

Drinking Water Operator Discipline Survey Report

Compiled for the NEIWPCC Drinking Water Administrators Workgroup

2013

**Prepared by the
NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION**

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Compact Member States

Connecticut • Maine • Massachusetts • New Hampshire • New York • Rhode Island • Vermont

Introduction

The May 2012 meeting of the New England Interstate Water Pollution Control Commission (NEIWPC) Drinking Water Administrators Workgroup included a discussion about the participating states' approaches to disciplining drinking water operators. Workgroup members shared how their states currently discipline operators for improper actions and expressed interest in learning how other states handle the disciplinary process. To advance the discussion, the workgroup asked NEIWPC to conduct a comprehensive survey of states' disciplinary approaches. Working with the workgroup members, NEIWPC developed 12 survey questions that covered the range of the disciplinary process, from improper actions, to hearings, punitive action, appeals, and potential reinstatement.

NEIWPC distributed the survey to staff in the states that participate in the Drinking Water Administrators Workgroup—Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont—as well as to state drinking water programs nationwide, thanks to the cooperation of the Association of State Drinking Water Administrators (ASDWA).

We would like to emphasize that this information has been collected by NEIWPC at the request of our Drinking Water Administrators Workgroup. The compiled information is not intended to be used for decision-making purposes.

Survey Responses

Completed surveys were received from respondents in all seven workgroup states as well as from respondents in 16 states outside of the region—Alaska, Florida, Georgia, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, Nevada, Ohio, Oklahoma, South Dakota, Utah, and Washington. Respondents in two states—Illinois and Wyoming—submitted email responses but did not complete the survey.

NEIWPC staff reviewed all responses and incorporated comments from the 23 completed surveys (attached) into this report. Surveys completed by NEIWPC workgroup states appear first, followed by surveys completed by states from outside of the region. Email responses without completed surveys are also included, following the completed surveys. Information from those emails has generally been excluded from the response summaries presented below, but a few noteworthy points from email responses have been incorporated into this report.

When necessary for clarification, NEIWPC reviewed a state's regulations. However, the information in this report is based almost exclusively on information from the surveys. In the response summaries presented below, a state may appear in more than one answer category since some states provided multiple answers to a question.

Response Summaries

1. What, if any, state regulations specifically detail the operator disciplinary process?

States responded with links to their applicable regulations, some of which apply to drinking water operators in particular. In other cases, states cited more general regulations which apply to individuals with professional licenses or certificates.

2. What type of behavior or incident would lead to disciplinary action?

Nineteen states (CT, MA, ME, NH, NY, RI, VT, AK, FL, GA, MD, MI, MO, NV, OH, OK, SD, UT, WA) cited specific improper actions or behaviors in their answers or regulations, while four states (KY, LA, MN, NJ) referred more generally to violations of license or certificate law and/or used broad language such as Louisiana that cited an operator's failure to apply "reasonable care, judgment, and knowledge in the performance of his/her duties."

The words and phrases used by states in answering this question had much in common. In particular, many responses mirrored the terminology in the [New England Water Works \(NEWWA\) Operation Certification Committee's "Offenses Providing a Basis for Enforcement Action"](#) (attached). This guidance document cites the following punishable acts: falsification of records and/or credentials, selective sampling or sample tampering, dangerous acts or failure to report environmental damage, false or misleading statements, failure to utilize proper process control, lack of maintenance, commission of a crime, coercion, bribery, or extortion.

Other acts cited frequently by the states as leading to disciplinary action included fraud, deception, failure to use reasonable care and judgment, negligence, improper actions related to water sampling, sabotage, failure to renew a license, license falsification, and cheating on an exam. A few states included actions not cited by other states, such as committing a felony.

Kentucky had one unique disciplinary clarification: In cases where "...a certified operator's judgment is overruled by an employer under circumstances in which the safety, health, and welfare of the public or the environment are endangered, the certified operator shall inform the employer of the possible consequences."

3. Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?

States shared information on how the process begins and what types of incidents would initiate the disciplinary process. In total, 11 states (CT, MA, AK, FL, GA, KY, MD, MN, MO, NJ, OK) indicated that internal complaints generate disciplinary action. Six of those states (CT, FL, KY, MN, NJ, OK) explained that issues are commonly found during routine inspections or sanitary surveys. Eleven states (CT, MA, NY, AK, FL, GA, LA, MD, MN, NJ, OK) described external, public, or citizen complaints as part of the process.

Uniquely, Louisiana offers a [form](#) for complaints to be submitted by any individual. Nevada noted that with a small staff, there is no formal process for initiating disciplinary action.

4. If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?

There was a range of responses to this question and some lack of consistency, but general trends can be identified. Nine states (CT, MA, RI, FL, LA, MD, MI, MN, MO) said they could hold the owner, unlicensed

representative, and/or system responsible. Four states (ME, NH, NY, AK) said they'd tend to hold the operator responsible. Four states (VT, GA, NJ, OK) said they leaned toward holding all parties responsible. Seven states (MA, GA, KY, LA, NJ, NV, OK) said they'd pursue different actions against an owner, including fines, civil, or criminal prosecution, as opposed to the license or certificate-related enforcement that would be levied against an operator. Three states (KY, LA, OH) said the answer depends on each individual case.

Uniquely, Michigan responded that it "issues permits to construct public water supplies, but does not issue operation licenses to water supplies or system owners." Utah said the answer depends in part on whether the certified operator was "aware of any direct responsible decisions made on their behalf."

5. Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?

The answer to this question tended to depend on which agency is the drinking water primacy agency for a state and how matters of drinking water policy are handled in general.

Six states (CT, ME, NY, RI, LA, WA) said their department of public health has disciplinary responsibility; 16 states (MA, NH, VT, AK, FL, GA, KY, MD, MI, MO, NJ, NV, OH, OK, SD, UT) said their environmental department (e.g., DEP or DEQ) is responsible. Minnesota said responsibility is shared between its Department of Health and Pollution Control Agency.

Sixteen states (MA, ME, NH, RI, AK, GA, KY, LA, MD, MI, MN, NJ, NV, OH, SD, UT) specifically mentioned some kind of enforcement, disciplinary, or licensing board (or department) that would handle these issues. Utah said that in addition to the state's operator certification commission and drinking water board (within Utah's Department of Environmental Quality), the state attorney general's office would be involved in the disciplinary process.

6. Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?

Differences in answers to this question were mostly driven by whether hearings are regularly conducted in a state's disciplinary process. Eleven states (CT, MA, ME, NY, AK, GA, KY, MD, MN, NJ, UT) include the hearing as a routine part of the process, while 11 states (NH, RI, VT, FL, LA, MI, MO, NV, OH, OK, WA) said an operator must request or initiate a hearing. In 12 states (NH, RI, VT, AK, FL, LA, MI, MO, NV, OH, OK, WA) the hearing serves as an appeal by an operator (see Question 11). Logically, many of those 12 states are also states where an operator has to initiate a hearing. This degree of variance in policy led to a particular lack of consistency in responses to this question.

There were also differences in responses about the level of formality in a hearing. Three states (NY, MD, WA) said a lawyer or judge could be involved in a hearing, while other states, such as Kentucky and New Jersey, described their hearings as more like conversations or interviews between an operator and a disciplinary board. In Oklahoma, the state environmental agency "makes every effort to resolve enforcement matters by agreed order."

Some states had unique aspects to their approach: Ohio, for example, offers a process whereby an operator has two chances for a hearing, the second of which provides a means to appeal the decision issued in the first hearing. Maine indicated that an operator is not required to attend his or her hearing. Louisiana has a hearing request [form](#) for operators who wish to engage in a formal review of their case.

7. Does your state’s disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.

This question generated some confusion as to whether surrender meant voluntary surrender. When answers were unclear, NEIWPC staff took various steps, such as contacting the states directly and reviewing state regulations, in order to clarify the responses.

Seventeen states (CT, MA, ME, NH, NY, RI, VT, AK, FL, GA, KY, LA, MD, MI, NV, OK, UT) have experience and/or regulations with voluntary surrender. Of these states, Nevada said surrender was unlikely, Maine said surrender is not in its regulations but has happened, and Rhode Island said surrender is in its regulations but has not occurred. In Vermont, an operator may be asked to surrender his or her license to avoid revocation. Similarly, in Michigan, the state may ask the operator to surrender his or her license, while in Kentucky, surrender can be required. Two states (OH, SD) said they were unsure on this question but thought that license or certificate surrender could occur.

Four states (MN, MO, NJ, WA) said license or certificate surrender was not an option. However, New Jersey mentioned failure to renew the license or certificate as a type of “surrender.” Similarly, Georgia responded that “failure to renew...is consider[ed] a revocation subject to reinstatement at the discretion of the board.”

For those states that provided clarification, license or certificate surrender seemed to have the same effect as revocation, with associated repercussions.

8. Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?

Suspension and revocation of license or certificate were the most common disciplinary actions, though differences existed in the permanence of revocation. Two states (KY, OH) specifically said revocation is always permanent, while nine states (MA, NY, FL, MD, MI, MO, NJ, OK, WA) said an operator who has had his or her license or certificate revoked may reapply, at least in some cases. Overall, the responses implied increased severity of disciplinary action based on the seriousness of the problem. In particular, nine states (CT, MA, NY, VT, FL, KY, NJ, OH, WA) specifically described a graduated scale for punitive measures. The table below summarizes disciplinary actions taken by states. In some cases, punishment categories may be redundant or overlap. To avoid omissions, all types of responses to this question are included in the table.

Disciplinary Action	States
Suspension	CT, MA, ME, NH, NY, RI, VT, FL, KY, MD, MI, MN, MO, NJ, NV, OH, OK, WA
Revocation	CT, MA, ME, NH, NY, RI, VT, AK, FL, GA, KY, LA, MD, MI, MN, MO, NJ, NV, OH, OK, UT, WA
Revocation, Always Permanent	KY, OH
Revocation, Can Reapply (in some cases)	MA, NY, FL, MD, MI, MO, NJ, OK, WA
Reprimand	CT, RI
Deny Application or Renewal	NH, MI, MN, NJ
Probation	CT, MA, FL, GA, KY, MI, UT
Require Training or Education	CT, ME (part of suspension), RI (others assumed as part of reapplication)

Community Service	LA
Fines	MA, NY, FL, MN, NJ
Civil/Administrative/Criminal Penalties (may include fines)	FL, KY, MN, NJ
Attend Operator Meetings to Share Story as an Example	LA, WA
Corrective Action	OH
Consent Order	GA
Other	RI
No Experience	SD

Washington also has a unique scoring system for determining the severity of disciplinary action (see “Unique Cases” section).

9. Do repeat offenders face different disciplinary actions than first-time offenders?

This question elicited four general types of answers:

Seven states (CT, MA, GA, KY, NJ, OH, WA) indicated that repeat offenders face different disciplinary action, including increased severity of punishment.

Four states (RI, AK, MN, OK) indicated that the disciplinary process is the same for first-time offenders as it is for repeat offenders.

Six states (NH, VT, MD, MO, NV, UT) were not sure or did not have clear regulations on this issue, but said repeat offenders would likely be treated more harshly. Maryland, for example, said it doesn’t have specific regulations for repeat offenders, but that penalties are considered based on “the extent to which the current violation is part of a recurrent pattern.” In New Hampshire, reinstatement is based on proving “not reinstating the certificate will result in greater harm to public health and safety than reinstating the certificate,” and the respondent noted that repeat offenders would have a more difficult case making this argument. Louisiana said each case is judged on its own merits.

Seven states (ME, NY, VT, FL, MI, SD, UT) have no experience with repeat offenders or didn’t answer. However, Vermont and Utah said repeat offenders would likely face different disciplinary action (see above).

10. Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?

