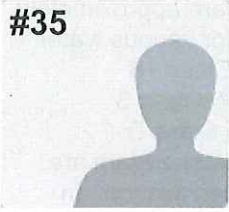


#35

**COMPLETE**

Collector: Web Link 8 (Web Link)

Started: Thursday, December 29, 2016 1:25:00 PM

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Q1: In the following survey, you will be asked to answer a series of questions regarding the regulatory practices of your given state agency/department. It is recommended that you prepare answers to the following questions prior to starting this survey. NOTE: only one device may be used for the survey, per profession. Therefore, while the survey may be discontinued and then resumed at a later date, all answers for a given profession must be entered through the same computer. As a result, it is recommended that for each profession, a single individual be elected to compile and enter information. Choose from the following options:

Begin Survey

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Q2: Please select an occupation from the following list.

Water System Operators (Agency of Natural Resources)

Q3: What is the name of the agency, department and/or division responsible for the regulation of this occupation?

Agency of Natural Resources (ANR), Department of Environmental Conservation (DEC), Drinking Water and Groundwater Protection Division (DWGPD)

Q4: Regulation Type. Please check all that apply for this occupation.

Certification

Q5: What is the number of regulated persons in this occupation?

1197 (as of 10/10/16) Currently there are approximately 1197 certified public water operators for various water operator classes (411 Class 1A, 127 Class 1B Operators, 309 Class 2 Operators, 140 Class 3 Operators, 156 Class 4 Operators, 54 Class D Operators.) Approximately 49 of these operators are grandfathered and 1 has provisional certification. In addition, there are approximately 37 certifications in effect for the operator class titled Operators in training. Consideration for regulation by the Office of Professional Regulation includes the public water operator certification Classes 2, 3, 4 and D for about 659 operators. The Class 2, 3, 4 and D operators are a broad mixture of people, from paid contract operators or municipal employees to volunteers who are customers of a system who receive little or no financial compensation for their services. These operators work at approximately 668 Class 2, 3, 4 and D Public Water Systems. Not included for consideration include certification Class 1A and 1B. For the most a Class 1A and 1B operator is the owner, employee or family member of a business or volunteer of an organization with a Class 1 water system and are not specifically employed as water operator at the system. There are approximately 720 Class 1 systems. While information about the public water operator certification Classes 1A and 1B is provided to answer the survey monkey questions about the program, the certification of these operator classifications for Transient Non-Community Water Systems would be retained within DEC. The reasons for not including are these categories for consideration for regulation by the Office of Professional Regulation are because the certification process for these is very simple and the cost of certification by the Office of Professional Regulation would be very burdensome to these classes of operators.

Q6: Is there statutory authority as a legal basis for regulation of this occupation?

Yes

Q7: If "yes" to the above, please provide a citation to said statute.

10 V.S.A. Chapter 56, Section 1674

Q8: Please provide a citation to any administrative rules associated with the regulation of this occupation.

Environmental Protection Rules, Chapter 21, Subchapter 21-12

Q9: Please provide any and all agency or department policies for the regulation of this occupation.

It is the policy of ANR to protect public health and the environment.

Q10: Please describe the purpose of regulating this occupation.

All public drinking water systems need to have a certified operator of the appropriate class in responsible charge available at all times. The certification process identifies persons qualified to operate specific classes of public water systems based on background and system size and complexity. As part of the federal Safe Drinking Water Act, EPA requires that Vermont has a Public Water Operator Certification Program which meets EPA guidelines. By July 1 of each year Vermont submits an annual submittal for the previous calendar year which must demonstrate on-going implementation of EPA's baseline standards and meet the intent of the EPA guidelines. Failure to make this demonstration to EPA would result in EPA withholding of 20% of the Drinking Water State Revolving Fund capitalization grant for the next fiscal year. Any changes to be made to the certification program require an Attorney General's certification which would need to be submitted to EPA with the states next year's operator certification annual submittal.

PAGE 4: Act 156 of 2016: Professional Regulation Report**Q11: Regarding stakeholder groups, please describe how this regulation affects those subject to regulation.**

Approximately 659 certified Class 2, 3, 4 & D operators for 700 active public drinking water systems that are classified 2,3, 4 or D. All active public water systems are required to have at least one certified operator available at all times. Certain systems have more than 1 certified operator. To be eligible for initial certification an applicant must submit an application, meet educational and experience requirements, obtain a passing grade for operator class and pay a required fee. The certification officer must evaluate past experience and often make a determination how much time the person is credited toward the experience requirement for past experience and or advanced education. Renewal of an operator certification is more straight forward. To be eligible for renewal on a 3-year basis, an applicant must submit an application, meet continuing education requirements and pay a required fee. Any certified operator working at a public water system is required to comply with requirements set forth in Subchapter 21-12 if the ANR/DEC Environmental Protection Rules Chapter 21 – Water Supply Rule.

