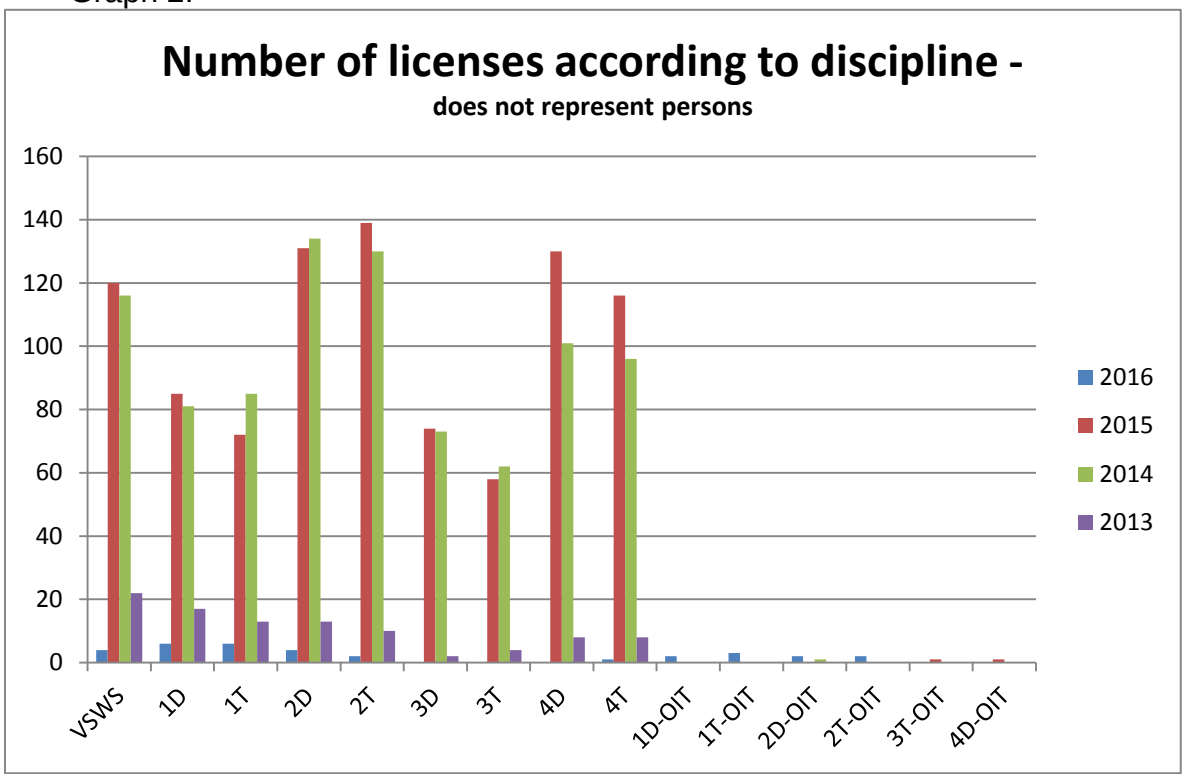
B. Renewal Database

The Safe Water Operator Certification System, SWOCS, program is in the seventh year. SWOCS actions are identified by the license held and each license requires training or fees on a separate basis whereas the Board credits training and fees as a whole to the person rather than parts of a license. This requires duplication of tasks or database shortcuts to be used. Each year the process improves with use of Microsoft Access and assistance of the data management staff. We are awaiting the implementation of a new version. We are also concerned that the connections between SDWIS and SWOCS are adequately maintained with updates to both programs.

C. Workforce Forecast

The Board continues to be concerned about the workforce and retiring and incoming operators and their qualifications. In the graph below the numbers represent individual licenses held. The 2016 bar represents operators with new licenses in the first six months of the 2014 year. The 2015 bar includes existing operators that renewed in 2013 and new operators that entered the field in 2013. There is a good trend here that although the overall numbers of persons are lower there may be an upswing in the VSWS and higher level licenses. This could represent advancement at the upper levels. The VSWS upswing is due to the number of newly found NTNC daycares. The 2014 bar numbers are close to the 2015 numbers, as they should be, with a large distinction at Class IV T & D. Non-renewed – most often retired operators are represented by 2013. The number of new operators is not nearly replacing the retiring operators. This does not accurately reflect actual employment need of the profession as many licensed operators are not actually working in the field of operations. The Board is reviewing the need and the interest of a license category for retired and non-active licensees to maintain a stand-by workforce ready for emergencies and response to system needs.

