

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Vermont Pollution Abatement Facility Operator Rule

_____/s/ Julia S. Moore_____, on 4/27/21
 (signature) (date)

Printed Name and Title:
 Julia S. Moore
 Secretary, Agency of Natural Resources

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Vermont Pollution Abatement Facility Operator Rule

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P-001

3. ADOPTING AGENCY:

Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Amy Polaczyk

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Davis 3,
Montpelier, Vermont 05620-3520

Telephone: 802 490 - 6185 Fax: -

E-Mail: Amy.Polaczyk@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dec.vermont.gov/watershed/wastewater/rulemaking>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Katelyn Ellermann

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Davis 3,
Montpelier, Vermont 05620-3520

Telephone: 802 522 - 7125 Fax: -

E-Mail: Katelyn.Ellermann@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

10 V.S.A. § 1251a(a); 10 V.S.A. § 1263(d); 10 V.S.A. 1265(d)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Vermont Water Pollution Control Statute, 10 V.S.A. § 1251a(a), authorizes the Secretary to adopt rules necessary for the proper administration of the Secretary's water pollution control duties. In addition, 10 V.S.A. § 1263(d)(2) (discharge permits) specifically authorizes the Secretary to require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. Chapter 99 and to prescribe the class of license required. Finally, the Temporary Pollution Permit statute requires proper operation and maintenance of a pollution abatement facility as a condition of the permit. 10 V.S.A. § 1265(d).

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rule amendment reflects the transfer of pollution abatement facility operator licensing to the Office of Professional Regulation (OPR) (26 V.S.A. Chapter 99), updates the requirements for pollution abatement facility owners to employ licensed operators and adequate staff, and modifies and updates the pollution abatement facility classification. Most of the rule

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amendment is a complete reorganization and replacement of text, but only very targeted changes have been made to the facility classification.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule amendment is necessary to align the rule with the transfer of operator licensing to OPR, to incorporate guidelines for adequate staffing of pollution abatement facilities, and to update the pollution abatement facility classification, including to more accurately address indirect discharge systems.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

10 V.S.A. § 1263(d)(2) (discharge permits) specifically authorizes the Secretary to require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. Chapter 99 and to prescribe the class of license required. This rule amendment incorporates the facility classification, staffing, and operator experience and knowledge to support proper operation and maintenance of pollution abatement facilities.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Municipalities, pollution abatement facilities (including wastewater treatment facilities/publicly owned treatment works and indirect discharge systems), dairies, industries, Office of Professional Regulation, consulting firms, small businesses (contract wastewater operation services), individual pollution abatement facility operators and prospective operators.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rule amendment is unlikely to have a significant economic impact compared to the existing rule. Overall, the rule is understood to have a net positive impact by formalizing and providing guidelines on the requirement for adequate staffing of pollution abatement facilities and therefore helping to protect the state's receiving waters. The provisions regarding adequate staffing may have a limited effect on the number of individuals employed by a given pollution abatement facility. The rule amendment also clarifies when certain industrial dairy or metal facilities may employ a chief operator with a domestic-type license

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rather than an industrial-type license, potentially easing the recruitment and hiring burden for those facilities.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 3/9/2021

Time: 04:00 PM

Street Address: Virtual Hearing via Microsoft Teams with call-in option: meeting link at <https://dec.vermont.gov/watershed/wastewater/rulemaking>

Zip Code: Call in #: +1 802-828-7667; Conference ID #: 884 389 19#

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

3/23/2021

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Pollution Abatement

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Wastewater

Sewage

Wastewater treatment facility

WWTF

Publicly owned treatment works

POTW

Discharge

Indirect Discharge

Operator

License

NPDES

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Vermont Pollution Abatement Facility Operator Rule

2. ADOPTING AGENCY:

Agency of Natural Resources

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

#14-031, Wastewater Treatment Facility Operator Certification Rule, Effective 9/25/14

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: December 14, 2020, Microsoft Teams Virtual Meeting
Members Present: Chair Kristin Clouser, Dirk Anderson, Jennifer Mojo, John Kessler, Matt Langham, and Clare O'Shaughnessy
Members Absent: Diane Bothfeld and Ashley Berliner
Minutes By: Melissa Mazza-Paquette

- 2:03 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the November 9, 2020 meeting.
- Addition to agenda: Notice of an Emergency Rule supported by Chair Clouser on 12/8/20 titled 'Vermont Department of Taxes Emergency Rule on Hearing Procedure' provided by the Vermont Department of Taxes
 - Amended agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-4 to follow.
 1. Third Party Administrator Rule, Department of Financial Regulation, page 2
 2. Pollution Abatement Facility Operator Rule, Agency of Natural Resources, page 3
 3. Clean Water Service Provider Rule, Agency of Natural Resources, page 4
- Next scheduled meeting is January 11, 2021 at 2:00 p.m.
- 3:35 p.m. meeting adjourned.

**Proposed Rule: Pollution Abatement Facility Operator Rule, Agency of Natural Resources
Presented by Amy Polaczyk**

Motion made to accept the rule by John Kessler, seconded by Matt Langham, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Missing Adopting Page: Need to include.
2. Economic Impact Analysis, page 1, #3: Clarify the language to reflect overall costs and isolated circumstances.
3. Economic Impact Analysis and Environmental Impact Analysis, #9: Summarize the efforts made to identify the different interests and consideration factors, such as the stratification of the facilities.
4. Environmental Impact Analysis: Clarify improvements to define the outcome and explain what the analysis for the rule was.



Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Vermont Pollution Abatement Facility Operator Rule

2. ADOPTING AGENCY:

Agency of Natural Resources

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Municipalities, wastewater treatment facilities (including publicly operated treatment works), dairies, industries, Office of Professional Regulation, consulting firms, small businesses (contract wastewater operation services), individual pollution abatement facility operators and prospective operators.

Economic Impact Analysis

The nature of the changes proposed by this amendment will not have any general economic impacts, however, for a small number of facilities, the addition of adequate staffing guidelines may lead to additional staffing costs, and the provision around employing a domestic licensed operator at an industrial metal or dairy facility (with Secretary approval) may lead to minimal adjustments on staffing costs.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

The Rule amendment will not change the impact on public education, schools, school districts, or taxpayers.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A - this rule amendment does not change the impact on school districts.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

This Rule amendment is not anticipated to have a significant impact on small business, but the amendment does formalize an existing Agency practice allowing the Secretary to make a case-by-case determination that a facility with minimal treatment processes does not require a licensed operator and the amendment also clarifies when certain industrial dairy or metal facilities may employ a chief operator with a domestic-type license rather than an industrial-type license, potentially easing the recruitment and hiring burden.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Such an evaluation is not appropriate as this rule amendment does not change the cost of compliance with existing Agency rule.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The Rule has and will continue to have a net positive impact on the State by helping to ensure that the State's wastewater treatment facilities are operated and maintained properly and by encouraging individuals to get more education and training.

9. SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.

Having considered the range of affected parties, and the minor changes that may have a negligible impact on staffing of facilities, this economic analysis provides the Agency's best assessment of the economic impact of this rule amendment based on the information available.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Vermont Pollution Abatement Facility Operator Rule

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Agency of Natural Resources

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

This rule amendment will have a negligible impact the emission of greenhouse gases. There may be a minor reduction of transportation emissions based on certain industrial metal/dairy facilities being able to employ an operator with a domestic-type license and possibly shorter commute (§ 4-301(f)).