Q12: Regarding stakeholder groups, please describe how this regulation affects State entities.

State entities that have a public water system are subject to all the state and federal requirements including having a certified operator. This includes State Parks, State Highway Rest Stops, Wilderness Camps, BGS facilities (such as prisons, schools, airports etc). Some of these have transient non-community water systems for which the operator certification would still reside within DEC.

Q13: Regarding stakeholder groups, please describe how this regulation affects consumers or clients of this occupation's services.

Approximately 604,626 consumers/users are served by public drinking water systems in Vermont per year. Certified operators have critical responsibilities for compliance with Federal and State Safe Drinking Water Requirement to ensure safe drinking water for consumers/users.

Q14: Regarding stakeholder groups, please describe how this regulation affects employers.

Owners which included municipal entities, school districts, private businesses (with their own sources), office complexes that own a public water system must have a certified operator of the appropriate class in responsible charge available at all times. Depending on the system, the operator may be a paid employee or a retained under contract for a fee. In some cases, the operator is a person who served by the water system and volunteers to be the operator.

Q15: Regarding stakeholder groups, please describe how this regulation affects the public.

See answer 13 above

Q16: Regarding stakeholder groups, please describe how this regulation affects any other applicable group.

There are contract operator businesses in Vermont with 1 or more employees that contract with public water systems to provide water operator services. These businesses need to be informed of any changes in the operator certification requirement in order to properly budget and charge for their services at public water systems.

Q17: Please describe the governance structure for the regulation of this occupation, including but not limited to: the use of a board; a commission; an agency or division head; a panel; or a hearing officer.

Certification and actions taken against an operator lies within responsibilities of the Secretary of ANR. There is an operator certification advisory committee which provides recommendations to ANR but is not involved in the actual certification process nor any actions taken against an operator.

Q18: Who sets application requirements and practice standards?

ANR Secretary

Q19: Who makes decisions on applicants, enforcement, and discipline?

ANR Secretary

Q20: Are any decision makers active participants in this regulated occupation? If so, please describe if the decision maker has taken a hiatus from the profession, and if so, whether the decision maker plans to return to the profession.

No

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Q21: What are the regulated qualifications for this occupation? Check all that apply.

Experience Requirements (exclusive from education)

Examination, Education Requirements

Q22: How are applications received?

Applications are received primarily through the US mail as paper forms. Currently there is no ability for electronic submission. They are date stamped upon receipt and passed to Administrative Staff for preliminary review.

Q23: How are applications reviewed?

Administrative staff reviews for completeness, fee received, signatures and information. The operator contact is created, along with contact information, education, work experience, fee and any course credits are entered. For initial certification, the certification officer must evaluate past experience and often make a determination how much time the person is credited toward the experience requirement for past experience and or advanced education.

Q24: How are applications rejected?

Applications are rejected if no signature received for child support and tax standing, the fee not enclosed, and/or there is not enough education or work experience to fulfill requirements. Also, a letter from supervisor outlining knowledge and length of training at water system is required. Applications are not usually rejected but are put on hold awaiting fulfillment of requirements.

Q25: How are application rejections appealed?

Applications are rarely rejected and typically are put on hold until necessary information is acquired and applicant meets qualifications. In the unlikely event a rejection is issued the decision may be appealed as provided by 10 V.S.A. section 1680.

Q26: How are licenses/certifications/registrations issued?

Administrative staff issues certificate in data base and prepares cover letter for signature by Operator Certification manager and the Certificates for signature by DWGWPD Director. These are routed and obtained electronically. Once signed, administrative staff prints the letter and certificate and mails them to the Operator. The data base is updated and the Operator is added as contact to Water System once verified by the Water System usually by inclusion in an Official Contact Form or by email notification.

Q27: What is the average time to process license/certification/registration applications?

The required PEP time is 30 days or less upon receipt. During the height of an operator renewal period (April – August, during 2 out of every 3 years) the Division's goal is to complete the process within the required PEP time. When the Division not in the height of an operator renewal period, the average time to process an initial application which meets all requirements is about 1 week. This includes 2 hours for actual review and preparation of certification, 3 days for electronic routing and waiting for signatures and preparation for mailing is approximately 15 minutes.

Q28: Once issued, what is the duration of the license, certification, or registration for this occupation?

Each certificate valid for 3 years, based on the established renewal date.

Q29: Please describe the license, certification, or registration, renewal process and requirements therein.