Almost all states (CT, MA, ME, NH, NY, RI, VT, AK, FL, GA, KY, MD, MI, MO, NJ, NV, OK, UT, WA) said they can bring action against an operator, owner, and/or system, with a few clarifications. Florida and Nevada said the system is usually disciplined, while Utah said it usually disciplines the operator. In its experience, South Dakota has brought enforcement action only against systems. Five states (MA, ME, RI, AK, MI) clarified that authority for disciplining various entities may fall under different entities (e.g., primacy agency or board of licensure). Seven states (NH, NY, LA, MD, MN, MO, OH) explicitly stated that specific circumstances surrounding a case determine how it is handled. Four states (LA, MN, MO, OH) provided no answer or no clear trend in their answer.

Uniquely, Washington explained that it has broad authority to “assess civil penalties against the system owner and any person associated with the system in ownership, operation, or management.” Nevada described cases in which the state’s Division of Environmental Protection disciplines a system, and then

the system disciplines the responsible operator. In such situations, Nevada does not pursue further enforcement against the operator.

11. Is there an appeals process? If so, please describe.

Similar to Question 6, there was some confusion as to whether a hearing functioned as an appeal (see Question 6).

All states that responded to the survey offer an appeal of some kind, ranging from an opportunity for an operator to be heard, to a formal appeal of a previously-issued decision. A few states described appeals and hearings that seem to serve simply as informational gathering sessions. Twelve states (NH, RI, VT, AK, FL, LA, MI, MO, NV, OH, OK, WA) indicated that the hearing serves as the appeal.

Five states (MA, ME, NY, LA, MD) mentioned judges, lawyers, and/or courts in their responses about appeals, suggesting a higher level of formality in their disciplinary processes.

12. What is the process for reinstatement?

Again, some states differentiated between permanent and temporary revocation (see Question 8), with several states providing specifics about their reinstatement process. Four states (NH, MD, NJ, OH) explicitly mentioned that they employ a written request for reinstatement. Several other states were less specific in their descriptions of the reinstatement process, though made it clear that they typically require operators to reapply for a license or certificate. Ten states (CT, MA, ME, NY, VT, FL, GA, LA, MI, UT) specifically cited required activities, such as trainings and recertification conditions. For example, in some cases New York has required operators to take an ethics course, as one of the training requirements for reinstatement. Five states (AK, MD, MO, NJ, OK) mentioned specific time requirements, in which they specify the amount of time that must pass before an operator can be reinstated or limit the time that can elapse before an operator becomes ineligible for reinstatement. Six states (MA, ME, LA, MI, NJ, WA) mentioned the passage of time in general as a requirement for reinstatement, and in general, responses to this question overall indicated that time requirements would likely be stipulated in specific disciplinary actions in other states. In both Missouri and Washington, suspended certificates or licenses are automatically reinstated after a specified period of time, while revoked license- or certificate-holders can reapply after a time period.

Uniquely, Maine responded that they might interview an operator as part of the reinstatement process. Nevada said each reinstatement situation is handled on a case-by-case basis.

Unique Cases

Licensed Operator Websites (Wyoming, Massachusetts, and Rhode Island)

The Wyoming Department of Environmental Quality has a [website](#) that provides information about drinking water (and wastewater) operators. The site includes a searchable database that allows users to obtain information about an operator's certificate, status, and employment history. The Wyoming survey respondent said the state created the site as a security measure to prevent fraud, although Wyoming has not had fraud issues in the past. Note: Wyoming chose not to respond directly to the survey questions, since they have not had substantial experience with operator discipline.

Massachusetts has a similar [website](#) of all professional license holders through its Division of Professional Licensure, under the state's Office of Consumer Affairs and Business Regulation (OCABR). The Massachusetts website also includes information about disciplinary action taken against license-holders.

Rhode Island Department of Health has a similar [website](#), accessible through the state's professional licensing [webpage](#).

Other states may have similar websites, but Rhode Island, Massachusetts, and Wyoming were the only ones who identified such sites in their survey responses and other correspondence.

Washington Disciplinary Ranking Tool

Washington utilizes a point system to determine the severity of disciplinary action. Each detail of a disciplinary issue is associated with a point value, based on the level of egregiousness. Points are tallied and total values are associated with specific disciplinary action, from suspension for three months to revocation for five years. Higher point values are given to more egregious acts, and therefore result in harsher disciplinary actions. The point system awards negative points to whistleblowers and those directed by their supervisor to commit a violation in order to lessen punishment in those unique cases. The Washington survey respondent noted that Washington created this system in order to respect whistleblower laws, after responding to a specific case in which an operator came forward and admitted to having falsely conducted and reported sampling because he had been ordered to do so by a commissioner of his water district.

Vermont

In responding to the survey, Vermont noted that they rarely have issues with drinking water system operators. The survey respondent believes this success can be attributed to including drinking water operators in the development of regulations. The respondent said this inclusion promotes buy-in from the operators and has led to a positive relationship between the state and operators.

Appendices

- NEIWPC Member States' Survey Responses
(CT, MA, ME, NH, NY, RI, VT)
- ASDWA States' Survey Responses from Outside the NEIWPC Region
(AK, FL, GA, KY, LA, MD, MI, MN, MO, NJ, NV, OH, OK, SD, UT, WA)
- Email Responses Without Completed Surveys
(IL, WY)
- Other Resources
 - Washington Disciplinary Ranking Tool
 - [Louisiana Complaint Form](#)
 - [Louisiana Hearing Request Form](#)
 - [New England Water Works Association \(NEWWA\) Ethics and Offenses Guides](#)
 - [NEWWA Operator Certification Committee Professional Code of Ethics for Water System Operators](#)
 - [NEWWA Operator Certification Committee Offenses Providing a Basis for Enforcement Action](#)

NEIWPCC Member States' Survey

Responses

(CT, MA, ME, NH, NY, RI, VT)

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*

Regulation of Connecticut State Agencies Section 25-32-13

25-32-13. Revocation of certification

The commissioner may take any disciplinary action set forth in section 19a-17 of the Connecticut General Statutes, except for the assessment of a civil penalty, against an operator holding a certificate issued pursuant to sections 25-32-7a to 25-32-14, inclusive, of the Regulations of Connecticut State Agencies, for any of the following reasons: fraud or material deception in procuring a certificate, the renewal of a certificate or the reinstatement of a certificate; fraud or material deception in the performance of the certified operator's professional activities; incompetent, negligent or illegal performance of the certified operator's professional activities; conviction of the certified operator for a felony; or failure of the certified operator to complete the training required under sections 25-32-7a to 25-32-14, inclusive, of the Regulations of Connecticut State Agencies.

(Effective February 9, 1989; Amended effective July

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*

fraud or material deception in procuring a certificate, the renewal of a certificate or the reinstatement of a certificate; fraud or material deception in the performance of the certified operator's professional activities; incompetent, negligent or illegal performance of the certified operator's professional activities; conviction of the certified operator for a felony; or failure of the certified operator to complete the training required

3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*

Use of a form to document external (persons outside the DPH) or internal complaints (DPH staff following sanitary surveys, review of compliance data, etc.)

4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*

In this case the designated "Chief Operator" is really not in "Direct Responsible Charge (active, daily responsibility) and should be removed from the record as such. When we've encountered we alert the Chief Operator who then removes his or her Chief Operator assignment from the system. Enforcement action is then taken against the system for failure to have a Chief Operator.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*

Certification (licensing) and disciplinary action is conducted by one agency - CT DPH

6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*

Complaint Receipt and Documentation, Assessment of Complaint Applicability, Notification of Complaint, Request for Documentation, Investigation and

Documentation of Findings, Assessment of Investigation Findings and Recommendation of Disciplinary Action, Referral to Legal Office for Hearing, Notice of Hearing, Hearing, Court

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*

Yes - we had one case were at the hearing phase, as a means of resolving the complaint, the operator surrendered his certification

8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*

The following disciplinary actions may be taken: revoke certification, suspend certification, reprimand certified individual, probation of certified individual, require certified individual to attend training. The recommended action is based on the severity of the operator misconduct.

The following summarizes the recommended actions based on the severity of the operators mis-conduct:

a) revoke: 1) Fraud or material deception in procuring a certificate, the renewal of a certificate or the reinstatement of a certificate 2) Fraud or material deception in the performance of the certified operator's professional activities 3) actual or potential public health impact 4) illegal performance of the certified operator's professional activities

b) suspend 1) minimal public health impact (multiple occurrences) 2) Failure of the certified operator to complete the required training

c) reprimand 1) minimal public health (single occurrence)

d) probation 1) minimal public health impact (multiple occurrences)

e) training 1) minimal public health impact (multiple occurrences) 2) Failure of the certified operator to complete the required training

9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

Refer to the summary of recommended actions under "b) suspend" and "c) reprimand" and "e) training"

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

operators may not be fined but can be disciplined. Formal enforcement action (civil penalties) may also be taken against the Public Water System system owner.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

Yes, following a decision of operator misconduct the operator has the ability to appeal.

12. *What is the process for reinstatement?*

If allowed, the operator must demonstrate compliance with all conditions of reinstatement as specified by the disciplinary action and may be required to complete

all requirements of initial certification (application, demonstrate compliance with education and experience requirements, pass examination)

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
236 CMR 5.00 provides the Board of Certification of Operators of Drinking Water Supply Facilities (Board) with its regulatory authority and basis for disciplinary action. Additionally, in 2005 the Massachusetts Legislature granted the boards under the authority of the Division of Professional Licensure (DPL) the authority to summarily suspend an operator's license or impose fines.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Typically incidents involving falsification of records, gross negligence, or improper licensing are subject to discipline.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
The disciplinary process begins with a complaint. A complaint can be filed by a Board member, MassDEP, a PWS, or any other individual. A complaint will typically create a staff assignment, but it may trigger opening a case if the incident is more serious or if sufficient documentation is provided with the complaint. A staff assignment is given to an investigator who will investigate the complaint to determine if it is valid. Once the investigator evaluates the complaint, the matter will be brought to the Board to determine if a case file will be opened. If a case file is opened, the Board will typically refer the matter to Prosecutions with a recommended action. Prosecutions will conduct a hearing and make a determination on appropriate disciplinary action. A Board member typically participates in the hearing process, but not the final determination.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Unlicensed practice is a violation of the Board's regulations. The Board will take enforcement against an unlicensed person who performs duties at a PWS that are not under the direct supervision of a properly licensed operator. Depending on the nature of the action taken by the unlicensed person, the enforcement could range from a fine to criminal prosecution.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The Board and DPL staff are involved in licensing and disciplining of operators. Discipline follows an investigation which the Board uses to determine if discipline is appropriate and what level of discipline to recommend. If the Board determines discipline is appropriate, the matter is forwarded to Prosecutions with a recommendation for specific disciplinary action.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Disciplinary hearings are initiated by the Board. If the Board determines disciplinary action is appropriate, the matter is referred to Prosecutions with a specific

recommendation. Prosecutions will conduct a hearing in which the operator get to present their explanation of the incident.

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*

Operators subject to disciplinary action are typically given the opportunity to surrender their license. An operator who surrenders their license must sign a surrender agreement which outlines the reasons for the action and other terms of the agreement.

8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*

Disciplinary action may include a fine, probation, suspension for a specific time or revocation of the license. The level of the disciplinary action will reflect the seriousness of the offense.

9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

Repeat offenders face more serious consequences. Fines may increase, as well as the length of a suspension.

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

Regulatory authority for the oversight of PWSs and operators falls under different different regulatory authorities in Massachusetts. MassDEP is responsible for the oversight of PWSs and in that capacity is responsible for enforcement against a PWS that is in violation of its regulations. The Board, which falls under the authority of the Division of Professional Licensure (DPL), is responsible for licensing and disciplining operators. Operators who act negligently or who falsify records are typically disciplined by the Board. Typically, an operator whose license is revoked or voluntarily surrendered due to disciplinary action cannot re-apply for a license for at least 5 years.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

An operator disciplined by the Board may appeal the disciplinary action to Superior Court.

12. *What is the process for reinstatement?*

A disciplinary action will typically suspend a license for a specific period of time and may impose requirements that must be met before the license can be re-instated. If a licensed is revoked, the disciplinary action will typically specify a period of time which must pass before a person can re-apply for a license. The person would typically be required to complete all licensing requirements to the satisfaction of the Board before a license will be re-issued.