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

This rule amendment is expected to improve the classification, staffing, operation, and management of pollution abatement facilities, which has the potential to improve consistency of compliance with discharge permits and groundwater and surface water quality

Environmental Impact Analysis

standards, which are intended to protect the broad range of designated uses of groundwater and surface waters.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

This rule amendment is not expected to significantly impact land.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

This rule amendment is expected to improve the classification, staffing, operation, and management of pollution abatement facilities and therefore benefit receiving waters and water-based recreation in the state.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

This rule amendment is not expected to significantly impact the climate in the state.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

Having considered the potential benefits to water quality and water-based recreation from this rule, and the negligible changes with respect to other environmental considerations, this analysis provides the Agency's best assessment of the environmental impact of this rule amendment based on the information available.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Vermont Pollution Abatement Facility Operator Rule

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Public hearing

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Prior to filing with ICAR, the Agency shared a draft proposed rule with a group of pollution abatement facility operator stakeholders and received input; these individuals also worked on the previous (2014) amendment of this rule. The Agency also shared the draft and held a meeting with representatives of the Office of Professional Regulation.

The Agency sent targeted emails to representative stakeholders and held a public hearing for input during the public comment period.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Office of Professional Regulation;

All active wastewater operators;

Public Input

All municipalities with wastewater treatment facilities;

All industries permitted and required to employ licensed operators;

Businesses, consulting firms, and individuals providing contracted services to a permitted facility required to be operated by licensed operators;

Organizations (interested parties) may include: Green Mountain Water Environment Association (GMWEA), Vermont Rural Water Association (VRWA), New England Interstate Water Pollution Control Commission (NEIWPC), US Environmental Protection Agency (US EPA), New England Water Environment Association (NEWEA), New England Water Works Association (NEWWA), Vermont League of Cities and Towns (VLCT), and Earth Water Specialists (EWS).

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ENVIRONMENTAL PROTECTION RULE, CHAPTER 4
WASTEWATER TREATMENT FACILITY

Operator Certification Rule
Effective Date 09/25/2014

Section 1. ~~Authority, Purpose, and Applicability~~

~~Sections 1263 and 1265 of Title 10 of the Vermont Statutes (10 V.S.A. §§ 1263 and 1265) provide that any permit for the discharge of waste into the waters of the State shall require proper operation and maintenance of the wastewater treatment facility in the treatment or processing of waste by qualified personnel in accordance with standards established by the Secretary. The Secretary has delegated this responsibility to the Commissioner of Environmental Conservation. This Rule is established to provide minimum standards of experience and knowledge required of chief operators, assistant chief operators, and operators of wastewater treatment facilities. A certified operator shall be present at a treatment facility when any operational activity is being undertaken. This Rule is applicable to any state agency regulating activity which requires a certified wastewater treatment facility operator.~~

Section 2. ~~Definitions~~

~~Advisory Board means a group of individuals appointed by the Commissioner to advise the Commissioner on addressing wastewater operator certification issues including regulatory and policy revisions, training requirements, determinations of training contact hours, application and examination reviews, and reciprocities.~~

~~Assistant chief operator means the person who performs operations duties under the supervision of the chief operator and makes operational decisions in the absence of the chief operator.~~

~~Biological wastewater treatment means the process by which metabolic activities of bacteria and other microorganisms break down complex organic materials into simple, more stable substances.~~

~~Certificate means an official document issued by the Commissioner or delegated authority, stating the operator named therein has met the minimum requirements for the classification of wastewater treatment facility specified therein.~~

~~Chief operator means an individual designated by the owner to be the certified operator who makes the process control decisions that directly impact the quality or quantity, or both, of wastewater.~~

~~Commissioner means the Commissioner of the Department of Environmental Conservation.~~

~~Continuing Education Unit (CEU) means a certain number of training contact hours. Some seminars, workshops, training courses, and college courses have official CEU values. 1.0 CEU = 10 Training Contact Hours (TCH).~~

~~Contract operations means the operation, management, and/or maintenance of a wastewater treatment facility by someone under contract or agreement other than the owner of the facility.~~

~~Department means the Vermont Department of Environmental Conservation.~~

~~Design flow means the design capacity of the wastewater treatment facility.~~

~~Direct responsible charge for a chief operator means experience as an on-site daily supervisor of the operation of a wastewater treatment facility. The person has responsibility for, without limitation, all process and control direction. Operation of individual process units alone does not constitute direct responsible charge experience.~~

~~Domestic wastewater means wastewater discharges from residences or from employee or public washrooms in institutions, businesses, or industrial establishments.~~

~~Educational substitution (in place of wastewater experience) means college level courses resulting in a degree relating to wastewater treatment.~~

~~General Equivalency Diploma (GED) means a diploma obtained by passing a general educational development test or its equivalent as recognized by the issuing state board of education.~~

~~In the field means employment at a wastewater treatment facility or employment which is directly related to the operation of a wastewater treatment facility.~~

~~Inactive means the status of a certificate due to operator retirement or certificate expiration.~~

~~Industrial wastewater means wastewater, other than domestic, discharged from institutions, businesses, or industrial establishments that is amenable to treatment by means of biological, mechanical, or chemical wastewater treatment.~~

~~Operational activity means an activity which directly affects the operations of the wastewater treatment facility (e.g. adjusting valves, performing process control tests, increasing aeration rates, etc.)~~

~~Operator means a person whose principal function (greater than 50% of working time) is operating process equipment/valves, etc., at a facility or performing laboratory testing and who is not a chief operator or assistant chief operator. An operator works under the direct supervision of a chief operator or assistant chief operator. Persons whose principal duty is maintenance or truck driving are not operators.~~

~~Owner means the discharge permit holder who is legally responsible for the operation of the wastewater treatment facility.~~

~~**Reciprocity** means the certification of an individual who has successfully complied with wastewater operator certification requirements in another state which are equivalent to certification standards in Vermont, as determined by the Commissioner or delegated authority.~~

~~**Satisfactory evidence** means certified copies of official transcripts, diplomas, course descriptions, or other documentation acceptable to the Commissioner or delegated authority.~~

~~**Training Contact Hour (TCH)** means one hour of instruction, approved by the Commissioner or delegated authority, on a topic related to wastewater treatment facility operation. 10 TCHs = 1.0 CEU.~~

~~**Wastewater treatment facility** means a pollution abatement facility permitted by the Department for the purpose of treating domestic sewage or industrial wastewaters, or both.~~

Section 3. General Policy and Requirements for Owners of Wastewater Treatment Facilities

~~(a) Owners of wastewater treatment facilities that have discharge permits issued pursuant to 10 V.S.A. §§ 1263 or 1265 or a permit or certificate of compliance issued pursuant to 10 V.S.A. § 1973¹, when such a permit or certificate requires facility operation by certified operators, shall employ chief operators, assistant chief operators, and/or operators who hold valid certifications of the grade and/or industrial type as required herein. Chief operators of wastewater treatment facilities are required to hold a certificate in the numerical grade and/or industrial type equal to the numerical class of the facility at which they are employed. Assistant chief operators of wastewater facilities are required to hold a certificate not more than two grades and/or industrial types below the numerical class of the facility at which they are employed. Employees of businesses that provide contract operations services shall be certified in accordance with this Rule.~~

~~(b) Each wastewater treatment facility must have adequate staffing by certified operators to ensure proper operations and maintenance of the facility.~~

~~(c) The owner of a wastewater treatment facility shall require each chief operator, assistant chief operator, and operator to prominently display his or her wastewater operator certificate in the office of the wastewater treatment facility.~~

Section 4. Certificate Grades and Basic Requirements

~~(a) Operator certificates will be graded in accordance with the facility type, complexity, and design flow of facilities as classified by the Department under Section 7.~~

~~(b) Applicants for all certifications shall be able to read and write the English language and have a high school diploma, General Equivalency Diploma (GED), or equivalent.~~

¹The permitting requirements of 10 V.S.A. §§ 1218 and 1303 were transferred to 10 V.S.A. § 1973. Facilities covered by such permits, which require facility operation by certified operators, must also comply with this Rule.