Graph 2.



6. Resources Needed to Continue the Program

- The Board is reviewing licensing fees and strongly supports that fees cover time to perform licensing tasks. Continual financial support provided by license renewal fees will need to cover the half time clerical position. The Licensing Officer position is funded through SRF Operator Certification funds. Efficiency of tasks while maintaining and improving the level of service are Board policy and DWP goals. Efficiencies will allow for cost savings to hold fees in check. Efficiencies interested in reviewing are automated class attendance recordkeeping and transfer to operator records and on-line license renewal.
- Quality Training and at a low cost is very important to the sustainability of reliable and knowledgeable workforce. EPA funding provided basic training and has been well received. Increased communication to operators with an adequate lead time for planning and reminders of training offerings will assist in these efforts to reach operators. Continued use of the Capacity Development Grants for training will also assure higher level topic availability. This also assures operators are up to date on newest technologies and regulations.
- Training directly for VSWS operators and often owners that is low cost, free and possibly on-line would benefit these operators and make the renewal process much more efficient.

- Streamlined or multi-program training approval would assist in time savings for the licensing officer and assure quality training. ABC has developed such a program but it has not yet been used by trainers that offer training to multiple agencies.

7. Staff

The dispersal of tasks throughout the DWP program has enhanced the operator licensing program and increased the understanding of DWP and Board operations between the entities.

The Licensing Officer, Teresa Trott, is an ex-officio member of the Board and holds the position as 50% of her duties. Tasks include general operation of the Board, approval of training for relevancy credits, rule and statute revisions. Communication with applicants or systems concerning finding a contract operator, becoming an operator, maintaining and upgrading a license represent a good portion of the tasks. Communication with trainers to establish desired training, developing funding sources for training.

Doris Labranche filled the clerical position in September of 2012 and much of 2013 was spent learning and updating standard operating procedures and learning the databases. It is hoped that 2014 will allow for electronic updates to the SWOCS database and improve record retention by use of the DWP imaging system.

Field Inspection team members (9) communicate with systems concerning operator requirements. This involves an explanation of requirements, follow-up when operator changes take place and enforcement of operator requirements and referral to licensing staff to assist persons in becoming an operator. New field inspectors are readily acquainted with operator requirements, system point classifications.

The Information Management Team worked closely with the licensing officer and clerk to create sub routines between databases that improved renewal information to operators, website information about credits and queries for field inspectors concerning system coverage.

The Water Resources Team supports the Operator Licensing program through website access and capacity development initiatives.

8. Stakeholder Involvement

- The Board met four times in 2013. Two Board vacancies, the VSWS representative and the Class III seats became open positions and were filled by March of 2014. At this writing three more seats on the Board have become open as long-time members are reviewing their personal commitments and the impact of a three year appointment.

- No members attended the 2013 Association of Boards of Certification Annual Conference.

- Board members reviewed and commented on the ABC Model Standards. Generally speaking the Model Standards appear to advice on the highest levels of operator education and experience often difficult for small states to achieve. Also the standards do not support entry into the profession.

- The Board and DWP worked closely on development and enhancement of an operator complaint process to address compliance and work practices of operators.

- The Operator Licensing Officer serves on several committees to help develop training courses and increase small water systems capacity. Association of State Drinking Water Administrators – Small Systems Committee, New England Water Works Association, Operator Certification and Education Committees, Maine Joint Environmental Training Committee, Maine Water Utilities Education Committee.

- The Board updates operators regularly through the DWP *Service Connection* quarterly newsletter and website.

- The Board continues to review policies to assure that alignment with rules and DWP initiatives.