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Operator licensing regulations MSRS Title 22:2;5.601 subchapter 3 Licensure of Operators

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Fraud, deception, negligence, incompetence behaviors may translate into specific system violations that could be reported to Board.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Complaint process developed by Board follows state Administrative Procedures
 1. Complainant submits complaint to the Water Operator Board on form.
 2. Board clerk records the complaint, gives it a record number.
 3. Board clerk informs the Operator Licensing Officer, Board and Assistant Attorney General representing the Board.
 4. Board clerk sends Complainant written acknowledgement of the filed complaint.
 5. Board Clerk forwards a copy of the complaint to the Licensee with notice of an investigation.
 6. Licensee is asked to respond within 30 days.
 7. Board Clerk receives copy of Licensee response and forwards response to Complainant and Board.
 8. Complainant is asked to respond within 10 days.
 9. Complainant reply shared with Licensee and Board.
 10. Notice of hearing date and time is issued to Complainant and Licensee.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
System violation that must be corrected by licensed operator verification

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Board of Licensure -one state official on Board. The Board appoints an investigator - usually the state official to investigate the action reported. The Board acts as a whole on the disciplinary process.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
The hearing is initiated by the Board -may or may not be attended by the operator.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
This is unwritten but has been done
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*

Suspension or revocation are only actions. Board could suspend with stipulations such as until specific training was taken.

9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

No experience with repeat offenders

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

The Board has authority only over operators as individuals. The PWS is disciplined through the primacy agencies violation process. System owners are typically the PWS in small systems. In Board Statute persons operating without a license could be disciplined through the court system. In utilities, system owners or boards might not receive discipline.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

Board decisions may be appealed to Superior Court

12. *What is the process for reinstatement?*

Time. Reinstatement would require that applicable renewal training contact hours be completed. Reinstatement would require Board review and possibly interview with operator.

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
NH RSA 332-E:9 and NH DES administrative rule Env-dw 502 (copy attached).
Section Env-dw 502.09 discusses the process related to "Suspension, Revocation, or Refusal to Renew a [Drinking Water Operator] Certificate."

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Per Env-dw 502.09 (f):
(f) Good cause to suspend, revoke, or refuse to renew a certificate shall include the following:
(1) Failing to use care, judgment, and knowledge in the performance of the operator's duties;
(2) Knowingly operating a water treatment plant or distribution system contrary to applicable requirements;
(3) Obtaining a certificate through fraud, deceit, or falsification;
(4) Submitting false or misleading information regarding any application for certification or renewal;
(5) Submitting false or misleading operational documentation relating to the performance and monitoring requirements of a public water system;
(6) Failing to submit required operational documentation to applicable regulatory agencies; and
(7) Having another professional or occupational certification or license from another certifying or licensing authority suspended, revoked, or refused renewal or reinstatement.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Established violations relative to the above categories are a potential basis for an action toward a water works operator certification. Confirmed instances of operator misconduct are reported to the Operator Certification Program with a pattern resulting in a recommendation for action toward an operator's certificate however in instances of serious transgression a single occurrence may be sufficient to trigger a review for such an action.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
A violation of standards from any individual results in an enforcement action, of some degree, by the Bureau. If the transgression involves a certified operator and/or their duties then it may be used in consideration of an action toward that individual's certification.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The NH DES Drinking Water Bureau has the authority to issue water works operator certifications and to take action against a subject certificate as appropriate. Actions taken against a certification may be appealed to the NH Water Council.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
An action toward an operators certification is issued by decision of the senior leadership of the NH DES Drinking Water Bureau. An operator so disciplined may appeal the decision to the NH Water Council.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Water Works Operator Certificates have been voluntarily surrendered historically. Requests to the Bureau for surrender are made in writing.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
In cases where actions against a water works operator certificate were pursued the certificate was surrendered before a final determination was made with respect to revocation. Suspension, revocation or refusal to renew a certificate are all potential penalties.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
In order for a certificate to be reinstated the burden is on the subject operator, in their request for reinstatement, to demonstrate "that under the totality of the circumstances, not reinstating the certificate will result in greater harm to public health and safety than reinstating the certificate". It is more difficult for repeat offenders to make this argument , therefore while the process is the same the cumulative actions of the repeat offender will weigh further against reinstatement.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
The party or parties disciplined, and the violation, depend on the circumstances of the incident. All have responsibilities toward the public water system and therefore all are potentially subject to some level of enforcement activity in cases of shortcoming.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Administrative appeals are heard by the NH Water Council.
12. *What is the process for reinstatement?*
Per Env-Dw 502.09:
If a certificate is suspended...the authority shall not reinstate the certificate until:
(1) The reason that good cause exists has been corrected to conform with applicable requirements;
and
(2) The operator submits a written request to the authority requesting that the

certificate be reinstated.

The process for evaluating the request and the authority's potential subsequent actions are detailed in Env-Dw 502.09.

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
New York State Sanitary Code, Subpart 5-4 (attached)

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Items listed in New York State Sanitary Code, Subpart 5-4, Section 5-4.7. A few examples would be falsifying reports, sample tampering, plant related criminal or civil charges, sabotage of equipment, lack of maintenance, and unauthorized modification of a facility.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
The Department will initiate the disciplinary process through a voluntary suspension/revocation letter. If the water system operator does not voluntarily agree to this letter, the Department will initiate an Administrative Tribunal process. The Department usually seeks suspension or revocation of the operator's certification. The Department is usually notified of problematic incidents through the county health departments, officials of a city, town or village or from co-workers of a particular operator.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Each public water system in New York State has a designated operator in responsible charge. It is the responsibility of the operator in responsible charge to ensure no improper actions occur at the system they are operating.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The New York State Department of Health certifies and disciplines water system operators.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Through the Administrative Tribunal process, the water system operator is sent a Notice of Hearing with the allegations listed indicating potential fines, suspension or revocation of the certification. The water system operator is given a date to appear before an Administrative Law Judge. The New York State Department of Health initiates the hearing process.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes. The Department usually offers a Stipulation Agreement that is sent along with the Notice of Hearing. The water system operator is given a chance to sign the Stipulation Agreement or contact the New York State Department of Health and negotiate a settlement prior to the hearing date.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
The disciplinary actions could include suspension, revocation and assessed fines. Suspension and revocation, along with the term, is based on the severity of the incident. A suspension term can be up to three years and a revocation can be indefinitely. There are also prescribed conditions for reinstatement.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
To date, the Department has not come across a repeat offender.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
It depends on the case at hand as to what parties are disciplined. Some cases are owner/operator

systems so it could be both..

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

Yes. The water system operator will be notified of the decision by the Administrative Law Judge. The water system operator will then have 15 days to file an appeal with the Department. Appellants must accompany their notice of appeal with a brief or memorandum outlining specific reasons why the decision should be changed. Information concerning appeals can be obtained by consulting Section 76.13 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

12. *What is the process for reinstatement?*

Conditions of reinstatement of a suspended or revoked certification usually require the water system operator to repeat the initial water operator course, take an approved ethics course, acquire the required experience, receive an on-site assessment by the local county health department to determine the water operator's knowledge, skills and ability.

Name: Brenda Salisbury

State: New York State

Agency: New York State Department of Health

Phone Number: (518) 402-7650

Email: bls02@health.state.ny.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Rules and Regulations Pertaining To The Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators [R23-65-DWQ] and Chapter 46-13 of the RI General Laws

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
The Board may revoke, suspend or otherwise discipline the holder of a certificate issued under these regulations when it is found that the individual performed his/her duties in a negligent manner that produced a supply below standards normal for the particular facility operated; or that he/she has practiced fraud or deception; or that reasonable care, judgment or the application of this knowledge or ability was not used in the performance of his/her duties or that an individual is incompetent or unable to perform his/her duties in violation of Chapter 46-13 or regulations promulgated pursuant to 46-13.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
A complaint may be filed with the Board directly or to The Department of Health (HEALTH) in which case it would be referred to the Board by the office of Drinking Water Quality. Staff conducts an interview. The Board reviews the information and, if warranted, invites the operator to meet with them. At this meetign the Board will outline their concerns and attempt learn about the incident from the operators perspective.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
This would be a matter for (HEALTH) and is handled through the regulatory compliance and enforcement team with the system owner.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The Board of Certification of Operators of Public Drinking Water Facilities approves/denies applicants who wish to become certified. HEALTH licenses the applicant upon succesfull completion of the requirements for certification. The Board conducts discipline activities against licensed operators.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
The Board will draft an agreement outlining the discipline. If the operator does not agree with the terms she/he must request a hearing by a given deadline. The Board will refer the matter to HEALTH and HEALTH will arrange the hearing with an officer from the RI Department of Administration. This is covered in greater depth in question 11 below.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or*

certificate? If so, please describe.

Yes, though this has never occurred as a matter of discipline.

8. Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?

In addition to the actions listed under question 2 above the Board may require additional training, issue a permanent letter of reprimand, or take other actions.

9. Do repeat offenders face different disciplinary actions than first-time offenders?

All offenders face the same disciplinary actions.

10. Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?

If the action requiring discipline is due to actions covered in question 2 above then the operator is disciplined. If the fault lies with the system, its owner(s), and/or unlicensed personnel then HEALTH is responsible for determining the disciplinary action in accordance with the Rules and Regulations Pertaining to Public Drinking Water [R46-13-DWQ].

Appeal and Reinstatement

11. Is there an appeals process? If so, please describe.

§ 42-35-9 Contested cases – Notice – Hearing – Records. – (a) In any contested case, all parties shall be afforded an opportunity for a hearing after reasonable notice.

(b) The notice shall include:

(1) A statement of the time, place, and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved;

(4) A short and plain statement of the matters inserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and detailed statement shall be furnished.

(c) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(d) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) The record in a contested case shall include:

(1) All pleadings, motions, intermediate rulings;

(2) Evidence received or considered;

(3) A statement of matters officially noticed;

(4) Questions and offers of proof and rulings thereon;

(5) Proposed findings and exceptions;

(6) Any decision, opinion, or report by the officer presiding at the hearing;

(7) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

(f) Oral proceedings or any part thereof conducted under the provisions of this chapter shall be transcribed on request by any party. Stenotypists occupying positions within the state service as hearing reporters for any state agency, who report stenographically the proceedings in administrative hearings and the taking of depositions in their capacity as reporters for a state agency, shall be paid at the rate established by § 8-5-5 from the requesting party; provided, however, the state agency shall not be required to compensate the stenotypists for the transcript.

(g) Findings of fact shall be based exclusively on the evidence and matters officially noticed.

12. *What is the process for reinstatement?*

If reinstatement is approved by the Board or required by a decision of a Hearing Officer then HEALTH performs the reinstatement through the Division of Licensing. This is a matter of data entry and reissuance of the license in question.

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Vermont Water Supply Rule, Section 12.4 Revocation or Suspension of Operator Certification (a) The Secretary may suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the Secretary finds that the certificate holder has: (1) submitted or contributed to the submission of materially false or inaccurate information; or (2) violated any material requirement, restriction, or condition of the certificate including: (i) the violation of any applicable statute, rule, or order governing water system regulation; and (ii) the failure to use reasonable care and judgment in the performance of the operator's duties. The Secretary shall set forth what steps, if any, may be taken by the certificate holder to reapply for certification if a previous certificate has been revoked. (b) The applicant may appeal a revocation or suspension as provided in 10 V.S.A., §1680.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Data falsification, violation of operator certificate, state statute or rules and failure to use reasonable care and judgment in the performance of duties
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Drinking Water and Groundwater Protection Division staff verifies a problematic issue or behavior and the Program Section Chief makes a referral to the Agency Enforcement Division to conduct an investigation or to begin enforcement.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
The Agency has the authority to take an enforcement action against a water system owner. The Agency would pursue enforcement against the certified operator or owner of the water system.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Agency of Natural Resources; Department of Environmental Conservation; and the Drinking Water and Groundwater Protection Division. The Enforcement Division initiates any formal enforcement action. The Agency appoints a hearing officer to conduct a hearing as necessary..
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Agency notifies the operator of the intent to revoke his/her certificate, The operator may make a request for a hearing, The Agency of Natural Resources appoints a hearing officer, Participants need to notify hearing office in advance of their participation in the hearing, Following the hearing, the hearing officer makes a decision regarding revocation.