~~(c) Each certificate grade shall require a certain amount of relevant experience outlined in Table 1 below. Education may be substituted for experience for up to one half of the experience requirement established in the table below. All education to be substituted for experience must be documented by a technical school completion certificate or college degree accompanied by a transcript detailing the courses completed; equivalent documented training and education provided by the military shall also be considered. All course work resulting in a degree must be in a water quality related field. Examples include biology, chemical engineering, chemistry, civil engineering, environmental engineering, public health engineering, and sanitary engineering. All requests for educational substitution shall be reviewed by the Commissioner or delegated authority.~~

~~A list of certificates and degrees and the amount of education that may be substituted for experience is as follows:~~

<u>Type of Degree or Certificate</u>	<u>Educational Substitution</u>
Technical school or college certificate	up to 6 months
Two year associate's degree	up to 1 year
Four year bachelor's degree	up to 2 years
Master's degree	up to 3 years

~~(d) Chief operators of wastewater treatment facilities are required to hold a certificate in the numerical grade and/or industrial type equal to the numerical class of the facility at which they are employed. Assistant chief operators of wastewater treatment facilities are required to hold a certificate not more than two grades below the numerical class and/or industrial type of the facility at which they are employed.~~

TABLE 1

Wastewater Treatment Facility Classification	Successful completion of wastewater operator certification exam	Experience in the operation of a wastewater treatment facility
I Domestic or Industrial	Grade 1	2 years
II Domestic or Industrial	Grade 2	2 years
III Domestic	Grade 3	3 years
IV Domestic or Industrial	Grade 4	4 years
V Domestic	Grade 5	5 years

Section 5. General Procedure

~~(a) Application filing. An applicant for a wastewater operator certificate or certificate renewal shall file an application on a form approved by the Department and pay applicable fees as set by 3 V.S.A. § 2822(j)(14).~~

~~(b) Application review. The Commissioner or delegated authority shall review an applicant's application and supporting documents to determine whether or not the applicant~~

possesses the requirements provided herein for the grade applied for, and the Commissioner or delegated authority shall notify the applicant of the application status in writing.

(e) First time applicants. First time applicants for certification must be employed as an operator, assistant chief operator, or chief operator at a wastewater treatment facility in Vermont at the time of application. The Commissioner or delegated authority shall consider relevant military experience.

(d) Certification examinations. Examinations shall properly reflect the knowledge and ability required of the various facility classifications. The Department shall conduct certification examinations at such times and places as they may find necessary, but not less than once annually. Applicants will be notified of the results. Anyone may take an exam when offered regardless of experience, training, and employment.

(e) Retaking the examination. Applicants who do not obtain a passing grade on a certification examination may be retested at the next scheduled examination.

(f) Reciprocity. The Commissioner or delegated authority may waive examination for applicants holding valid certificates issued by other states which the Department determines have equivalent certification standards, but reciprocity shall not be granted at the highest grade for each category, except upon examination. Applicants' job description and experience in the wastewater field will be considered. Applicants will be notified in writing of the Department's determination for certification. If the applicant is a service member, veteran, or military spouse, the applicant shall be notified within 60 days of the receipt of a complete application of the Department's determination.

(g) Waiver of certification. The Commissioner or delegated authority may waive the requirement for a certified chief operator, assistant chief operator, or operator based on the lack of complexity of the operation of the facility involved.

(h) Emergency situations. In emergency situations the Commissioner or delegated authority reserves the right to, on a case by case basis, suspend the certification requirement for a chief operator, assistant chief operator, or operator for up to one year. A wastewater treatment facility must provide sufficient evidence to the Department that an emergency exists at the facility and that a suspension of the certification requirement for a particular employee or employees is the only means by which the facility can continue to ~~safely~~ operate.

Section 6. Issuance of Certificates

(a) Upon satisfactory fulfillment of the requirements provided herein, the Commissioner or delegated authority shall issue a suitable certificate. Each certificate for domestic and/or industrial facility operators shall state the grade and type for which the applicant is certified.

(b) Provisional Certificates

(i) For individuals new to the wastewater field, which do not meet the minimum requirements for full certification, the Commissioner or delegated authority may issue a provisional certificate. The applicant must meet the requirements of Section 4(b) and be currently employed at a Vermont wastewater treatment facility. First time applicants for

~~Domestic or Industrial Grade 3, 4, or 5 provisional certificates must also have experience in the wastewater field for a minimum of one, two, or three years respectively.~~

~~(ii) A provisional certificate shall be valid only for the period of time, not to exceed two years, necessary for the applicant to acquire the training required, as shown in the following table, and to qualify for a full certificate valid for the facility. In the event the requirements for approved training and for full certificate are not met within two years, the provisional certificate will terminate and will not be reissued.~~

~~TABLE 2
TRAINING REQUIREMENTS FOR PROVISIONALS~~

Grade I	10 hours
Grade II	12 hours
Grade III	15 hours
Grade IV	15 hours
Grade V	20 hours

~~(iii) Applicants holding provisional certificates must present evidence to the Department that demonstrates they have completed at least the above hours of training, have the requisite years of experience, and have successfully passed the certification examination in order to be eligible for a full certificate. Such pre-approved training must relate directly to the field of wastewater treatment operations and be verified by a signed affidavit.~~

~~(iv) The granting of a provisional certificate shall not be a defense for improper operation and maintenance of any wastewater treatment facility or equipment or for non-compliance with the terms and conditions of a permit issued pursuant to 10 V.S.A. §§ 1263 or 1265 or a permit or certificate of compliance issued pursuant to 10 V.S.A. § 1973², when such a permit or certificate requires facility operation by certified operators.~~

~~(e) Full Certificates and Full Certificate Renewal~~

~~(i) Once granted, full certificates shall continue in effect for a period of five years after July 1 of the year in which issued or renewed, unless upgraded or revoked prior to that time. Operators may apply for renewal 60 days prior to the expiration date of the certificate. The Commissioner or delegated authority shall review the application and promptly notify the applicant of any deficiencies. If the application is complete and the renewal requirements fulfilled, the Commissioner or delegated authority shall issue a renewed certificate.~~

~~(ii) Applicants for renewal shall present evidence to the Department that demonstrates the completion of approved training hours in amounts indicated in the table below. Within the five years preceding the application for renewal, the following number of completed hours is the minimum required to qualify the applicant for renewal:~~

²—The permitting requirements of 18 V.S.A. §§ 1218 and 1303 were transferred to 10 V.S.A. § 1973. Facilities covered by such permits, which require facility operation by certified operators, must also comply with this Rule.