All Class 2 & 4 and all Class 3 & D certificates expire in the same 3-year cycle, respectively. All certificates expire on June 30th of the last year in the cycle. As an example, all current Class 2 & 4 certificates must be renewed by 6/30/2017 and Class 3 & D must be renewed by 6/30/2019. Classes 1A & 1B also expire after 3 years, and expiration occurs on June 30th, three years after the certificate was issued. Renewal process: Administrative staff receives application with required fee (currently \$80 for 2,3,4 and D and \$45 for 1A/1B operators) and signatures; reviews and updates contact information and any Training Contact Hours (TCH) received (Class 2 needs 10 TCH, 3,4, D needs 20 TCH and 1B needs 3 TCH taken during the 3-year cycle); and updates any water system affiliation indicated by operator once verified by water system. The same procedure as for initial certification process then followed (prepare cover letter and certificate for electronic signature and route to individuals, prepare hard copy and mail). Any that do not meet the requirements for renewal are put on hold until they do or indicate withdrawal of application. If the outstanding information is not provided with 60 days of the renewal application deadline and the Division has not been able to make contact with the operator, the Division notifies the operator that the certification has been inactivated and the process necessary for reactivation.

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Q30: Please provide a citation to the standards of practice or codes of conduct for regulated persons in this occupation. These include any and all of the following: A) Statutes B) Rules C) Policies E) Other

Statute: 10 VSA Chapter 56, § 1674. Certification of water system operators. (b)(1) and (b)(2) Rules: Environmental Protection Rule Chapter 21 – Water Supply Rule. Subchapter 12 §12.4 Policies

Q31: Please describe the enforcement process for receiving and evaluating complaints.

Any complaints received by the Drinking Water and Groundwater Protection Division are reviewed by Division technical staff. Any that require further review and are unsubstantiated are referred to the Department of Environmental Conservation Compliance and Enforcement Division for investigation by an Environmental Enforcement Officer. Confirmed and documented violations are referred to the Agency of Natural Resources General Council for litigation.

Q32: Please describe the enforcement process for performing investigations.

Investigations are done by an Environmental Enforcement Officer within the the Department of Environmental Conservation Compliance and Enforcement.

Q33: Please describe the enforcement process for prosecutions.

The enforcement process is carried out by the Enforcement Division and prosecutions are done by the Agency of Natural Resources General Council.

Q34: Please describe the enforcement process for hearings.

An administrative hearing is provided before suspending or revoking an operator certification - 10 VSA Chapter 56, § 1674 (b)(1) & (b)(2)

Q35: Please describe the enforcement process for discipline.

Discipline is provided in the written decision issued after the administrative hearing.

Q36: Please describe the enforcement process for follow-up or monitoring of previously disciplined individuals.

There is no standard formal process. It depends on the situation and outcome of the administrative hearing process.

Q37: Please describe the average time to process complaints and disciplinary cases

The time involved varies case by case and could be quite lengthy considering the administrative process.

Q38: Please describe any inspection process relevant to this occupation.

The compliance with operator certification requirements by certified operators at public water systems is reviewed as part of the day to day work by DWGWPD staff

Q39: Regarding this occupation, please describe the annual average count of the following:

Complaints	2
Investigations	2
Prosecutions	1
Hearings	2
Cases Resulting in Disciplinary Action	2
Cases Resulting in Follow-up or Monitoring	1

PAGE 7: Act 156 of 2016: Professional Regulation Report**Q40: Please describe any systems, such as information technology systems, that are used to enable licensing, certification, registration, renewal, enforcement and inspection.**

The Safe Drinking Water Information System (SDWIS) is used to:

- Enable Operator certification and renewal of certification.
- Designation of certified operators to public water system where the operator is employed/contracted.
- Maintain information about certification status, testing, courses and technical credit hours necessary to meet the continuing education requirement for certification renewal.

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Q41: Please provide the number of full-time staff related to the regulation of this occupation, including job titles and duties.

1.75 FTE shared amongst 3-6 DWGWPD staff. – Day to day work operator certification is shared 4 full-time staff: Certification Officer (Class 2, 3, 4 & D operator Application); TNC Program Manager (Class 1A & 1B), Administration Supervisor and Program Services Clerk. The Compliance and Support Services Section Chief and the Compliance and Certification manager direct and carry out work related to the overall operator certification program development. The Program Services Clerk receives application, enters fee and all information in SDWIS database. Reviews application, determines if requirements are met and issues certificate. If not met, routes electronically to Operator Certification manager or TNC Program Manager depending on the class, for review. Progress is tracked using an Excel spreadsheet. The cover letter and certificate are routed electronically. A paper copy is prepared once electronically signed by the Division Director and mailed to the applicant. The SDWIS database is updated. All course information received is entered into SDWIS as well as updates on operator affiliations with water systems are entered into SDWIS. Exam participants are registered twice per year, scores are entered into SDWIS and letters with exam results are mailed to participant. The Administration Supervisor oversees above and verifies for completeness, accuracy and PEP times. The Certification Officer oversees day to day program, answers operator questions regarding requirements, approves courses, determines reciprocity, manages compliance of water systems and makes final determinations. The Certification Officer manages exams with assistance by the Compliance and Certification Officer in conducting exams and scoring Class 2 exams.