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes. The operator may be asked to voluntarily surrender his or her certification to avoid revocation.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Yes. There may be different lengths of suspension or indefinite revocation depending upon the severity of a behavior or incident.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
Most likely. We have not dealt with a repeat offender in the program.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
All parties as applicable. .

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
The Agency of Natural Resources notifies the operator of the intent to revoke his/her certificate, The operator may make a request for a hearing, The Agency appoints a hearing officer, Participants need to notify hearing office in advance of their participation in the hearing, Following the hearing, the hearing officer makes a decision regarding revocation.
12. *What is the process for reinstatement?*
The hearing process will outline the process for reinstatement. The operator will need to apply for a new certificate and meet all operator certification requirements as outlined in the Water Supply Rule.

ASDWA States' Survey Responses from Outside the NEIWPC Region

(AK, FL, GA, KY, LA, MD, MI, MN, MO, NJ, NV, OH, OK, SD, UT, WA)

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Alaska Operator Certification regulations allow for the revocation of operator certificates (18AAC74.830)

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Alaska certificates can be revoked for fraud or deceit in obtaining a certificate, fraud or deceit in plant record keeping, gross negligence in the operation of a system, or substantial violation of the Alaska Drinking Water regulations.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
We act when presented with evidence collected by another entity, such as the Drinking Water Program or a law enforcement agency.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
There is no response toward the non certified operator.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
When revoking a certificate, the Operator Certification Program must consider the advice of the Governor's Water and Wastewater Works Advisory Board (an eight member board that oversees the actions of the Operator Certification Program).
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Based on evidence received, the Operator Certification Program presents information to the Board.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes, operators can voluntarily relinquish their certificates.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
We only have the ability to revoke for the reasons listed above.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
No.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Through the Operator Certification Program, only operators are disciplined. System owner, however, can be fined through the Alaska Drinking Water Program for not having properly certified operators.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
The Board is essentially the operators opportunity to appeal the decision to revoke. The operator can be present to state their case.
12. *What is the process for reinstatement?*
An operator who has had their certificate revoked can reapply for certification after 365 days.

Name: Ken Smith

State: Alaska

Agency: Department of Environmental Conservation
Phone Number: (907) 465-5136
Email: ken.smith@alaska.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Florida Statute 403.875, Florida Administrative Code 62-602.800, 850 & 870

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Falsification of log books, failure to follow standard operating procedures, submitting false information on licensure applications. More details can be found in the above rules.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Usually found during site inspections. small number are due to complaints received.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
If this is unlicensed activity then fines levied against the owner of the system and the potential of the individual to not be eligible for licensure.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The Florida Department of Environmental Protection
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
The operator has the right to a hearing if they choose. They must be the initiator.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes. An operator has the can, at any time, voluntarily relinquish their license. They may simply write a letter attesting to the fact that they no longer want the license and return it to us.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Yes, depending on any aggravating or mitigating circumstances.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
There is no clear cut answer for this question.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
generally, the system is usually disciplined. However, depending on the situation it can involve just the operator or both.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
As stated above, each operator has the right to a hearing. The agency will usually agree with the hearing officers recommended order.
12. *What is the process for reinstatement?*
the general answer for this is that the operator will need to start the examination/licensure process over from the beginning.

Name: Ron McCulley

State: Florida

Agency: Dept. of Environmental Protection

Phone Number: 850-245-8384

Email: ronald.mcculley@dep.state.fl.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Georgia's Professional Licensing Boards Division rules: State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts, (750-10-.01). and OCGA 43-1-19.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Fraud or deception, incompetency, improper judgement, care or application of professional knowledge & ability, felony conviction.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Submission of an official complaint to the professional licensing board for investigation, From state regulatory inspectors, water profession at large or citizen/consumer complaint.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Enforcement action upon the permit holder; the unlicensed individual is subject to civil & criminal prosecution.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Georgia's Profession Licensing Boards Division of the office of Secretary of State. State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts. A six (6) member board appointed by the Governor.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Official notice (certified mail) to licensee of diciplinary hearing. No, the hearing process is provided by State Law
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes, failure to renew, or a formal surrender of a license (usually the result of a hearing process) is consider a revocation subject to reinstatement at the discretion of the board.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
GA code allows for our board to initiate revocation, consent order, and/or probationary action upon a licensee. For example, a license holder convicted of a felony can be placed on probation via consent order concurrent with criminal probationary period.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
Yes, at the discretion of the board.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Often times all are subject to enforcement action. Permit and drinking water standards violations often require PWS enforcement as well as operator disciplinary action.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Yes, GA code allows for a limited appeal process; a license holder or applicant may request an appearance before the board to contest a case or ruling.

12. *What is the process for reinstatement?*
Application & fee; continue education or reexamination.

Name: Bill Defino

State: GA

Agency: GA Department of Natural Resources-Environmental Protection Division

Phone Number: 404-463-1295

Email: bill_defino@dnr.state.ga.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
401 KAR 11:050

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Violations of 401 KAR 11:020
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Typically, violations are observed by Division of Water inspectors. If the inspector thinks the violation(s) is directly related to the decisions made by the certified operator, DOW will refer the operator to the certification board for review. The certification board is an advisory board and will review the information provided by the inspector as well as conduct interviews with the certified operator or others they feel could provide pertinent information relative to the referral. The board makes a recommendation to the agency. If the recommendation is to take some type of disciplinary action, DOW would begin the enforcement process.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
DOW would determine if the facility is in violation and issue NOVs as deemed appropriate.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
DEP/Division of Compliance Assistance/Certification and Licensing Branch is responsible for certifying operators. Enforcement is handled by the Division of Enforcement after a referral is submitted to them.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
See #3. The board will request to speak with the certified operator in question. If the certified operator decides not to speak with the board, the board will continue their review and provide their "recommendation" to the agency. The boards' decision is only a recommendation.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
They could surrender their license. The agency may also require it as part of the enforcement process.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Yes, see 401 KAR 11:050 Section 4. Each instance is looked at separately and enforcement could be a combination of several actions.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
Potentially
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
The permittee and the certified operator could be disciplined.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Refer to KRS 224.10-420 Section 2
12. *What is the process for reinstatement?*
If action is taken against an operator and overturned, the Certification and Licensing Branch would reinstate the license(s) once the official document was received outlining the terms.

Name: Julia Kays

State: Kentucky

Agency: DEP/DCA/Certification and Licensing Branch

Phone Number: 502-564-0323, ext 3652

Email: julia.kays@ky.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
<http://new.dhh.louisiana.gov/assets/oph/Center-EH/operator/04-20-2002OperatorCertificationRule.pdf>
see section 7313.C

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
see section 7313.C
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
complaint is made see form
<http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/1806>
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
dependent upon circumstances and strength of evidence it could result in civil or criminal prosecution

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
[Health Department-Office of Public Health-CEHS-Engineering-OpCert is certification section Committee of Certification hears all complaints and operator hearings. See link about Committee:](#)
<http://new.dhh.louisiana.gov/index.cfm/page/1343>
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
yes see the following link
<http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2076>
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
yes see above:
see section 7313.C
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
[Past actions have included revocation of licenses and requiring operators to do community service going to Operator meetings to talk about what they did](#)
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
[Every case is considered on its own merits](#)
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
[Every case is considered on its own merits](#)

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
yes see the following link
<http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2076>
[after that it would go to the courts for appeal](#)
12. *What is the process for reinstatement?*
[Every case is considered on its own merits but normally they would have to start over at lowest level of certification and retest if allowed dependent upon length of time they are suspended](#)

Name: Steve Hoss

State: Louisiana

Agency: DHH-OPH-CEHS-ENG-OP CERT

Phone Number: 225-342-7507

Email: Steve.Hoss@la.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Maryland Annotated Code, Environment Article 12-308 & 12-309; Code of Maryland Regulations 26.06.01.15 Board reviews complaint or referral regarding an operator. The Department performs the investigation. A hearing is held prior to final action by the Board. Actions are subject to administrative and/or judicial review.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
(a) If the certificate holder fraudulently or deceptively:
(i) Obtains or attempts to obtain a certificate, limited certificate, or temporary certificate for the applicant or for another,
(ii) Uses a certificate, limited certificate, or temporary certificate;
(b) Other reasonable cause, such as:
(i) Professional incompetency;
(ii) Falsification of records;
(iii) Failure to submit required self-monitoring documents;
(iv) Negligence in operation and maintenance of the works.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Referrals may be submitted directly to the Board (anonymously or in writing), or they may be submitted by the Department of Environment enforcement programs following an enforcement action investigation..
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Initial response may include notification to the owner with direction to employ a certified operator. Enforcement actions related to the use of an uncertified operator by a water system may be incorporated into an enforcement action by the Water Supply Program against the public water system and the system owner. This authority is covered by the Maryland Annotated Code Environment Article 12-501.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Maryland Department of the Environment (Secretary or his designee, Environmental Crimes Unit), and the Maryland Board of Waterworks and Waste Systems Operators (Board Chairman and Board members) are involved in the licensing and disciplining of operators. For administrative actions, the Board serves as the disciplinary body for certified operators. The Board is composed of certified operators and superintendents, and miscellaneous appointees that represent the municipalities, State departments, general public, academia, and agriculture.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
The operator does not initiate the hearing process. The hearing is scheduled by the Board, and the operator/their attorney are notified of the time and location. The Board Chairman presides over the administrative hearing. The hearing may involve attorney representation for the operator and the Department, and includes testimony and an opportunity for the operator to present evidence or mitigating circumstances. The operator may negotiate an agreement with the Board and forego the hearing. A hearing may be held in the absence of the operator.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or*

certificate? If so, please describe.

Yes, an operator may surrender his or her license under COMAR26.06.01.15D

8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*

Board administrative actions are limited to the following by State regulations:

COMAR 26.06.01.15D. Effect of Adverse Finding by the Board.

(1) If, after the hearing by the Board, the certificate is revoked or suspended, the certificate holder shall:

(a) Cease his or her activities as a certified operator or superintendent; and

(b) Return the certificate to the Board.

(2) Until the notice of revocation or suspension is delivered to the last known address of the certificate holder, the certificate remains valid.

(3) Voluntary surrender by the certificate holder of his certificate will constitute a waiver of the hearing before the Board.

(4) Suspensions of certificates may not exceed 1 year or suspensions shall terminate when the certificate holder complies with all conditions stipulated by the Board at the time of suspension, whichever is later.

(5) After the expiration of 1 year following revocation of a certificate, the person previously holding the certificate may apply for a new certificate subject to a new examination and review by the Board.

In criminal court, judicial decisions related to operators have included fines, incarceration, probation before judgement, and probation.

9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

The law and regulations related to operator disciplinary actions do not specifically distinguish between repeat offenders and first-time offenders. The law (Annotated Code, Environment Article 9-413) related to public water system penalties considers "the extent to which the current violation is part of a recurrent pattern".

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

Varies based on the severity of the case; all (public water system, operator, and system owner)are potentially liable for penalties.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

Yes Direct judicial appeal may be taken as allowed under the Maryland Administrative Procedures Act (Annotated Code).

12. *What is the process for reinstatement?*

COMAR 26.06.01.12

D. Reinstatement.

(1) Limitations.

(a) A request for reinstatement shall be submitted to the Board within 2 years after the expiration date of the operator certificate that is to be reinstated.

(b) Temporary, limited, grandparented, and superintendent certificates may not be reinstated.

(c) The Board may not grant a request for reinstatement that is received after the 2-year period following the expiration of the operator certificate. The operator shall apply for a temporary certificate, and complete the requirements for operator certification in accordance with Regulation .06C of this chapter.