TABLE 3
RENEWAL TRAINING REQUIREMENTS

	<u>Domestic</u>	<u>Industrial</u>	
Grade I	———20 hours	Grade I	———10 hours
Grade II	———25 hours	Grade II	———15 hours
Grade III	———30 hours	Grade IV	———30 hours
Grade IV	———30 hours		
Grade V	———40 hours		

~~All courses to be used for renewal training must be pre-approved by the Commissioner or delegated authority. Such pre-approved training must relate directly to the field of wastewater treatment operations and be verified by a signed affidavit. Wastewater-related training obtained through on-line or webinar courses shall not exceed 50% of the total renewal training hours required.~~

~~The Department assumes no responsibility to provide any training in conjunction with these training requirements.~~

~~(iii) Any wastewater operator who fails to renew their certificate within 60 days of the certificate expiration due to the lack of training, must pass a retest of a level at least equal to the level of the previously unrenewed certificate and meet the training requirements. Any reissued certificate shall terminate on the same date as would have occurred had the certificate been originally renewed. All holders of unrenewed certificates are not eligible for provisional certification.~~

~~(iv) Fully certified operators not able to meet training requirements within 60 days of the certificate's expiration may opt to downgrade their certificate to a level based on conformance with training requirements and subject to all other provisions of this Rule. Any upward change will require examination.~~

~~(d) The Department may revoke a certificate if it finds that the certificate was obtained through fraud or deceit, or evidence is presented indicating the certificate holder knowingly provided fraudulent information on any documents, reports, and communications regarding the operation of the facility submitted to the Department.~~

~~(e) If any applicant or operator is aggrieved by the decision of the Commissioner or delegated authority, the applicant or operator may request, in writing, a review of the decision by the Secretary of Natural Resources. The Secretary may call a hearing within 10 days and shall render a decision within 30 days of the written request for review. Pursuant to 10 V.S.A. § 1269, the applicant or operator may appeal the decision of the Secretary to the Environmental Division of the Vermont Superior Court in accordance with 10 V.S.A. chapter 220.~~

~~Section 7. Facility Classification~~

~~Each facility classification rating shall be established by evaluating the facility's treatment process and design capacity in accordance with Appendix A.~~

Section 8. Status of Existing Certificates

- ~~(a) Effective on the date this Rule is adopted, the 1985 Water Pollution Abatement Facility Operator Certification Regulations are superseded.~~
- ~~(b) Certificates issued under the 1985 Regulations will continue in effect under this Rule, but will lapse as they are replaced by certificates issued under this Rule:~~
- ~~(c) All persons employed as chief operators, assistant chief operators, and operators in Vermont on the effective date of this Rule, holding a full certificate (not provisional) under the 1985 Regulations, will be issued new certificates upon renewal. The certificates will be valid for a period as provided in Section 6(e)(i):~~
- ~~(d) All persons employed as chief operators holding a full certificate on the effective date of this Rule for which the certificate grade does not meet the facility class calculated in accordance with Section 7, shall be grandfathered at the employing facility. Such grandfathered certifications shall lapse upon departure from the employing facility unless examination at the grade is successful.~~
- ~~(e) All persons employed as assistant chief operators holding a full certificate on the effective date of this Rule that do not meet the facility class calculated in accordance with Section 7, shall be granted a two-year grace period to successfully complete the examination for certification.~~
- ~~(f) All chief operators, assistant chief operators, and operators who had been fully certified under the 1985 Regulations but were not employed as such in Vermont on the effective date of this Rule, upon application, shall be issued a new certificate of the same grade as the one previously held, if they become re-employed at a Vermont wastewater treatment facility within five years of the effective date of this Rule and have met the renewal training requirement. Any such reissued certificates shall expire on July 1 five years from the year in which this Rule becomes effective.~~
- ~~(g) All operators holding provisional certification under the 1985 Regulations will not be issued new certificates under this Rule, but may apply for full certification once examination, experience, and training requirements are met. Training requirements under the 1985 Regulations shall apply to these applicants.~~

Appendix A

(a) ~~Wastewater treatment facilities will be classified as follows:~~

Subchapter 4. POLLUTION ABATEMENT FACILITY CLASSIFICATION

(a) The classification of a pollution abatement facility shall be determined using the following steps:

(1) Identify which of the following facility types the facility is:

- (A) domestic wastewater treatment facility;
- (B) domestic indirect discharge system;
- (C) industrial dairy;
- (D) industrial metal; or
- (E) industrial paper.

(2) Calculate the total points for the facility using the point system in Table B by adding the points from each category applicable to the facility, taking into account that the points for a single category shall not be above the maximum total points for the category regardless of the actual point sum for the category.

(3) Identify the facility type and numerical grade associated with the facility in Table A by using the facility type identified from Subsection (a)(1) and the point total from Subsection (a)(2).

Table A
Pollution Abatement Facility Classification by Facility Type and Numerical Grade
Classification Rating by Range of Points

<u>Facility Types:</u>	<u>Numerical Grades:</u>				
	<u>Grade I</u>	<u>Grade II</u>	<u>Grade III</u>	<u>Grade IV</u>	<u>Grade V</u>
<u>Domestic Wastewater Treatment Facility</u>	0-50	51-90	91-120	121-150	151+
<u>Domestic Indirect Discharge System</u>	<u>0-50</u>	<u>51-90</u>	<u>91-120</u>	<u>121+</u>	<u>n/a</u>
<u>Industrial Paper</u>	<u>0-50</u>	<u>51-105</u>	<u>n/a</u>	<u>106-151+</u>	<u>n/a</u>
<u>Industrial Dairy</u>	<u>10-50¹</u>	<u>51-105</u>	<u>n/a</u>	<u>106-151+</u>	<u>n/a</u>
<u>Industrial Metal</u>	<u>10-50¹</u>	<u>51-105</u>	<u>n/a</u>	<u>106-151+</u>	<u>n/a</u>

¹ NOTE: On a case by case basis for Grade I Industrial Dairy and Grade I Industrial Metal facilities with a point total of 12 or less, the Department may make a permitting determination that the facility's treatment components are so simple as to not require operation by a licensed operator. In all other cases, the discharge permit for a facility classified as Grade I or above will require operation by a licensed operator.

Category _____ **Points**

Table B: Point System for Pollution Abatement Facility Classification by Permitted Flow and Treatment Components

<u>Permitted Flow (gallons per day (gpd))</u>	<u>Points</u>
<u>Less than 10,000</u>	<u>1</u>
<u>10,000 to 50,000</u>	<u>2</u>
<u>50,001 to 100,000</u>	<u>4</u>
<u>100,001 to 500,000</u>	<u>9</u>
<u>500,001 to 1,000,000</u>	<u>12</u>
<u>1,000,001 to 5,000,000</u>	<u>16</u>
<u>5,000,001 to 10,000,000</u>	<u>20</u>
<u>Greater than 10,000,000</u>	<u>25</u>
<u>Maximum Points for Category</u>	<u>30</u>

<u>Preliminary Treatment</u>	<u>Points</u>
Influent / primary pump / sewage pump (on-site).....	1
Pump stations (off-site) less than 10.....	1
Pump stations (off-site) 10 or more	2
Grit collection / removal.....	2
Comminutor / grinder.....	1
Coarse screen automatic / fine or micro-screen automatic.....	2
Septage receiving (sophistication)	2
Flow equalization basin(s).....	2
Imhoff tank / other predigestion / sedimentation.....	1
<u>Maximum Points for Category:</u>	10

<u>Primary Treatment</u>	<u>Points</u>
Primary settling tank(s).....	1
Primary clarifiers.....	2
Primary clarifiers with chemical addition.....	3
Receives external industrial waste that requires a pretreatment permit.....	2
<u>Metals Precipitation</u>	<u>5</u>
<u>Maximum Points for Category:</u>	<u>85</u>