- The licensing officer participated in training planning opportunities with Maine Rural Water Association, Texas Engineering Extension Service and Environmental Finance Center to assist in state-wide training opportunities.

- The training calendar continues in electronic form on the website only. Trainers are requested to put any training on the calendar they wish to advertise. Training that is funded in whole or in part with DWP funds must be advertised on the calendar. Many operators call with questions about training. Hard copies are available by request.

9. Program Review

The Certification Program continues internal review as part of Maine Center of Disease Control, CDC, public health agency accreditation process. The license renewal process has been elevated to a Quality Improvement Process. The process includes review from persons outside of the DWP program to enable quality and efficiency of customer interaction.

- The Board fees continue to be closely watched. With no fees from examinations, licensing fees must carry the expenses mid-way through the following fiscal year without replenishment. The Board operates on a July-June fiscal year, receiving most funding in December. Clerical efficiencies while maintaining high customer service remain top goals. State level initiatives are for zero-based budgeting, cover only the cost of services with little or no carry-over from year to year.

- The Training Contact Hour policies and training approval process continues to work well. Approval process is smooth but continues to be time consuming. The attendance process works well but again has opportunities for electronic improvements. The SWOCS program has become more dependable but still is programmed to work with a process where categories of licenses have separate fees and requirements rather than the requirement being person based as in Maine.
- Review of Program enforcement pertaining to PWS compliance is discussed in "4. Enforcement".

10. Planned Activities Update

- Policy and Procedure Review

While program efficiencies remain drivers for fiscal reasons, customer service is seen as an opportunity to implement many of these efficiencies. On-line license renewal and payment by credit card will be best put into place with accurate up-to date TCH tracking. This will only be possible with training provider assistance. These two IT processes will need assistance from State of Maine Office of Information Technology, ME-OIT and SWOCS programmers Global Environmental Consulting, GEC. The Licensing Officer will be researching opportunities for these processes.

DWP and the Board are continuously updating standard operating procedures (SOP) for tasks and policies for Board review to assure Board decisions have a consistent thought basis. DWP policies are undergoing a revision to SharePoint platform. This will include Board Policies and Operator Licensing Program staff SOPs.

With the publication of the ABC Model Standards, Board member turnover and the above mentioned Policy reviews 2014 looks to hold much in the line of review and revision.

The Board and DWP will continue work on operator competency as related to system violations.

The DWP will continue to develop owner and operator responsibility clarifications.

- Record Retention and Electronic Progress

The recordkeeping and historical record review did not move forward in 2013 and is carried forward for 2014. Electronic files will be updated with information in the paper files. Paper files will be purged of all exam and license data older than 10 years. Exam answer sheets are already saved one year. Paper exam results as well as CBT results are returned electronically from ABC. Paper results are filed according to person but electronic results are filed by month taken. See 3B Examination options and success, above.

Data collection of exam pass rates time will be spent monthly documenting results rather than only at exam times. The statistics of mastered knowledge will not be tracked.

- Funding for Training

SRF Capacity Development Training Reimbursement Fund established to assist in funding the funding operator training will continue. This applies to persons holding a water operator license as well as persons associated with a water system. There are funds available for system associated new operators but not for persons exploring the water profession. Funds are normally dedicated to training several months before the end of the fiscal year.

The Board's funding is based on licensing renewal fees and the tasks associated with maintaining the licensing program. There are no budgeted amounts for training of operators. Training for utility operators is readily available but increasing in cost, not only to attend the training but also transportation costs.

The 2013 EPA funded training did bring training to operators and systems. There have been no public reports of number of operator hours trained comparing costs. EPA should review the efficiency of these programs. Competition is good for the industry. Free training is good for the operators. Care must be taken to assure that the EPA funded training indeed is money well spent and does not detract from providers established in the local areas. We have found in Maine that operators have preferred providers and either do not attend or find out about other training. In addition providers do not plan competing training resulting in less training being offered. This competition is not the intent of EPA training.

Appendix – A.