Q42: Please provide the number of part-time staff related to the regulation of this occupation, including job titles and duties.

None

PAGE 9: Act 156 of 2016: Professional Regulation Report**Q43: Please provide the following information:**

Average Annual Expenses	\$64,180 (Class 1A & 1B - \$21,000, Class 2,3,4&D - \$43,180)
Average Annual Revenues	\$50,560 ((Class 1A & 1B - \$10,900, Class 2,3,4&D - \$39,660)
Average Annual Fees Charged	\$47,060 (\$50560 minus \$3500 from income from payment for tests)

Q44: Please describe any recent or unexpected budget variations which may skew answers in the above question.

None

Q45: Please describe the fee structure associated with the regulation of this profession. This includes the following:A) The fee amount charged;B) How fee amounts are determined and set;C) The authority to establish those fees; andD) How revenues from fees are used, indicating the specific uses if those revenues are used for purposes other than regulating the profession.

A) \$80 for Class 2,3,4&D operator certification, \$45 for Class 1a and 1b operators B) Statute C) 3 VSA Chapter 51 Subchapter 2 § 2822. (j)(8) D) Revenues come back to the division.

Q46: Please describe any General Fund or Special Fund deposits

None

Q47: Please describe any appropriations from the General Fund

None

Q48: Please describe the qualifications of any supervisor responsible for the oversight of the agency's department's professional regulatory entity and whether that supervisor has the ability to veto or modify any decision by that professional regulatory entity.

There is no professional regulatory entity other than the DWGWPD which is overseen by the DEC Commissioner

Q49: Please provide any additional information you feel is relevant for the purpose of this report.

In moving the operator certification (Class 2,3,4, and D) program to the Office of Professional Regulation, there would be approximately \$43,000 less in expenses, which represents a saving of roughly 0.5 FTE in staff resources. In addition, salaried operators believe that OPR will add a measure of professionalism to the public water system operator profession. Problematic Issues for moving Drinking Water Operator Certification to OPR are the following:

EPA Requirements for Operator Certification – EPA requires a comprehensive Drinking Water Operator Certification program, without which the State of Vermont would lose 20% of its Drinking Water State Revolving Funds (roughly \$2.5 million). If the certification program went to OPR, the Division would still need to provide training, administer exams, and track operator compliance with the Water Supply Rule; that is, perform the bulk of the program required by EPA, all without benefit of the certification fee which would go to OPR. A further issue is the fees would essentially triple for operators, which OPR and not the DWGWPD would obtain. It is not clear what new benefits operators would receive from shifting the certification program to OPR, and there are concerns that operators, faced with the new higher fee and no increase of services, would rather leave their volunteer positions. Already facing a “silver tsunami” of retiring operators, having additional operators leave their systems would represent a major problem, as EPA requires each water system to have a certified operator or the state risks the 20% sanction. It is extremely difficult to find volunteers willing to serve as operators, which is why historically the Division has subsidized the program by providing administrative services.

Database Issues – Data flow is an issue that will need to be resolved if a certification is transferred to OPR. Daily electronic updates from OPR are needed, to know the appropriate person to deal with for immediate drinking water emergencies, operational issues, and violations. This would entail OPR's database to effectively communicate with our database. However, the national database (SDWIS) that the Division uses to report to EPA is undergoing massive changes, so any IT fix to deliver data from OPR to DEC would need to be dramatically re-configured in 2-3 years.

Management of Volunteer Operators – Under OPR, operators will need to manage their continuing education credits and yearly certification renewals. This is quite different from the current model. The majority of operators are actually volunteers and not paid municipal staff. The Drinking Water and Groundwater Protection Division has been closely managing operator training, tracking continuing education credits, evaluating the appropriateness of the education and experience of proposed new operators, and issuing both new and renewal certificates. Most operators have other employment, and while they have technical skills they have not necessarily been motivated to keep track of the administrative details behind their certification requirements. In summary, the OPR model for certification may not be a good fit for a program where a federal agency is overseeing the state's performance for the overall certification program. Currently, the challenges outweigh the benefits for the state overall, and for the certified operators in particular. Nevertheless, a consideration for potential transfer of the operator certification to OPR should be re-evaluated in 3 years' time, once SDWIS database transition has occurred. Ways to address the funding shortfalls would be examined before this re-evaluation and database needs would be more clearly known (and could also be implemented more efficiently if transfer to OPR occurs).

Q50: Thank You for completing this survey.

End