<u>Category</u>	<u>Points</u>
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<u>Secondary Treatment</u>	<u>Points</u>
Extended Aeration (EA).....	20
Conventional Activated Sludge (AS).....	20
with pure oxygen (add points).....	5
Oxidation ditch or closed loop reactor.....	10
Aerated Lagoon(s)(AL).....	5
Sequencing Batch Reactor(s) (SBR), other batch treatment	20
Rotating Biological Contactor(s) (RBC).....	20
Chemical addition non-nutrient related (2 points each chemical added/max 10).....	10
Secondary clarifiers.....	5
pH adjustment / control	5
Trickling Filter.....	5
Maximum Points for Category:	4035

<u>Advanced Treatment</u>	<u>Points</u>
<u>Sand filter / recirculating sand filter</u>	<u>5</u>
<u>Sand filter multi-media / recirculating filter</u>	<u>5</u>
<u>Membrane (or cloth) filtration</u>	<u>5</u>
<u>Chemical phosphorus removal</u>	<u>10</u>
<u>Biological phosphorus removal</u>	<u>10</u>
<u>Nitrification (permit required)</u>	<u>5</u>
<u>Denitrification (permit required)</u>	<u>5</u>
<u>Computer based control system for the facility (SCADA or DCS)*</u>	<u>5</u>
<u>Reverse osmosis / electro dialysis</u>	<u>5</u>
<u>Sprayfield Operation / Disposal followed by direct discharge</u>	<u>5</u>
<u>Membrane BioReactor (MBR)</u>	<u>10</u>
<u>Moving Bed BioReactor (MBBR)</u>	<u>10</u>
Maximum Points for Category:	50

<u>Disinfection</u>	<u>Points</u>
Chlorination.....	5
Dechlorination.....	5
Ultra-violet (UV) disinfection	10
Maximum Points for Category:	10

<u>Advanced Treatment</u>	<u>Points</u>
<u>Sand filter</u>	<u>5</u>
<u>Sand filter multi-media</u>	<u>5</u>
<u>Membrane (or cloth) filtration</u>	<u>5</u>
<u>Chemical phosphorus removal</u>	<u>10</u>
<u>Biological phosphorus removal</u>	<u>10</u>
<u>Nitrification (permit required)</u>	<u>5</u>
<u>Denitrification (permit required)</u>	<u>5</u>
<u>Computer based control system for the facility (SCADA or DCS)*</u>	<u>5</u>
<u>Reverse osmosis / electro dialysis</u>	<u>5</u>
<u>Sprayfield Operation / Disposal</u>	<u>5</u>

Maximum Points: 50

* SCADA = Supervisory Control And Data Acquisition

* DCS = Distributive Control System

<u>Solids Handling, Sludge Processing and Management</u>	<u>Points</u>
Sludge holding tank / decanting tank.....	2
Sludge concentrator mechanical.....	3
Sludge gravity thickener basin.....	3
Sand drying beds.....	1
Digester (aerobic).....	5
Digester (anaerobic).....	10
Dissolved Air Floatation (DAF).....	10
Belt filter press / plate & frame / vac filter.....	10
<u>Electrical generation using digester gas</u>	<u>10</u>
Centrifuge.....	10
Rotary press.....	10
Lime stabilization.....	3
Two-stage digestion, ATAD.....	10
Maximum Points <u>for Category:</u>	25

<u>Category</u>	<u>Points</u>
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<u>Biosolids Management</u>	<u>Points</u>
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Composting / Heat drying.....	10
Land application.....	10
<u>Maximum Points for Category:</u>	<u>10</u>

<u>Design Capacity (gallons per day (gpd))</u>	<u>Points</u>
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Less than 10,000.....	1
10,000 to 50,000.....	2
50,001 to 100,000.....	4
100,001 to 500,000.....	9
500,001 to 1,000,000.....	12
1,000,001 to 5,000,000.....	16
5,000,001 to 10,000,000.....	20
Greater than 10,000,000.....	25
Indirect discharge or high strength waste disposal (in addition to above gpd).....	5
<u>Maximum Points:</u>	<u>30</u>

<u>Odor Control</u>	<u>Points</u>
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Odor control, site (scrubber / carbon)	10
Site odor control (biofilter).....	10
Other odor control (chemical, bacteria, spray).....	2
<u>Maximum Points for Category:</u>	<u>10</u>

<u>Laboratory Controls (analysis performed by plant personnel)</u>	<u>Points</u>
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Basic laboratory (pH, chlorine, settleable solids, temperature, dissolved oxygen, etc.).....	2
Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), or <i>Escherichia coli</i> bacteria (<i>E. Coli</i>) (4 points each with max. of 10)..	10
Phosphorus, Total Kjeldahl Nitrogen (TKN), or other nutrients (4 points each with max of 10 points).....	10
Advanced metals.....	10
Microscope ID.....	5
<u>Maximum Points for Category:</u>	<u>25</u>

<u>Final Treatment and Disposal (applicable only to Indirect Discharge Facilities)</u>	<u>Points</u>
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<u>Treated Effluent Storage</u>	<u>5</u>
<u>Sprayfield, each</u>	<u>5</u>
<u>Leachfield, each</u>	<u>5</u>
<u>Water Reuse</u>	<u>10</u>
<u>Maximum Points for Category</u>	<u>20</u>

<u>Other</u>	<u>Points</u>
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Emergency power (entire plant).....	10
Emergency power (partial plant).....	5
Multi-permit.....	5

Maximum Points for Category: 15

~~TOTAL MAXIMUM POINTS: 215~~

* ~~SCADA = Supervisory Control And Data Acquisition~~

* ~~DCS = Distributive Control System~~

(b) Definitions

~~Biochemical Oxygen Demand (BOD) means the amount of oxygen utilized by bacteria in the biochemical oxidation of organic matter over five days.~~

~~Biological wastewater treatment means the process by which metabolic activities of bacteria and other microorganisms break down complex organic materials into simple, more stable substances.~~

~~Chemical Precipitation as used in Section 7 means a method of wastewater treatment utilizing chemicals for flocculation and may include precipitation. Addition of these chemicals is specifically designed to remove Biochemical Oxygen Demand (BOD), suspended solids (SS), Chemical Oxygen Demand (COD), phosphorus, heavy metals or other deleterious constituents of wastewater and as distinguished from chemical addition to enhance sludge dewatering capabilities or to disinfect wastes.~~

~~Design flow means the design hydraulic capacity of the wastewater treatment facility.~~

~~Domestic wastewater means wastewater discharged from residences or from employee or public washrooms in institutions, businesses, or industrial establishments.~~

~~Industrial wastewater means wastewater, other than domestic wastewater, discharged from institutions, businesses, or industrial establishments that is amenable to treatment by means of biological wastewater treatment.~~

~~Wastewater treatment facility means a pollution abatement facility permitted by the Department for the purpose of treating domestic sewage or industrial wastewaters, or both.~~

(c)(a) ~~The Department may, after considering the advice of the Advisory Board, modify the wastewater facility classification rating system.~~

Clear
Text

ENVIRONMENTAL PROTECTION RULE

CHAPTER 4

**POLLUTION ABATEMENT FACILITY
OPERATOR RULE**

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Adopted [DATE]; Effective [DATE]

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Subchapter 1. GENERAL PROVISIONS

§ 4-101. PURPOSE

This Rule is intended to protect public health and the environment by establishing personnel requirements for the operation of pollution abatement facilities in the State of Vermont, to be implemented in conjunction with the “Administrative Rules for Pollution Abatement Facility Operators” established by the Office of Professional Regulation pursuant to 26 V.S.A. Chapter 99 (the OPR Rule).