Maine Drinking Water Program- Policy and Procedure for Drinking Water Program's Role in addressing a Designated Operator's Failure to Perform the Operator's duties for a Public Water System Properly

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POLICY & PROCEDURE FOR DWP's ROLE IN ADDRESSING A DESIGNATED OPERATOR'S FAILURE TO PERFORM THE OPERATOR'S DUTIES FOR A PWS PROPERLY

PURPOSE: This Policy and Procedure is written to provide a specific method and criteria for Drinking Water Program Field Inspectors to respond to a designated operator's failure to perform the operator's duties properly. This policy and procedure identifies the method and criteria by which a Field Inspector issues a Management & Operations Notice of Non-Compliance (NON) to a Public Water System and files a complaint with the Water Operator Board.

SCOPE: The Policy and Procedure applies only to the DWP responding to an operator's failure to perform the operator's duties properly. Filing a complaint with the Water Operator Board for other reasons (such as commission of a crime) is covered in DWP document DWP0020.

ORIGINATOR/OWNER: Nathan Saunders/Field Inspection Team Manager (This policy and procedure shall be approved by the DWP Director)

DEFINITIONS:

Designated Operator (DO): A designated operator's current water operator's license shall be equal to or exceed the classification of the PWS she/he operates. A designated operator must sign a "Designated Operator Form" (DWP0156) and along with the PWS, submit the Designated Operator Form to the DWP for approval and record keeping. [From DWP0021]

NON: Notice of Noncompliance – A letter sent to a representative (typically the administrative contact and the designated operator) of a public water system alerting him/her that a condition exists or has existed at the public water system which does not meet the requirements of State or Federal regulations.

Operator (OP): An Operator is an individual who operates a public water system and does not have a water operator's license, or an individual who does not have a water operator's license of the proper treatment or distribution classification for the PWS involved, or an individual who holds the appropriate water operator's license but has not been identified as a Designated Operator. An individual who operates a PWS that is not required to be operated by a licensed operator (a Transient PWS using ground water as source) is identified as an "Operator". [From DWP0021]

Primary Designated Operator (PO): A PWS that is required to have a licensed Designated Operator (DO) must identify one "Primary" Designated Operator (PO). If a PWS has only one Designated Operator, this operator must meet the qualifications of a Primary Designated Operator and will be identified as the Primary Designated Operator. A Primary Designated Operator (PO) must be a Designated Operator (DO) whose current water operator's license equals or exceeds (for both treatment and distribution) the classification of the PWS she/he operates. [From DWP0021]

SDWIS: Safe Drinking Water Information System

Water: Drinking Water

RESPONSIBILTIES:

DWP Field Inspector: Issues Management & Operations Notices of Noncompliance (NONs) to public water systems and files a complaint with the Water Operator Board using the Water Operator Board's complaint form.

The Field Inspection Team Manager: Reviews all complaints against a water system operator before they are filed with the Water Operator Board.

The Water Operator Board: Receives, reviews, investigates, and determines appropriate action based upon the complaints filed against water operators. See Water Operator Board Policy DWP0020.

BACKGROUND:

The process for responding to a Public Water System with a designated operator who fails to perform the water operator's duties properly involves three major steps (actions):

1. The DWP Field Inspector issues a Management & Operations NON to the Public Water System, noting specific reasons for the NON (examples given in this document).

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2. The DWP Field Inspector files a complaint with the Water Operator Board using the form provided in Appendix A of this document. This complaint form provides for reasons for the complaint, which are the same reasons noted in the Management & Operations NON issued to the PWS.

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> **3.** The Water Operator Board reviews the complaint under the authority of 22 M.R.S. s2625-A: "The board may suspend or revoke a license of a certified operator when it is determined that … the operator has been negligent in that reasonable care, judgment or the application of knowledge or ability was not used in the performance of the operator's duties; or that the operator is incompetent or unable to perform the operator's duties properly."