(2) To qualify for reinstatement of an expired operator certificate, an individual shall:

(a) Submit a written request for reinstatement on a form provided by the Board;

(b) Provide evidence that the individual has satisfied the training requirements in Regulation .13 of this chapter for the last renewal period covered by the expired certificate, and has completed additional

training in accordance with §D(3) of this regulation; and

(c) Pay a reinstatement fee in accordance with Regulation .07 of this chapter.

(3) The additional training that must be completed before submitting a request for reinstatement shall be:

(a) For reinstatement up to 1 year following the expiration date of the operator certificate, 1/3 of the training units specified by Table 8 in Regulation .16 of this chapter for the class of operator certificate that is to be reinstated;

(b) For reinstatement from 1 to 2 years following the expiration date of the operator's certificate, 2/3 of the training units specified by Table 8 in Regulation .16 of this chapter for the class of operator certificate that is to be reinstated.

Name: Nancy Reilman (also Board of Waterworks and Waste Systems Operator member since 1993)

State: Maryland

Agency: Department of the Environment - Water Management Administration-Water Supply Program

Phone Number: 410-537-3710

Email: nreilman@mde.state.md.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
See the Michigan Safe Drinking Water Act at

<http://legislature.mi.gov/doc.aspx?mcl-Act-399-of-1976>

specifically MCL 325.1009, subsection (4) says "...the department may suspend or revoke a certificate as specified by rule."

See administrative rules at

http://www7.dleg.state.mi.us/orr/Files/AdminCode/383_10360_AdminCode.pdf

Administrative rule R 325.11917 Suspension or revocation of certificates, says in part, "...the department may deny exam application to an individual or place on probation, suspend, or revoke the certificate of an operator..." See also R 325.11918 Appeals.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Administrative rule R 325.11917 lists the following: incompetent or unable to perform the duties of a waterworks system operator; committed fraud, falsified an application, examination, report, or record with respect to a water supply; impersonated or misrepresented a certified operator or falsified a certificate of completion or training record.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
It depends on the action of the operator. A water supply may choose to take action on the individual that acted improperly, such as require remedial training or terminate the employment of the individual with that water supply. An individual or water supply that believes an operator has acted improperly may contact the operator training and certification staff and/or the advisory board of examiners.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Michigan issues permits to construct public water supplies, but does not issue operation licenses to water supplies or system owners. A water supply is subject to enforcement action if it violates the Michigan Safe Drinking Water Act, whether by the action of the licensed operator hired by the water supply or by the action of another individual. An operator that acts improperly may cause the water supply to fall out of compliance with the Safe Drinking Water Act.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The advisory board of examiners is established in statute MCL 325.1009, subsection (3) (see response 1, above) and advises the department director in matters related to certification of operators of public water supply systems. The advisory board must include "2 certified water treatment operators, 2 certified water distribution operators, 1 superintendent or manager of a supplier of water, 1 representative of the administrative branch of a local governmental agency, 2 members of the public at large, and 1 professor of sanitary or environmental engineering at a university in the state. A representative of the department shall be the nonvoting secretary for the board."
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
See response 11, below.

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Based on a historical search of our records, we have, in the past offered to allow an operator to surrender their certificate voluntarily.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
See administrative rule R 325.11917. The department director may deny exam application to an individual or place on probation, suspend, or revoke the certificate of an operator. The department determines the length of suspension. The department and shall not accept an application for examination for 5 years from the effective date of the revocation. The department may put an operator on probation for 2 years.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
I do not believe we have ever had this occur in our state.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
The Operator Training and Certification program (Part 19 of Act 399) deals specifically with the operator.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
See administrative rule R 325.11918 Appeals, which says, "An individual who feels aggrieved by an action of the department pursuant to the act or this part, or who wishes to appeal any other action of the department with respect to certification may request a hearing pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws, and part 2 of these rules."

See the state's Administrative Procedures Act:
[http://www.legislature.mi.gov/\(S\(yjifeuqnheqlnd45vqa0pq45\)\)/mileg.aspx?page=getObject&objectName=mcl-Act-306-of-1969](http://www.legislature.mi.gov/(S(yjifeuqnheqlnd45vqa0pq45))/mileg.aspx?page=getObject&objectName=mcl-Act-306-of-1969)
12. *What is the process for reinstatement?*
Renewal of a suspended certificate is allowed if the applicant meets all renewal requirements including training and continuing education requirements.

Name: Jean Shekter (rules contact), Laura Chuhran (operator certification contact)

State: Michigan

Agency: Department of Environmental Quality, Office of Drinking Water and Municipal Assistance

Phone Number: Jean 517-241-1241, Laura 517-241-7157

Email: Jean: shekterj@michigan.gov, Laura: chuhranl@michigan.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Minnesota Statute 144.99

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Gross negligence or intentional alteration that affects the water as pertains to the safe drinking water act
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Word of mouth and sanitary surveys
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Start with the employer (system owner) and then the state agency

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The Minnesota Dept. of Health and the Minnesota Pollution Control Agency
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
It is put on our Advisory Councils agenda. Anyone can initiate the procedure
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
No
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Mn. Statute 144.99
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
No
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Situation specific

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
An appeal can be made to the Commissioner of Health
12. *What is the process for reinstatement?*
Apply and send in appropriate fees

Name: Mark Sloan

State: Mn.

Agency: Dept. of Health

Phone Number: 651-210-4652

Email: mark.sloan@state.mn.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
10 CSR 60-14.020(7) they can be found at <http://www.sos.mo.gov/adrules/csr/current/10csr/10c60-14.pdf>

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
fraud or deception in obtaining the certificate, gross negligence, malpractice or incompetence in operating a public water system, sabotage to a water system, misleading or lying to a government official regarding a water system, participating in sample tampering or selective sampling, falsifying facility operating records or reports required by regulation or willfully violating regulations.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Enforcement cases, are typically discovered and prepared by the regional (field) offices. Missouri would be very interested in state responses to this question.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
A Notice of Violation could be issued.

Regulations state that the water system owner shall place the direct supervision of each treatment facility and each distribution system under the responsible charge of a chief operator. The regulations also state that all process control/system integrity decisions about water quality or quantity that affect public health must be made by a certified operator based on procedures approved by the chief operator.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Notices of suspension or revocation are issued by the Missouri Department of Natural Resources with service by hand delivery or through certified mail to the certified operator's last known address.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
The notice of suspension or revocation includes information on how the certified operator may contest the action. The operator can request in writing a hearing before the department within 30 days of notification of the disciplinary action.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
The operator must return a suspended or revoked certificate to the department.
(Survey editor's note from correspondence with survey respondent - no volunteer surrender in MO)
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Revocations: must wait at least one year from the date of revocation before submitting an application for examination to become recertified. Acceptance of exam application is at the discretion of the department.
Suspension: can be for any length of time as determined by the department. operators with suspended certificates are responsible for completing renewal training and submitting renewal paperwork as if the certificate were active.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

The department has discretion as to the length of suspensions and if operators can become recertified after revocation.

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

The water system/owner or certified operator could both receive enforcement or disciplinary action depending on circumstances. Although suspensions and revocations do take place, they are not frequent occurrences.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

See answer #6.

12. *What is the process for reinstatement?*

Suspended certificates are automatic re-instatement at the end of the suspension period. Regarding revocations, the individual may submit an application to re-examine after one year of time has passed from the date of revocation. Acceptance of the application is at the department's discretion.

Name: Darlene Helmig

State: Missouri

Agency: Department of Natural Resources

Phone Number: 573-751-1600

Email: darlene.helmgi@dnr.mo.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
N.J.A.C. 7:10A, Licensing of Water Supply and Wastewater Treatment System Operators, Subchapter 2: Civil Administrative Penalties, Injunctive Relief, Suspension and Revocation of Operator's License, Denial of an Application to Renew a License and Requests for Adjudicatory Hearings

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Any violation of the Water Supply and Wastewater Operator Licensing Act or the Licensing of Water Supply and Wastewater Treatment System Operators Regulations could potentially result in disciplinary action.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Violations that are discovered by an office other than Water Compliance & Enforcement may be referred to Enforcement for action. Most often, enforcement actions arise as a result of site inspections routinely conducted by Regional Enforcement Offices. There are three Regional Enforcement Offices by geographical location: Northern, Central, and Southern. An investigation is conducted, usually including an interview of the operator and a review of his/her operator log book(s) and operational procedures. If concerns or violations are found, a Notice of Violation may be issued to the operator, requiring written response within a specified period. The information and operator's response are all considered prior to initiating any additional discipline or enforcement.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Action may be taken against any persons for violations of the Act. Obviously, license suspensions or revocations would only apply to licensed persons, but the regulations allow for civil administrative penalty assessments to be imposed against licensed or unlicensed persons for any violation of the Act or regulations. There is no specific provision requiring an unlicensed person to consult the licensed operator, but there are potentially improper actions that may constitute a violation for which an individual other than the licensed operator may be subject to Enforcement action. Action may be taken against any person for violations of the Act, and in situations where an unlicensed individual performed improper actions without consulting with or approval of the licensed operator, and those actions resulted in, or may have resulted in, system problems or deficiencies, enforcement action would be taken against that unlicensed individual and/or the system owner.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The New Jersey Department of Environmental Protection. Disciplinary action is handled by Water Compliance & Enforcement, who may issue a civil administrative order, an assessment of civil administrative penalties, suspend or revoke a license, or deny an application to renew a license. The Department may seek input of the Board of Examiners, which was established to advise and assist the Department in the preparation and administration of examinations and is comprised of water and wastewater operators and Department personnel, particularly for cases in which false information was submitted in the application review process.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
A disciplinary hearing is not needed to initiate Enforcement actions under the Act. However, an individual may request an adjudicatory hearing to contest an administrative order, civil administrative penalty assessment, suspension or revocation of license, or a denial of an application to renew a

license. See question 11 response.

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*

The regulations do not address the surrendering of a license. Not sure that this has ever happened. However, individuals may fail to renew the annual license(s).

8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*

For individuals violating any provision of the Water Supply and Wastewater Operator Licensing Act or the Licensing of Water Supply and Wastewater Treatment System Operators Regulations, the Department may impose civil administrative penalty assessments, license suspensions, license revocations, or denials of applications to renew a license. Notices of these actions shall be served personally or by certified mail, return receipt requested, and shall identify the person(s) alleged to have committed the violation described, describe the activities which constitute the violation, identify the specific provisions of the Act, rule, license, or order which has been violated, describe the remedial action which must be implemented by the violator and the time periods within which such implementation shall commence and be completed, identify the office within the Department to which any required reply or correspondence must be directed, advise the person of their right to an adjudicatory hearing, specify the amount of the civil administrative penalty imposed (if applicable), the length of time of a license suspension (if applicable), and a description of the specific grounds for a suspension, revocation, or denial of an application to renew a license (if applicable). The Department may assess civil administrative penalties for each violation: \$1,000 for first violation, \$2,500 for second violation of the same provision, and \$5,000 for third and subsequent violations. The Department may assess a penalty of \$5,000 for refusing lawful entry and inspection of any premises. For falsifying records required pursuant to the Act, the Department may assess a penalty of not more than \$5,000 nor less than \$4,000 for any intentional or deliberate act, not more than \$4,000 nor less than \$3,000 for any unintentional but foreseeable act, or not more than \$2,500 nor less than \$1,500 for other violations. Also, the Department may increase or reduce or settle a penalty based on the violators' compliance history, any measure(s) taken by the violator to mitigate the effects of the violation(s) or to prevent future similar violations, or based on other factors deemed acceptable to the Department. The Department may suspend a license upon a determination that 1) the application for the license or any material submitted as part of the application review included false information, 2) the licensee has falsified any record pursuant to the Water Supply and Wastewater Operator Licensing Act, 3) the licensee committed a second violation of the same provision of the Act, or 4) the licensee committed two or more concurrent violations of the Act. A license may be revoked if the licensee 1) has committed a third or subsequent violation of the Act, 2) has failed to correct any condition for which his license has been suspended, or 3) has committed violation(s) which the Department determines, with concurrence of the Board of Examiners, has caused substantial harm to the public. The Department may also deny an application to renew a license if that person has not accumulated the required hours of continuing education required for license renewal.