§ 4-102. AUTHORITY

(a) This Rule is adopted pursuant to the Vermont Water Pollution Control Statute, 10 V.S.A. Chapter 47, in particular §§ 1251a(a), 1263(d), and 1265(d), to require proper operation and maintenance of pollution abatement facilities.

(b) 26 V.S.A. Chapter 99 sets forth prohibitions and exceptions, license application procedure, license renewal, license fee, and conduct requirements for pollution abatement facility operators. Pursuant to 26 V.S.A. Chapter 99, the Director of the Office of Professional Regulation conducts operator licensing and has adopted the OPR Rule to provide minimum standards of experience and knowledge required of each grade of pollution abatement facility operators.

(c) This Rule establishes the pollution abatement facility classification to which the OPR Rule’s license types and grades correspond. The owner of a pollution abatement facility is responsible for compliance with this Rule.

Subchapter 2. DEFINITIONS

§ 4-201. DEFINITIONS

As used in this Rule, the following terms shall have the specified meaning. If a term is not defined, it shall have its common meaning.

- (1) “Agency” means the Vermont Agency of Natural Resources.
- (2) “Assistant chief operator” means the person who performs operations duties under the supervision of the chief operator and makes operational decisions in the absence of the chief operator.
- (3) “Chief operator” means an individual designated by the owner to be the licensed operator who makes the process control decisions that directly impact the quality or quantity, or both, of wastewater.
- (4) “Commissioner” means the Commissioner of the Vermont Department of Environmental Conservation.

- (5) “Department” means the Vermont Department of Environmental Conservation.
- (6) “Director” means the Director of the Vermont Office of Professional Regulation.
- (7) “Domestic wastewater” means wastewater discharges from residences or from employee or public washrooms in institutions, businesses, or industrial establishments.
- (8) “Emergency Situation” means a situation that poses an immediate risk to health, life, property, or the environment.
- (9) “Indirect Discharge System,” for the purposes of this Rule, means a pollution abatement facility that engages in the indirect discharge of waste and is issued a discharge permit pursuant to the Indirect Discharge Rules (Environmental Protection Rules, Chapter 14), as they may from time to time be modified or retitled.
- (10) “Industrial wastewater” means wastewater, other than domestic, discharged from institutions, businesses, or industrial establishments that is amenable to treatment by means of biological, mechanical, or chemical wastewater treatment.
- (11) “License” means a current authorization granted by the Director pursuant to 26 V.S.A. Chapter 99 and the OPR Rule permitting the practice of pollution abatement facility operation.
- (12) “Operational change” means an activity which directly affects the operations of the wastewater treatment facility (e.g. adjusting valves, increasing aeration rates, etc.)
- (13) “OPR Rule” means the “Administrative Rules for Pollution Abatement Facility Operators,” established by the Secretary of State Office of Professional Regulation, as they may from time to time be modified or retitled.
- (14) “Owner” means the discharge permit holder who is legally responsible for the operation of the pollution abatement facility.
- (15) “Permit,” when used as a noun, means an authorization by the Agency of Natural Resources to operate a pollution abatement facility.
- (16) “Pollution Abatement Facility” means a facility regulated pursuant to 10 V.S.A. § 1263.
- (17) “Pollution Abatement Facility Operator”, “Operator” or “Licensed Operator” means a person holding a valid license to engage in the practice of pollution abatement facility operation.
- (18) “Practice of pollution abatement facility operation” means the operation and maintenance of a facility regulated under 10 V.S.A. § 1263 by a person required by the

terms of a permit to hold particular credentials, including those of an “operator,” “assistant chief operator,” or “chief operator.”

- (19) “Provisionally Licensed Operator” means a person who holds a provisional license consistent with the OPR Rule.
- (20) “Secretary” means the Secretary of the Vermont Agency of Natural Resources.
- (21) “Wastewater treatment facility,” for the purposes of this Rule, means a pollution abatement facility that is issued a discharge permit pursuant to the Water Pollution Control Permit Regulations (Environmental Protection Rules, Chapter 13), as they may from time to time be modified or retitled, to allow for the treatment of domestic or industrial wastewaters, or both, and the discharge of resulting effluent directly or indirectly to state waters.

Subchapter 3. GENERAL REQUIREMENTS FOR POLLUTION ABATEMENT FACILITY OWNERS

§ 4-301. FACILITY OPERATION BY LICENSED OPERATOR

(a) An owner of a pollution abatement facility with a discharge permit issued pursuant to 10 V.S.A. §§ 1263 or 1265, when such permit requires facility operation by licensed operator(s), shall employ licensed operators, including a chief operator for any wastewater treatment facility and a chief operator for any indirect discharge system where the indirect discharge permit requires a chief operator.

Note: Operators employed by businesses providing contract operations services to pollution abatement facilities shall be licensed in accordance with this Rule and the OPR Rule as if such operators were employed directly by the owner of the pollution abatement facility at which such services are provided.

(b) Notwithstanding Subsection (a), a permit issued pursuant to 10 V.S.A. §§ 1263 or 1265 that requires facility operation by licensed operator(s) may allow the Commissioner or delegated authority, on a case-by-case basis in emergency situations, to waive the licensed operator requirement for up to one year. To allow such waiver, the owner of the pollution abatement facility must provide evidence satisfactory to the Department that an emergency exists at the facility and that a suspension of the licensed operator requirement is the only means by which the facility can continue to safely operate.

(c) Except as otherwise provided in this Rule, chief operators of pollution abatement facilities are required to hold a license in the numerical grade and facility type equal to the numerical grade and facility type of the pollution abatement facility at which they are employed.

(d) Assistant chief operators of pollution abatement facilities are required to hold a license

not more than two numerical grades below the numerical grade of the pollution abatement facility at which they are employed. Assistant chief operators of pollution abatement facilities are required to hold a license in the facility type equal to the facility type of the pollution abatement facility at which they are employed.

(e) Notwithstanding Subsection (c), in the event of the chief operator leaving a pollution abatement facility, the assistant chief operator or an experienced operator with adequate knowledge of that specific facility may act as chief operator for a maximum of 6 months without obtaining the license required to become chief operator.

(f) Notwithstanding Subsection (c), for a pollution abatement facility that is industrial dairy or industrial metal, the Department may approve in writing the employment of a chief operator with a domestic-type license, provided that:

(1) The proposed operator holds a license in the numerical grade equal to or greater than the numerical grade of the facility; and

(2) The Secretary finds that:

(A) the facility is primarily engaged in the manufacturing of non-dairy food and beverages, which may include beer, distilled spirits, soy products, and fermented beverages;

(B) the facility treats wastewater using biological processes similar to those used at a domestic wastewater treatment facility (e.g., Activated sludge, bioreactors, etc); or

(C) an operator with a license equivalent to the facility type is not available within a reasonable distance to the facility.

(g) The owner of a pollution abatement facility shall require each chief operator, assistant chief operator, and other operator of the facility to prominently display his or her license in the facility, in a common area reasonably calculated to be accessible to employees, inspectors, and visitors to the facility, or, if such a common area does not exist, the owner shall maintain a record of such license and make it available for viewing upon request of any such person.

(h) A provisionally licensed operator cannot make operational changes at a pollution abatement facility without the oversight of a non-provisionally licensed operator.

§ 4-302. ADEQUATE STAFFING OF FACILITY

(a) Each pollution abatement facility shall employ the number of licensed operators necessary to ensure proper operation and maintenance of the facility.

(1) The Department may recommend, in writing, facility-specific staffing levels based on the type, complexity, and permitted flow of the facility, or the facility's needs.