POLICY:

a) In addition to requiring the PWS to address and resolve the Management & Operations NON, the DWP may require one or more of the following actions of the PWS:

1. Increase sampling frequency, due to the lack of water system oversight and the DWP's lack of confidence in water system operations and public health concerns for the PWS's customers;
2. Increased frequency of DWP inspections (sanitary survey or other). The DWP may require the Primary Designated Operator and the Administrative Contact to be in attendance;
3. Hire a second Designated Operator to ensure adequate operator availability;
4. Assure that the Designated Operator regularly and routinely reports one or more of the following:
   - Weekly log of operations
   - Record of visits and their purpose by the Designated Operator
   - Annual report from the designated operator; and
5. Address other deficiencies identified by the DWP

b) A PWS may utilize more than one Designated Operator to perform all duties necessary to operate their water system.

c) When on-site tasks are identified to be performed by personnel other than the designated operator (e.g., taking water samples, filling chemical tanks, taking residual readings, entering data on monthly operating reports, etc.), refer to requirements stated in DWP Policy DWP0021: Operational Procedures.

PROCEDURE:

I. Issuing the Management & Operations NON to a PWS

For a list of Owner's and Licensed Operator's responsibilities regarding water quality and quantity-related actions and decisions, see the Policy for Administering the Maine Rules Relating to Drinking Water Regarding a PWS Operating without a Licensed Operator (DWP0071).

DWP Field Inspectors may issue a Management & Operations NONs when the inspector observes the DO engaging in one or more of the following actions:

A. DO expresses or shows that s/he does not know where core drinking water components/equipment (source, tanks, pumps, treatment) are located;
B. DO expresses or shows that s/he does not know the purpose of the (active) water treatment equipment (i.e., what contaminants are being removed);
C. DO expresses or shows that s/he does not know how to adjust a chemical feed pump used in the operation of the water system;
D. DO expresses or shows that s/he does not know how to properly create or mix chemical solutions used to treat the water;
E. DO expresses or shows that s/he does not know how to add chemical(s) to the water system when needed;
F. DO expresses or shows that s/he does not know how to measure quantities of treatment chemicals in water (e.g. Cl2 residual);
G. DO expresses or shows that s/he does not know how to disinfect the well and/or water system;
H. DO falsifies data entered on a monthly operating report (MOR);
I. DO or delegated sampler repeatedly collects compliance samples improperly;
J. DO delegates tasks to an individual(s) without training the individual(s) and without providing written procedures to the individual(s);
K. DO creates unsanitary conditions through improper operation of a water system (including creating unprotected cross connections) and/or improper storage of non-treatment chemicals in close proximity to the water source.

DWP Field Inspectors may issue a Management & Operations NON for any other applicable reason(s) identified in the procedure for filing a complaint against a water system operator (DWP0020).

For public water systems required to have a licensed operator by the Maine Rules Relating to Drinking Water, there is no time at which the water system can be operated without the oversight of a licensed operator (see DWP0075). Therefore there is no grace period afforded to the PWS or operator regarding an operator's failure to perform the operator's duties properly. If, upon scheduling an inspection (sanitary survey or other), it is determined that the designated operator has just taken responsible charge for the system (within the last few days), an alternate date for the inspection (up to a week later) may be designated. Ultimately, at the inspection, the criteria for issuing a Management & Operations violation described above applies.

Management & Operations NONs may be issued during a sanitary survey or other inspection of a PWS, or during other events occurring at a PWS such as a sanitary hazards investigation, events warranting a Drinking Water Order, etc.

The NON may be issued using the Sanitary Survey Report Form (contained within DWP0114), the Sanitary Survey Follow-up letter (contained within DWP0115), or using a generic NON template letter found in the electronic Field Manual, section 29. A NON letter should be addressed to the PWS Administrative Contact with a c.c. to the Primary Designated Operator and any other DO associated with the issue cited in the NON. A NON shall be issued as soon as possible but no more than 14 days after the issue is discovered.

When writing the NON, the terms negligent, incompetent, or unable to perform the operator's duties should be used in order to match the wording of the statute referenced above. Specific examples (described above) that support this statement need to be included in the violation description.