9. *Do repeat offenders face different disciplinary actions than first-time offenders?*

As stated above, repeat offenders generally face more stringent disciplinary action. Civil administrative penalties are more severe for second, third, or subsequent violations of the same provision. Licenses are subject to suspension upon the individual committing two or more violations (except for one violation involving falsifying records). Licenses are subject to revocation upon the individual committing three or more violations (except for a violation causing substantial harm to the public) or for failing to correct a condition for which a license was suspended.

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

Any person violating the Act is subject to Enforcement action.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

An individual may request an adjudicatory hearing to contest an administrative order, civil administrative penalty assessment, suspension or revocation of license, or a denial of an application to renew a license. The request must be received within 20 calendar days of receipt of notice of the Department's action being contested. The request must include: the name address, and telephone number of the petitioner and legal representative, an admission or denial of each of the Department's finding of fact, a description of any facts which the petitioner believes constitute a defense, information supporting the hearing request and specific reference to other written documentation relied upon to support the request, and an estimate of the time required for the hearing.

12. *What is the process for reinstatement?*

A license suspension shall terminate only upon a finding that the following requirements have been satisfied: 1) the minimum duration of the suspension has elapsed, 2) the licensee has addressed all violations upon which the suspension was based, and 3) the licensee has submitted a written request to the Department and the request shall include documentation demonstrating that the requisite corrective action has been implemented. Revoked licenses or licenses for which the Department has denied an application to renew may not be reinstated, but individuals may apply for an examination for a new license, if eligible. Any person whose license has been revoked for the first time is ineligible for admission to any exam for a period of not less than one year from the date of revocation. Any person whose license has been revoked more than once or for violation(s) causing substantial harm to the public shall forever be ineligible for admission to any exam. Also, a licensee who fails to renew his license within one year following the renewal date of the license, shall not receive a new license unless he meets the current requirements of the license and until he successfully passes another qualifying examination.

Name: Joseph duRocher

State: New Jersey

Agency: Department of Environmental Protection - Bureau of Safe Drinking Water

Phone Number: (609) 292-5550

Email: joseph.durocher@dep.state.nj.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*

Nevada Statutes and Regulations do cover some aspects of disciplinary issues for Operators, there aren't specific citations regarding the process, per se.

State Statutes include the following:

NRS 445A.945 Injunctions.

1. The Division or the appropriate district board of health may apply to a court of competent jurisdiction to enjoin the continuance or occurrence of any act or practice which violates the provisions of NRS 445A.800 to 445A.955, inclusive, or of any regulation adopted or order issued pursuant thereto.

2. On a showing by the Division or the district board of health that such a violation has occurred or will occur, the court may issue, without bond, such prohibitory or mandatory injunction as the facts may warrant.

(Added to NRS by 1977, 445; A 1991, 404, 615; 2005, 557)

NRS 445A.950 Civil penalty; administrative fine.

1. Any supplier of water who:

(a) Violates any standard established pursuant to NRS 445A.855;

(b) Violates or fails to comply with an emergency order issued pursuant to NRS 445A.930;

(c) Violates any condition imposed by the Commission upon granting a variance or exemption under NRS 445A.935;

(d) Violates a regulation adopted by the Commission pursuant to NRS 445A.860; or

(e) Fails to give a notice as required by NRS 445A.940,

is liable for a civil penalty, to be recovered by the Attorney General in the name of the Division, of not more than \$5,000 for each day of the violation.

2. In addition to the civil penalty prescribed in subsection 1, the Division may impose an administrative fine against a supplier of water who commits any violation enumerated in subsection 1. The administrative fine imposed may not be more than \$2,500 per day for each such violation.

3. The civil penalty and administrative fine prescribed in this section may be imposed in addition to any other penalties or relief prescribed in NRS 445A.800 to 445A.955, inclusive.

(Added to NRS by 1977, 455; A 1991, 404, 615, 1041; 2001, 635; 2005, 557)

NRS 445A.955 Criminal penalty. Any person who violates the provisions of NRS 445A.800 to 445A.955, inclusive, or any regulation adopted by the Commission pursuant to those provisions is guilty of a misdemeanor. Each day of violation constitutes a separate offense.

(Added to NRS by 1977, 445; A 1991, 405, 615; 2005, 558)

Operator Certification Regulations further include:

NAC 445A.646 Denial of application for certificate or suspension or revocation of certificate: Grounds. The Division may deny an application for a certificate or suspend or revoke an operator's full certificate, provisional certificate or certificate as an operator-in-training if he or she:

1. In applying for or obtaining a certificate, has submitted to the Division any application, document record, report or affidavit, or any information in support thereof, which is false or fraudulent;

2. Is grossly negligent, incompetent or has committed misconduct in the performance of his or her duties as an operator of a public water system;

3. Has demonstrated disregard for the health and safety of the public;

4. Has acted outside the rights and privileges of his or her classification for which he or she holds a certificate;

5. Has been convicted of a violation of any federal law or law of any state relating to water quality, including, but not limited to, the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.;

6. Has been convicted of a felony or other crime involving moral turpitude, dishonesty or corruption

7. Has willfully made to an employee of the Division or any health authority any false statement

which is material to the administration or enforcement of any provision of this chapter or chapter 445A of NRS;

8. Has failed to renew his or her certification; or

9. Has violated, attempted to violate, assisted or abetted in the violation of, or conspired to violate any provision of this chapter or chapter 445A of NRS.

(Added to NAC by Bd. of Health, eff. 9-16-92; A by Environmental Comm'n by R129-05, 10-31-2005)

The aggrieved may:

NAC 445A.652 Review of actions taken by Division.

1. Any person who has reason to believe that an action taken by the Division pursuant to NAC 445A.617 to 445A.652, inclusive, has been incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Administrator of the Division or the Administrator's designee for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the Administrator or the Administrator's designee, except that the informal conference must be held no later than 60 days after the date on which the Administrator or the Administrator's designee receives the written request.

3. The determination of the Administrator of the Division or the Administrator's designee resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

(Added to NAC by Bd. of Health, eff. 9-16-92; A 10-30-97; A by Environmental Comm'n by R129-05, 10-31-2005)

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*

Our "grounds" are listed in NAC 445A.646 above. In practice, negligence, incompetence, falsification of records, or anything else we deem to have the potential to adversely affect public health could lead to a disciplinary action. Failure to renew and/or operating without certification would also be an actionable offence either for the individual or the water system.

3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*

We have a small staff, so there isn't any formal referral process. Issues are brought to a Supervisor's attention and we assess the severity of the situation and if some sort of enforcement is warranted.

4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*

The Operator in Responsible Charge and/or the water system is held responsible.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*

The Bureau of Safe Drinking Water administers the Operator Certification Program. Contract Operators may also fall under the State Contractor's Licensing Board depending on how they charge for their services. The Bureau does not have a specific disciplinary body, the Bureau Chief applies discretion in determining when and how to pursue enforcement.

6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process? NAC 445A.652, above, is the only way I'm aware of that an operator could initiate a hearing - only if that person is aggrieved.*

7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*

An operator certainly could voluntarily surrender his/her licence. I can't imagine that happening. It

- would be a case of suspending or revoking it on our end that is most likely to result in decertification.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
See NAC 445A.646 above. The duration of suspension or revocation would be at the discretion of the Agency, taking all factors into account.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
There isn't anything in Statute or Regulation that would prohibit escalating penalties within the maximums contained therein.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Most actions so far have been directed to the PWS, however individual operators have suffered the consequences of such an action through the PWSs disciplinary procedures. In a recent case, the PWS received a Finding of Alleged Violation and Order and we were told as part of that process that the Operator in Responsible Charge was demoted. In that case, we decided not to pursue additive enforcement on the individual.
We could pursue enforcement on any of the parties listed in your question.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
For suspension or revocation of a certificate, NAC 445A.652, above, would apply. If the Agency issues a Finding of Alleged Violation and Administrative Order under NRS 445A.950 (& others), civil appeal procedures apply.
12. *What is the process for reinstatement?*
in our Regulations, the term "reinstatement" is used in a different context. In terms of your question, we would have to inform an operator, who was subject to revocation, what the terms would be for re-certification (if ever). In the absence of guiding Regulations, it would be a discretionary process and case-by-case depending on the circumstances.

Name: Jennifer Carr, Bureau Chief

State: Nevada

Agency: Division of Environmental Protection, Bureau of Safe Drinking Water

Phone Number: 775-687-9515

Email: jcarr@ndep.nv.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
Ohio Administrative Code 3745-7-12 http://epa.ohio.gov/portals/28/documents/rules/Final/3745-07-12_effective_02-23-12.pdf

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Take a look at the rule reference above. Falsification, incompetence, negligence are probably the most frequent things we see.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
It depends on the situation. Minor violations are generally addressed through notices of violation and then would escalate if needed. Falsification and some incompetence is immediately referred by our District Offices for enforcement.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
It would depend on the situation and the potential for harm or actual harm caused.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The Ohio EPA is the only agency involved in the disciplining of operators. We have an Advisory Council which is made up of 8 individuals (4 with water experience and 4 with wastewater experience) who review and provide recommendations, the cases are then dealt with through the agency enforcement process.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
In the event of a disciplinary action. An operator may request adjudication of a proposed action. This would result in a hearing before the Agency hearing officer. After the hearing, the hearing officer would make a recommendation to the Director of the Agency. The Director would then issue a decision. The operator would get a second chance to appeal the lawfulness of the Directors Action to the Environmental Review Appeals Commission (ERAC). ERAC would make a decision based on whether the Agency has the legal authority to impose the disciplinary action.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
The process does not establish surrender as a means for an enforcement action, but in some instances we would accept surrender with conditions not to reapply as a settlement offer.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
At the lowest level we would issue "Notices of Violation" to operators requesting they perform corrective actions and respond in writing. We also use suspensions which can be issued for a period of up to 5 years. The final action would be revocation of a certificate. Revocation would be a permanent action. We have provisions that allow us to take action on every certificate held in the cases of falsification.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
Yes a repeat offender would face progressive discipline
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
It would depend on the situation. We would try to identify through investigation into the cause o the

violation.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

See above

12. *What is the process for reinstatement?*

In the event an operator has been disciplined with the possibility of working in the field again, the operator could request reinstatement. In the event the operator had not gotten into more trouble and had complied with the terms and conditions of the previous enforcement action, The operator could provide a written request for reinstatement and be reinstated.

Name: Andrew Barienbrock

State: Ohio

Agency: Ohio EPA

Phone Number: 614-728-1216

Email: andrew.barienbroc@epa.state.oh.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
OAC 252:004, OAC 252:710, 59 O.S. Sec.1101, et seq, and 75 O.S. Sec. 308a, et seq.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Failing to have a properly certified operator; falsification of records; gross inefficiency or incompetence; violation of any provisions of the water works and wastewater works Operation Certification Act; or applicable provisions of the Oklahoma Environmental Quality Code, rules promulgated thereunder or the terms of any certificate or order issued pursuant thereto; or fraud or misrepresentation in obtaining a certificate.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Violations are usually discovered during inspections that are either routine or in response to a citizen complaint. Administrative actions are initiated when DEQ issues a Notice of Violation. A Civil action would be initiated when DEQ files a petition in District Court or a Criminal referral could be made either internally or to the appropriate police agency.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
DEQ has jurisdiction to pursue administrative or civil actions against operators of facilities and the people who hire or appoint them. Actions by other people might be referred for criminal investigation, either internally or to the appropriate police agency.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
DEQ. There isn't a separate disciplinary body.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
DEQ makes every effort to resolve enforcement matters by agreed order. When that process fails, DEQ typically issues a unilateral order that begins the individual proceeding process. If a unilateral order were issued, the respondent (operator) would have the right to request an administrative hearing before the order becomes final.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes, the terms of the surrender would be set forth in an order.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
An administrative enforcement action can be resolved by suspension or revocation.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
The enforcement process would not be different than the first time.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Depending on the facts of a case, DEQ could take enforcement against some or all of the parties listed.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Yes, administrative appeals are governed by the Oklahoma Administrative Procedures Act (75 O.S Sec. 308a, et seq.). Civil appeals would be governed by Oklahoma state civil appellate processes.