(2) Absent a different recommendation by the Department, facility owners should refer to the New England Interstate Water Pollution Control Commission (NEIWPCC) publication “The Northeast Guide for Estimating Staffing at Publicly and Privately-Owned Wastewater Treatment Plants,” as it may from time to time be modified or retitled, in determining adequate staffing levels.

(b) Pollution abatement facilities that are required by their discharge permits to employ licensed operators must do so continuously.

(c) Contingency planning for wastewater treatment facilities. Upon changes in personnel, wastewater treatment facilities must contact the Department stating the number of operators on staff, their licenses, number of hours on site per week, and a plan to ensure adequate staffing levels.

(d) Part-time coverage by a chief operator for wastewater treatment facilities.

(1) The chief operator must be on-site at the wastewater treatment facility a minimum of 8 hours per week and available to make day-to-day process decisions and respond to emergencies.

(2) The Department may require a chief operator to be on-site for more than 8 hours per week, based on the type, complexity, or permitted flow of the facility, or as otherwise determined by the Department based on the facility’s needs.

(3) If the wastewater treatment facility is not normally staffed full time, the chief operator must be on-site a minimum of 4 hours per week and available to make day-to-day process decisions and respond to emergencies.

Subchapter 4. POLLUTION ABATEMENT FACILITY CLASSIFICATION

(a) The classification of a pollution abatement facility shall be determined using the following steps:

(1) Identify which of the following facility types the facility is:

- (A) domestic wastewater treatment facility;
- (B) domestic indirect discharge system;
- (C) industrial dairy;
- (D) industrial metal; or
- (E) industrial paper.

(2) Calculate the total points for the facility using the point system in Table B by adding the points from each category applicable to the facility, taking into account that the points for a single category shall not be above the maximum total points for the category regardless of the actual point sum for the category.

(3) Identify the facility type and numerical grade associated with the facility in

Table A by using the facility type identified from Subsection (a)(1) and the point total from Subsection (a)(2).

Table A: Pollution Abatement Facility Classification by Facility Type and Numerical Grade

Facility Types:	Numerical Grades:				
	Grade I	Grade II	Grade III	Grade IV	Grade V
Domestic Wastewater Treatment Facility	0-50	51-90	91-120	121-150	151+
Domestic Indirect Discharge System	0-50	51-90	91-120	121+	n/a
Industrial Paper	0-50	51-105	n/a	106-151+	n/a
Industrial Dairy	10-50 ¹	51-105	n/a	106-151+	n/a
Industrial Metal	10-50 ¹	51-105	n/a	106-151+	n/a

¹ NOTE: On a case by case basis for Grade I Industrial Dairy and Grade I Industrial Metal facilities with a point total of 12 or less, the Department may make a permitting determination that the facility's treatment components are so simple as to not require operation by a licensed operator. In all other cases, the discharge permit for a facility classified as Grade I or above will require operation by a licensed operator.

Table B: Point System for Pollution Abatement Facility Classification by Permitted Flow and Treatment Components

Permitted Flow (gallons per day (gpd))	Points
Less than 10,000	1
10,000 to 50,000	2
50,001 to 100,000	4
100,001 to 500,000	9
500,001 to 1,000,000	12
1,000,001 to 5,000,000	16
5,000,001 to 10,000,000	20
Greater than 10,000,000	25
Maximum Points for Category	30

Preliminary Treatment	Points
Influent / primary pump / sewage pump (on-site)	1
Pump stations (off-site) less than 10	1
Pump stations (off-site) 10 or more	2
Grit collection / removal	2
Comminutor / grinder	1
Coarse screen automatic / fine or micro-screen automatic	2
Septage receiving (sophistication)	2

Flow equalization basin(s)	2
Imhoff tank / other predigestion / sedimentation	1
Maximum Points for Category	10

Primary Treatment	Points
Primary settling tank(s)	1
Primary Clarifiers	2
Primary Clarifiers with chemical addition	3
Receives external industrial waste that requires a pretreatment permit	2
Metals Precipitation	5
Maximum Points for Category	8

Secondary Treatment	Points
Extended Aeration (EA)	20
Conventional Activated Sludge (AS)	20
with pure oxygen (add points)	5
Oxidation ditch or closed loop reactor	10
Aerated Lagoon(s)(AL)	5
Sequencing Batch Reactor(s) (SBR), other batch treatment	20
Rotating Biological Contactor(s) (RBC)	20
Chemical addition non-nutrient related (2 points each chemical added/max 10)	10
Secondary clarifiers	5
pH adjustment / control	5
Trickling Filter	5
Maximum Points for Category	40

Advanced Treatment	Points
Sand filter / recirculating sand filter	5
Sand filter multi-media / recirculating filter	5
Membrane (or cloth) filtration	5
Chemical phosphorus removal	10
Biological phosphorus removal	10
Nitrification (permit required)	5
Denitrification (permit required)	5
Computer based control system for the facility (SCADA or DCS)*	5
Reverse osmosis / electrodialysis	5
Sprayfield Operation / Disposal followed by direct discharge	5
Membrane BioReactor (MBR)	10
Moving Bed BioReactor (MBBR)	10
Maximum Points for Category	50

* SCADA = Supervisory Control And Data Acquisition

* DCS = Distributive Control System

Disinfection	Points
Chlorination	5
Dechlorination	5
Ultraviolet (UV) disinfection	10
Maximum Points for Category	10

Solids Handling, Sludge Processing and Management	Points
Sludge holding tank / decanting tank	2
Sludge concentrator mechanical	3
Sludge gravity thickener basin	3
Sand drying beds	1
Digester (aerobic)	5
Digester (anaerobic)	10
Dissolved Air Flootation (DAF)	10
Belt filter press / plate & frame / vac filter	10
Electrical generation using digester gas	10
Centrifuge	10
Rotary press	10
Lime stabilization	3
Two-stage digestion, ATAD	10
Maximum Points for Category	25

Biosolids Management	Points
Composting/Heat drying	10
Land Application	10
Maximum Points for Category	10

Odor Control	Points
Odor control, site (scrubber / carbon)	10
Site odor control (biofilter)	10
Other odor control (chemical, bacteria, spray)	2
Maximum Points for Category	10

Laboratory Controls (analysis performed by plant personnel)	Points
Basic laboratory (pH, chlorine, settleable solids, temperature, dissolved oxygen, etc.)	2
Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), or <i>Escherichia coli</i> bacteria (<i>E. coli</i>) (4 points each with max. of 10)	10
Phosphorus, Total Kjeldahl Nitrogen (TKN), or other nutrients (4 points each with max of 10 points)	10
Advanced metals	10
Microscope ID	5
Maximum Points for Category	25

Final Treatment and Disposal (applicable only to Indirect Discharge Facilities)	Points
Treated Effluent Storage	5
Sprayfield, each	5
Leachfield, each	5
Water Reuse	10
Maximum Points for Category	20

Other	Points
Emergency power (entire plant)	10
Emergency power (partial plant)	5
Multi-permit	5
Maximum Points for Category	15

STATE OF VERMONT

**AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

CHAPTER 4 – POLLUTION ABATEMENT FACILITY OPERATOR RULE

Description of Changes

1. Corrected internal references in Subchapter 4, Subsection (a)(3) (pages 7-8): (b)(1) and (b)(2) became (a)(1) and (a)(2).