A Management & Operations NON is a "State" violation and is recorded in SDWIS as a "MOPD" – Management & Operations Deficiency.

II. Referring an Operator to the Water Operator Board

Filing a complaint with the Water Operator Board happens by filing a complaint form included in Appendix A of this document within five (5) days of issuing the Management & Operations NON. The written complaint should include the same specific examples of what justified the Management & Operations NON, described above.

All complaints filed on a water operator are reviewed by the DWP Field Inspection Team Manager before being submitted to the Water Operator Board.

III. Resolving the Management & Operations NON

To resolve a Management & Operations NON the public water system must:

1. Meet the specific corrective actions and deadlines set within the NON by the DWP; and
2. Provide written procedures to the DWP, if directed.

ASSOCIATED DOCUMENTS:

- Licensed Operator Minimum Requirements for Public Water Systems (DWP0021)
- Procedure for Ensuring PWS Compliance to Requirements for having a Designated Operator (DWP0075)
- Maine Rules Relating to Drinking Water

- Policy for Administering the Maine Rules Relating to Drinking Water Regarding A PWS Operating without a Licensed Operator (DWP0071)
- Procedure for Filing a Complaint against a Water System Operator (DWP0020)
- Sanitary Survey – Small System Procedure (DWP0114)
- Sanitary Survey – Large System Procedure (DWP0115)
- Form for referring an Operator to the Water Operator's Board
- Electronic Field Manual
- Designated Operator Form (DWP0156)

SUPERCEDED DOCUMENTS: None

RETENTION: This document is retained per the DWP Record Retention Schedules.

REVISION LOG

Section	Page	Rev.	Date	Description Of Change	Approved by:
		Original	5-21-2014		

APPENDIX A
OPERATOR REFERAL FORM

Board of Licensure of Water System Operators
11 State House Station
Augusta, Maine 04333-0011
Tel 287-2070

Rec	OP#
Ent.	Docket#
	By

Complaint Against a Licensed Water Operator

Please refer to the Water Operators Board's Procedure for Filing a Complaint against a Water System Operator.

COMPLAINT SUBMITTED BY:	**COMPLAINT FILED AGAINST:**
Name:	Name:
Address	Address:
Daytime Phone	Business Name
Evening Phone	Business Address
e-mail	
Other Contact	Daytime Phone
	Evening Phone
	Email

Reason for Complaint: Please check the box(es) below leading to this complaint:

□ **Lack of Maintenance** □ **Violating Rule or Statute**
□ **Commission of Crime** □ **False or Misleading Statements**
□ **Falsification of Records/Credentials** □ **Selective or Tampering w/ Sample**
□ **Coercion/Bribery/Extortion** □ **Failed to Use Proper Process Control**
□ **Dangerous Acts / Failure to Report Environmental Damage**
□ **Operator Negligent, Incompetent, or Unable to Perform Operator's Duties Properly**

Description of Event(s) causing this Complaint. Include Date(s)): List your specific observation / site visit / inspection / phone call / email / report / violation) below: If you need more space, please attach additional pages.

_____**Date:**_____
_____**Date:**_____
_____**Date:**_____
_____**Date:**_____
_____
_____
_____
_____

Attach copies of any supporting letters, reports, records, emails, violations or other written materials that support the complaint, show that the operator received notice of an issue, or clarifies the description above. List persons that may corroborate the complaint.

Authorization for Release of Records and Referral of Complaint
My signature on this form authorizes the Board of Licensure of Water System Operators to (1) receive copies of all medical, dental, and mental health records relating to my complaint; & (2) refer my complaint to other appropriate law enforcement authorities to investigate the operator's actions and/or prosecute the operator, based on this complaint.
All complaints are investigated to determine their factual basis, which may include an investigation by the Maine Office of the Attorneys General. The act of filing a complaint does not assure or imply that disciplinary action will be taken against the operator.

I attest that the information provided is true, correct and complete, to the best of my knowledge.

Complainant Signature _____ Date _____

Complainant will receive an acknowledgment letter and correspondence related to this issue from the Board investigation.