12. *What is the process for reinstatement?*

The terms/process for reinstatement would be set forth in the revocation or suspension Order. The revoked operator may make application to the Department for reinstatement after one year. Such reinstatement shall rest in the sound discretion of the Department. (59 O.S. Sec.12).

Name: Patty Thompson

State: Oklahoma

Agency: Department of Environmental Quality

Phone Number: (405) 702-8100

Email: patty.thompson@deq.ok.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
74:21:02:57. Suspension or revocation of certificate. After a hearing before the board and upon its recommendation, the secretary may suspend or revoke the certificate of an operator for any of the following reasons:

(1) The operator has practiced fraud or deception, has falsified operating records, has been guilty of operator negligence, or has submitted inaccurate data on qualifications;

(2) The operator does not meet the education and experience qualifications required for a certificate;

(3) Reasonable care, judgment, or the application of knowledge was not used in the performance of the operator's duties;

(4) The operator is incompetent or unable to perform the operator's duties; or

(5) The operator does not perform duties in a manner that meets water or wastewater system compliance requirements of state or federal water and wastewater laws and regulations.

Appeal from the action of the secretary may be made as provided by SDCL chapter 1-26.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Most of our hearings concern systems that do not have a certified operator. Have not taken an action against an individual operator.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*

4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
South Dakota has an advisory board that holds hearings and that functions w/in the Dept of Environment and Natural Resources (DENR)
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Most of our hearings concern systems that do not have a certified operator. Have not taken an action against an individual operator.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
I suppose they could
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
N/A-See question 6
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
N/A

10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*

See question 6-All of our actions have been against systems

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*

See question 1

12. *What is the process for reinstatement?*

Name: Rob Kittay

State: South Dakota

Agency: DENR

Phone Number: 605-773-4208

Email: rob.kittay@state.sd.us

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
R309-300

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Demonstrated disregard for public health, falsifying records, and cheating on an exam
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
The operator is sent a letter informing them of the problem, They can respond to how they are going to correct the problem. If it is of a serious nature they would need to appear before the operator certification commission to address the charges.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
The certified operator would face disciplinary action if they were aware of any direct responsible decisions made on their behalf.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
The operator certification commission, drinking water board, and the attorney general's office.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
They appear before the commission, they can appeal the decision to the drinking water board. No generally the division initiates the process.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
Yes. They would just hand it over and they would be inactivated in the database.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
The commission can table the issue, they can vote to revoke their license, they can vote to put them on probation, and they can vote to have no action.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
I haven't had to deal with any but the answer is probably yes.
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
Generally the operator because they made the direct responsible charge decision. The water system could face action if they directed the operator to break the law.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Yes. They can appeal to the Drinking Water Board
12. *What is the process for reinstatement?*
Once the fulfilled the requirements of the discipline they would return to good standing as long as they had kept a clean record.

Name: Kim Dyches

State: Utah

Agency: Division of Drinking Water
Phone Number: 801-536-4202
Email: kdyches@utah.gov

Thank you!

Drinking Water Operator Discipline Survey

Please provide the requested information as a means of describing your state's approach to disciplining drinking water system operators.

1. *What, if any, state regulations specifically detail the operator disciplinary process?*
RCW 70.119.110, RCW 70.119.130, chapter 34.05 RCW, RCW 43.70.115, chapter 246-10 WAC, WAC 246-292-100, and WAC 246-292-110.

Pre-Disciplinary Process

2. *What type of behavior or incident would lead to disciplinary action?*
Intentional violation of drinking water rules, fraud, or gross negligence.
3. *Describe how the disciplinary process begins. How are problematic incidents or behaviors initially referred to the disciplinary process?"*
Complaints, non-compliance with Departmental directives (Orders), referral from Regional Office Field Staff.
4. *If an uncertified or unlicensed system owner or other uncertified or unlicensed individual conducts an improper action without consulting the certified or licensed operator, what is the response?*
Notification of violation followed by escalating enforcement steps until compliance achieved.

Disciplinary Process and Action

5. *Which state agencies and officials are involved in the licensing or certifying and disciplining of operators? Is there a specific disciplinary body, and if so, how is it structured?*
Washington State Department of Health, Office of Drinking Water.
6. *Explain your state's process for disciplinary hearings. Must an operator initiate the hearing process?*
Appeal process is provided. Aggrieved operator needs to initiate. If operator appeals it goes before an Administrative Law Judge who renders a decision based on the hearing and Department's recommendations for appropriate action.
7. *Does your state's disciplinary process allow for the operator to surrender his or her license or certificate? If so, please describe.*
No formal process.
8. *Describe any disciplinary action that might be taken, including the suspension or revocation of a certificate or license. Are there different levels of action, including length of suspension or revocation, based on the severity of a behavior or incident?*
Can suspend or revoke. Suspend for 3, 6, 9 or 12 months: or Revoke for 1, 2, 3, 4, or 5 years depending on severity and length of time.
9. *Do repeat offenders face different disciplinary actions than first-time offenders?*
Yes
10. *Who is typically disciplined—the PWS itself, the individual system operator, the system owner, or all or some of these parties?*
The operator's certification can be suspended or revoked and/or a civil penalty can be assessed. The Department can also assess civil penalties against the system owner and any person associated with the system in the ownership, operation, or management.

Appeal and Reinstatement

11. *Is there an appeals process? If so, please describe.*
Yes. Aggrieved operator would need to initiate the process. Unless settlement reached, case would be heard before and Administrative Law Judge (Department employee) who would render a decision which would then be appealable to Superior Court.
12. *What is the process for reinstatement?*
If suspension: Reinstatement after period lapses.
If revocation: Can reapply after period lapses.

Name: Chris McCord

State: Washington State

Agency: Department of Health - Office of Drinking water

Phone Number: 360-236-3137

Email: chris.mccord@doh.wa.gov

Thank you!

Email Responses Without Completed Surveys

(IL, WY)

Dear Mr. Cohen:

Dave ask me to provide you a link to our certification regs. Here you go...

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1593&ChapterID=36> (see Sections 10 and 11)

<http://www.ilga.gov/commission/jcar/admincode/035/03500680sections.html> (see Subpart G)

In addition to the above, we can go Section 31 or Section 43 to discipline an operator (if they would falsify documents or do anything to endanger the PWS). This is normally the preferred option.

<http://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=1585&ChapterID=36> (See Section 31 and Section 43)

If you have any additional questions, please let me know.

Michael Crumly

Manager, Compliance Assurance Section

Division of Public Water Supplies

Illinois Environmental Protection Agency

1021 North Grand Avenue East, P.O. Box 19276 | Springfield, IL 62794-9276

217.785.0561 | fax 217.557.1407

Mike.crumly@illinois.gov



From: Nicholas Cohen [<mailto:NCohen@neiwppcc.org>]

Sent: Friday, September 07, 2012 2:27 PM

To: McMillan, Dave

Subject: RE: Operator Discipline - Info Request from New England

Thanks for your response, Dave. I'll add that information about Illinois to the database I've started on this topic. Right now, I'm just gathering survey responses, but I may be following up with people for more specifics eventually. In the meantime, are there links to the various laws that you mentioned that you could pass on for me to review? Thanks.

-Nick

Nicholas E. Cohen

Environmental Analyst

New England Interstate Water

Pollution Control Commission

116 John Street

Lowell, MA 01852

Direct Line: (978) 349-2522

Fax: (978) 323-7919

From: McMillan, Dave [<mailto:DAVE.MCMILLAN@Illinois.gov>]

Sent: Friday, September 07, 2012 9:00 AM

To: Nicholas Cohen

Cc: Crumly, Mike; bogrady@asdwa.org

Subject: RE: Operator Discipline - Info Request from New England

Mr. Cohen-

I am sorry, but we don't have time to respond to your survey. While your survey questions are relatively straight forward, the answers will be quite complex for us. In Illinois, we utilize several mechanisms to accomplish operator discipline/sanctions. We have found that the use of sanctions under our Water Supply Operator Certification Law and Regulation is ponderous (can take as long as two years). Most recently we have used our more general authorities under the Illinois Environmental Protection Act (Act) to stipulate to a compliance commitment agreement that includes sanctions. Additionally, we have used criminal provisions in our Act to refer egregious malfeasance to the Illinois Attorney General's Office for prosecution.

If you would like to call me at some point, I would be happy to discuss the mechanisms we have found most useful in addressing this problem-
Dave

Nick,
No, we haven't had any issues that we are aware of. However, anyone that can use word and is a little clever with pulling logos off the web could generate a certificate identical to the ones that we used to issue. We decided that we would "head that issue off at the pass". All certificates are now generated on demand as pdf documents by the operators (we don't mail hard copies out anymore), and they all say that their validity must be checked by going to our website.

Just for the record, we have also never had an operator whose license we have needed to suspend or revoke, but we now have the regulatory framework to do that if necessary.

On Thu, Sep 6, 2012 at 11:38 AM, Nicholas Cohen <NCohen@neiwpsc.org> wrote:

Thanks, Kim. That's very interesting and helpful. Were/Are fraudulent claims of certification a common problem in Wyoming? I ask because several states have highlighted that as a common disciplinary issue, while others have not experienced it at all. We're not rewriting a rule, but were asked to do some research on this subject by our Drinking Water Administrators Workgroup, which is made up of state drinking water program administrators from the six New England states and New York, as well as EPA Region 1 drinking water officials. Several states are looking into rewriting or at updating their rules on this topic.

-Nick

Nicholas E. Cohen
Environmental Analyst
New England Interstate Water
Pollution Control Commission
116 John Street
Lowell, MA 01852
Direct Line: [\(978\) 349-2522](tel:(978)349-2522)
Fax: [\(978\) 323-7919](tel:(978)323-7919)

From: Kim Parker [mailto:kim.parker@wyo.gov]
Sent: Thursday, September 06, 2012 1:17 PM
To: Nicholas Cohen
Cc: William Tillman
Subject: Re: WY Operator Disciplinary Measures

Nick,
The website is available to the public so that any member of the public can find out the status of an operator's license. <http://deq.state.wy.us/wqd/www/opcert/OperatorSearch.aspx> Parker, Kim V. is an example record if you would like to see how suspended/revoked licenses appear.

There were multiple reasons that we developed this capability (from Homeland Security to preventing fraud), but basically the status of an operator's license is public info, so we just made it so the public could look it up. Our certificates all say that the status of the certificate must be verified by going to the website, which will prevent fraudulent claims of certification.

We have a similar web site where the public can see which operators are employed at which facilities, for many of the same reasons.

Are you rewriting a rule?

Let me know if you need more info!

On Thu, Sep 6, 2012 at 6:36 AM, Nicholas Cohen <NCohen@neiwpsc.org> wrote:

Thank you, Kim. I'd be interested to learn more about the website that you mentioned displays licensed operator information. Is that an internal Wyoming DEQ website or public? Can you tell me a little bit more about how and why the website was developed. Thanks.

-Nick

Nicholas E. Cohen
Environmental Analyst
New England Interstate Water
Pollution Control Commission
116 John Street
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Direct Line: [\(978\) 349-2522](tel:(978)349-2522)
Fax: [\(978\) 323-7919](tel:(978)323-7919)

From: Kim Parker [mailto:kim.parker@wyo.gov]
Sent: Wednesday, September 05, 2012 7:34 PM
To: Nicholas Cohen

Cc: Rich Cripe; John Wagner; William Tillman; Brian Mark
Subject: WY Operator Disciplinary Measures

Nick,
Wyoming just promulgated a new Operator Certification Rule which became effective 8/1/12. You may find the relevant sections on Certification Suspension and Revocation (Sections 16 and 17) on pages 10 and 11 of our rule. http://deq.state.wy.us/wqd/WQDrules/Chapter_05.pdf

Since our rule is so new, and we hope we never have the need to implement these particular sections, I cannot answer many of the more detailed procedural questions that you asked, although the appeals process is covered in Section 16 (c).

We also have a website that displays the current status of any licensed operator. If an operator's certificate is suspended or revoked, that will immediately be displayed to anyone checking the status of that person's license(s) online.

Please let me know if you have any further questions.

--

Kim Parker
Operator Certification Program
Wyoming Water Quality Division
122 W. 25th St.
Herschler Bldg, 4W
Cheyenne, WY 82002
Phone: [307-777-6128](tel:307-777-6128) Fax: [307-777-6779](tel:307-777-6779)
kim.parker@wyo.gov
<http://deq.state.wy.us/opcert.asp>

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

Other Resources

- [Washington Disciplinary Ranking Tool](#)

- [Louisiana Complaint Form](#)

- [Louisiana Hearing Request Form](#)

- [New England Water Works Association \(NEWWA\) Ethics and Offenses Guides](#)
 - [NEWWA Operator Certification Committee Professional Code of Ethics for Water System Operators](#)
 - [NEWWA Operator Certification Committee Offenses Providing a Basis for Enforcement Action](#)

Attachment H

RANKING TARGETED OPERATORS - Suspension/Revocation

Primary Criteria Based on Health Risk	Points
Intentional Chemical Overfeed	50
Falsification of Acute Sample Collection (i.e., Coliform/Nitrate)	45
Failure to Follow-up as Directed by Department After Coliform Presence Sample	40
Intentionally bypassing primary treatment process for GWI or Surface Water source	40
Failure to Correct Confirmed Cross-connection Violation	40
Failure to Follow-up as Directed by Department After Nitrate Maximum Contaminant Level Violation	35
Intentionally Bypassing Required Primary Treatment Process for Ground Water Source	35
Falsification of Backflow Assembly Test Reports - High Hazard Premises	35
Falsification of Backflow Assembly Test Reports - Other than High Hazard Premises	30
Falsification of Other Than Acute Monitoring	30
Falsification of Disinfection Reports	30
Failure to Provide Disinfection as Required	25
Failure to Conduct Public Education Following Lead Exceedance	25
Failure to Follow-up as Directed Following a Primary Chemical Exceedance	25
Failure to Follow-up After Coliform Nonacute Violation	25
Failure to Submit Corrosion Control Recommendation Report for Mitigating Lead Exposure	25
Failure to Install Corrosion Control Treatment for Mitigating Lead Exposure	25
Failure to Follow-up Following Primary Monitoring/Reporting Violation	20
Failure to PN for Non-Acute Violation	10
Failure to Submit Treatment Reports	10
Failure to Report Required Information to the Department	5

Subtotal

System Type and Size Category (Based on Total for all Systems Operated Including Wholesale)	Points
Community Serving > 50,000 Population	40
Community Serving 15,001 to 50,000 Population	35
Community Serving 1,501 to 15,000 Population	30
Community Serving 251 to 1,500 Pop / Nontransient Noncommunity Serving > 1,000 Average Daily Pop	25
Community Serving < 251 Population / Nontransient Noncommunity < 1,001 Average Daily Population	20
Transient Noncommunity	10

Subtotal

Estimated Length of Time the Violation(s) Occurred	Points
More Than 5 Years	30
Between 1 and 5 Years	20
3 to 12 Months	10
Less Than 3 Months	5

Subtotal

Previous Actions Against Operator - Most Severe

Points

Civil Penalty	30
Department Order	20
Notice Of Violation	10

Subtotal

Miscellaneous

Points

Whistleblower Plus Directed by Superior	-30
Whistleblower and Not Directed by Superior	-25
Directed by Superior (Not Whistleblower)	-15
2 - 5 Systems Affected	10
6 - 9 Systems Affected	20
10 or More Systems Affected	30
For Backflow Assemble Testers, 2 - 5 Test Reports Falsified	5
For Backflow Assembly Testers, 6 - 9 Test Reports Falsified	10
For Backflow Assembly Testers, 10 or more Test Reports Falsified	20
Other as Determined by The Department	Up to 20
Previous Record of Compliance Going Back 5 Years	5
Vulnerable Users Affected (i.e., Senior Center, Hospital, Day Care Center, etc.)	30

Subtotal

GRAND TOTAL =

Recommended Action

Point Range

Revoke 5 years	> 165
Revoke 4 years	151 – 165
Revoke 3 years	136 -150
Revoke 2 years	121 – 135
Revoke 1 year	106 – 120
Suspend 1 year	91 – 105
Suspend 9 months	71 – 90
Suspend 6 months	50 – 70
Suspend 3 months	< 50



State of Louisiana

Department of Health and Hospitals
Center for Environmental Health Services
Engineering Services Operator Certification

Complaint Pertaining to Certified Operator

Anyone may bring a complaint against a certified operator for malfeasance and actions which demonstrate inadequate performance, judgment, or direction affecting the safety, sanitary quality or quantity of water or sewage treated or delivered. This complaint should be addressed to the Committee of Certification. This form should be filled out and mailed to the following address:

Louisiana Department of Health & Hospitals
Office of Public Health – Operator Certification Program
P.O. Box 4489
Baton Rouge, LA 70821-4489

This form is voluntary and may be used as guidance in making your complaint.

Name of Operator In Question: _____ Op ID # _____

Describe the justification for the complaint in detail with factual accusations with substantiation of details including the following as applicable: (a written statement may be attached or used instead of this form)

- A statement of facts upon which the Complaint is based;
- A proposed solution to the problem.

Submit your request to the Committee of Certification through the Administrator of the Operator Certification Section to the above address.

Signature

Date

Printed Name of Complainant

Phone

Mailing Address: _____
Street or Post Office Box

City / State / Parish / Zip



State of Louisiana

Department of Health and Hospitals
Center for Environmental Health Services
Engineering Services Operator Certification

Operator Hearing Form Request

An operator may file a request for hearing of the Committee of Certification. This form should be filled out and mailed to the following address:

Louisiana Department of Health & Hospitals
Office of Public Health – Operator Certification Program
P.O. Box 4489
Baton Rouge, LA 70821-4489

This form is voluntary and may be used as guidance in writing your request for hearing.

Name of Operator filing Request for Hearing: _____

Telephone Number: _____ Email address: _____

Mailing Address: _____
Street or Post Office Box

City / State / Parish / Zip

Describe your request including the following as applicable: (a written statement may be attached or used instead of this form)

- A statement of facts upon which the Request for Hearing is based;
- A proposed solution to the problem.

Submit your request to the Committee of Certification through the Administrator of the Operator Certification Section to the above address.

Signature

Date

**NEW ENGLAND WATER WORKS ASSOCIATION
OPERATOR CERTIFICATION COMMITTEE**

DEFINITIONS

Drinking Water Operator: “An individual either employed, or retained by a public water supply system who, as part of their active job duties, is assigned the responsibility for operational activities that will directly impact the quality and/or quantity of drinking water provided to consumers.”

Primary Operator: “A *Drinking Water Operator* (as defined) designated by the public water system who has direct responsible charge of daily operations of the treatment facility (facilities) and/or distribution system(s).”

Secondary Operator: “A *Drinking Water Operator* (as defined) designated by the public water system who, in the absence of the *Primary Operator*, has direct responsible charge of daily operations of the treatment facility (facilities) and/or distribution system(s).”

**NEW ENGLAND WATER WORKS ASSOCIATION
OPERATOR CERTIFICATION COMMITTEE**

PROFESSIONAL CODE OF ETHICS FOR WATER SYSTEM OPERATORS

The NEWWA Operator Certification Committee has developed the following rules of conduct of ethics for water system operators.

In order to establish and maintain a high standard of integrity, skills and practice in the profession of water system operations and to safeguard the life, health, property, and welfare of the public, the following rules of professional conduct are adopted by every person holding a license as a water system operator in New England.

All persons licensed in New England States are required to have knowledge of the existence of these rules of professional conduct and understand them.

1. The water systems operator shall, at all times, recognize his, or her primary obligation is to protect the safety, health, and welfare of the public in the performance of his, or her duties. If his, or her judgement is overruled under circumstances where the safety, health, and welfare of the public are endangered, he or she shall inform his, or her employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate.
2. The water systems operator shall accept and perform water operations assignments only when qualified by education, or experience, in the specific technical area and levels of water operations involved. The water systems operator may accept an assignment requiring education, or experience outside of his, or her, own field of competence, but only under the direct supervision of licensed, qualified co-workers, consultants, or employees.
3. The water systems operator shall be completely objective and truthful in all professional reports, statements, or testimony. He, or she, shall include all relevant and pertinent information in such reports, statements, or testimony.

4. The water systems operator shall avoid conflicts of interest with his, or her, employer, or customer, but, when unavoidable, the water system operator shall promptly disclose the circumstances to his, or her, employer, or customer, of any business association, interest, or circumstances which could influence his, or her, judgement, or the quality of his, or her, work. The water system operator shall not review, or influence the decision of his, or her employees' work for any public body on which he, or she may serve.
5. The water system operator shall not solicit, or accept financial, or other valuable items from material, or equipment suppliers for specifying their product.
6. The water system operator shall not solicit, or accept gratuities from contractors, or other parties dealing with his, or her customers, or employer in connection with work for which he, or she is responsible.
7. The water system operator shall not falsify his, or her academic, or professional qualifications. He, or she shall not misrepresent, or exaggerate his, or her degree of responsibility in prior assignments, duties, or accomplishments to enhance his, or her qualifications and work.
8. The water system operator shall not knowingly associate with, or permit the use of his, or her name, or employer's name in a business venture by any person, or company which her, or she knows, or has reason to believe, is engaging in business, or professional practices of fraudulent, or dishonest nature.
9. If the water system operator has knowledge, or reason to believe that another person, or water company may be in violation of any of these rules, he, or she shall present such information to the appropriate regulatory agency in writing, and shall cooperate with the regulatory agency in furnishing information, or assistance as may be required by the agency.

NEWWA Operator Certification Committee Offenses Providing a Basis for Enforcement Action

The following list of offenses is considered to be good cause to suspend, revoke, or refuse to renew an operator's certification. The possible enforcement action taken and the procedure for such action will vary among the individual states. The list is not meant to be all-inclusive and other acts of negligence or incompetence could result enforcement actions against an operator's certification.

Falsification of Records and or Credentials

The operator making false statements or notations on required records or applications, including but not limited to Water Quality Monitoring Reports, Operation and Maintenance Reports, Safety Documentation, Educational Credentials, or Job Experience.

Selective Sampling or Sample Tampering

The operator knowingly alters a sampling period or tampers with the collection, preparation, or analyzation of a sample to yield results not representative of actual water quality.

Dangerous Acts or Failure to Report Environmental Damage

The operator fails to provide a safe, healthful workplace or he/she performs or supervises the performance of activities without the use of proper safety equipment or training. Fails to operate the water system, or equipment in a safe responsible manner, to prevent harm to the environment, public, property, or fellow workers. Fails to document or report environmental or safety violates or incidents.

False or Misleading Statements

The operator gives false or misleading statements (verbal or written) relative to the operation or condition of the water system *or fails to submit required operational documentation to the appropriate party in a timely manner.*

Failure to utilize Proper Process Control

The operator fails to utilize knowledge of process control to properly operate the water system.

Lack of Maintenance

The operator fails to properly maintain the water system, facilities and/or equipment despite having the resources and means for him/her to do so.

Violating Statute or Rule

The operator knowingly violates a federal, state, or local regulatory statute or rule.

Commission of a Crime

The operator commits a crime affecting the water utility, including, but not limited to, theft of water, finances, equipment, materials, or supplies.

Coercion, Bribery, or Extortion

The operator forces another person to undertake an inappropriate or illegal act relating to the water system. Accepts or offers bribes related to the water system, or uses his/her position to extort money or services from others.