STATE OF VERMONT

**AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

CHAPTER 4 – POLLUTION ABATEMENT FACILITY OPERATOR RULE

RESPONSIVENESS SUMMARY

COMMENT 1:

I completely understand the point system for deciding the classification of a facility, but I have some concerns:

Laboratory Controls (analysis performed by plant personnel)- This is too subjective as it is a facilities choice whether to run these in house or not and may change from month to month is they wanted to. All facilities are mandated to do basic lab so there should not be any points for that. Basic lab is covered under a grade 1 license. Even BOD/TSS, and e.coli are covered under a grade 1 license as these are items that were taught to operators by the state and the math for calculating was under their grade 1 license. You are penalizing a facility that wants to save money and do some in house testing and forcing the change to outsourcing all testing to laboratory facilities. There are not many options for outsourced labs and they are not local. Getting the samples there are very problematic and dangerous with winter roads. I've had our courier cancel many times resulting in costly retesting or forcing our employees to travel 4 hours round trip to go to the lab in horrible conditions. While maybe some feel the facility can plan around weather, that is not true. Holiday weeks like presidents day are a perfect example. Monday holiday means BOD samples must be taken after 12:00pm on Tue in order to make hold times. That means you can only do composite samples on Tue or Wed as the sample pickup is always the next day. Pickups cannot be on Fridays EVER or they do not make it to the lab in time for them to run the samples. I that I believe this whole section should be removed.

Emergency Power- again a mandate of the state to have a way of handling emergency power failures, whether it be tanks, generators, or portable pumps. Why would this effect the facilities licensure classification. How many facilities actually fix and maintain their generator. They normally hire a technician to come as specialized equipment is needed to diagnose the problem. A generator is essentially automatic or plug and play where portable pumps (which weren't even included) require the operator to constantly monitor the pump, operate vales to bypass, and more. I believe this whole section should be removed.

RESPONSE 1:

The goal of the facility classification tables is to quantify the complexity of a wastewater treatment facility to reflect the training needs of the operators who run it. These requirements were included in the previous version of the rule and are retained here to maintain consistency in scoring and facility classification. It is not the intent to 'penalize' facilities for doing in-house laboratory analyses, rather, the laboratory analyses section aims to protect the quality of self-reported data submitted to the Secretary for compliance.

The Secretary also maintains that the emergency power point allocation is necessary. Facilities may not fix their own generators, but the knowledge of how generators work and interface with different parts of the facility is necessary for an operator to ensure the efficient functioning of their facility. Generators must be exercised on a regular schedule, which adds complexity to the facility.

COMMENT 2:

The proposed rule appears to only deal with the needs of a facility. The needs of an operator such as grade, education, experience and continuing education appears to have been removed entirely. Is this being dealt with in another rule? Having been on the committee for the last rule I am wondering.

RESPONSE 2:

All licensing requirements for individual operators—including grades, license type, and required experience and education—are set forth in the “Administrative Rules for Pollution Abatement Facility Operators” established by the Office of Professional Regulation pursuant to 26 V.S.A. Chapter 99 (the OPR Rule), as referenced in this Rule amendment at § 4-101. See also <https://sos.vermont.gov/media/jptholhk/operator-rules.pdf>

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 10 : Conservation And Development

Chapter 047 : Water Pollution Control

Subchapter 001 : Water Pollution Control

(Cite as: 10 V.S.A. § 1251a)

§ 1251a. Water pollution administration

(a) The Secretary may adopt rules, in accordance with the procedures in the Administrative Procedure Act, that are necessary for the proper administration of the Secretary's duties under this subchapter, including a planning process approvable under Public Law 92-500, as amended.

(b) The Secretary shall establish by rule requirements for the issuance of permits under subsection 1259(e) of this title, including in-stream water quality parameters necessary to establish permit conditions and performance monitoring; however, these in-stream water quality parameters shall not supersede water quality standards adopted by the Secretary.

(c) On or before July 1, 2016, the Secretary of Natural Resources shall adopt by rule an implementation process for the antidegradation policy in the water quality standards of the State. The implementation process for the antidegradation policy shall be consistent with the State water quality policy established in section 1250 of this title, the Vermont Water Quality Standards, and any applicable requirements of the federal Clean Water Act. The Secretary of Natural Resources shall apply the antidegradation implementation policy to all new discharges that require a permit under this chapter. (Added 1981, No. 222 (Adj. Sess.), § 25; amended 1985, No. 199 (Adj. Sess.), § 4, eff. May 17, 1986; 1989, No. 64, § 2, eff. May 24, 1989; 1997, No. 155 (Adj. Sess.), § 34; 2003, No. 115 (Adj. Sess.), § 25, eff. Jan. 31, 2005; 2007, No. 43, § 6a, eff. May 23, 2007; 2011, No. 138 (Adj. Sess.), § 27, eff. May 14, 2012; 2015, No. 64, § 30.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 10 : Conservation And Development

Chapter 047 : Water Pollution Control

Subchapter 001 : Water Pollution Control

(Cite as: 10 V.S.A. § 1263)

§ 1263. Discharge permits

(a) Any person who intends to discharge waste into the waters of the State or who intends to discharge into an injection well or who intends to discharge into any publicly owned treatment works any waste that interferes with, passes through without treatment, or is otherwise incompatible with that works or would have a substantial adverse effect on that works or on water quality shall make application to the Secretary for a discharge permit. Application shall be made on a form prescribed by the Secretary. An applicant shall pay an application fee in accordance with 3 V.S.A. § 2822.

(b) When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require any applicant to submit any additional information that the Secretary considers necessary and may refuse to grant a permit, or permission to discharge under the terms of a general permit, until the information is furnished and evaluated.

(c) If the Secretary determines that the proposed discharge will not reduce the quality of the receiving waters below the classification established for them and will not violate any applicable provisions of State or federal laws or regulations, he or she shall issue a permit containing terms and conditions as may be necessary to carry out the purposes of this chapter and of applicable federal law. Those terms and conditions may include providing for specific effluent limitations and levels of treatment technology; monitoring, recording, reporting standards; entry and inspection authority for State and federal officials; reporting of new pollutants and substantial changes in volume or character of discharges to waste treatment systems or waters of the State; pretreatment standards before discharge to waste treatment facilities or waters of the State; and toxic effluent standards or prohibitions.

(d) A discharge permit shall:

(1) Specify the manner, nature, volume, and frequency of the discharge permitted and contain terms and conditions consistent with subsection (c) of this section.

(2) Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in

accordance with standards established by the Secretary and the Director of the Office of Professional Regulation. The Secretary may require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter 99 and may prescribe the class of license required. The Secretary may require a laboratory quality assurance sample program to ensure qualifications of laboratory analysts.

(3) Contain an operation, management, and emergency response plan when required under section 1278 of this title and additional conditions, requirements, and restrictions as the Secretary deems necessary to preserve and protect the quality of the receiving waters, including requirements concerning recording, reporting, monitoring, and inspection of the operation and maintenance of waste treatment facilities and waste collection systems.

(4) Be valid for the period of time specified therein, not to exceed five years.

(e) A discharge permit may be renewed from time to time upon application to the Secretary. A renewal permit filing requirement for reissuance shall be determined by the Secretary and may range from a simple written request for reissuance to the submission of all information required by the initial application. A renewal permit shall be issued following all determinations and procedures required for initial permit application.

(f) Existing indirect discharges to the waters of the State from on-site disposal of sewage shall comply with and be subject to the provisions of this chapter, and shall obtain the required permit, no later than July 1, 1991. Notwithstanding the requirements of subsections 1259(d) and (e) of this title, the Secretary shall grant a permit for an existing indirect discharge to the waters of the State for on-site disposal of sewage unless he or she finds that the discharge violates the water quality standards. Existing indirect discharges from on-site sewage disposal systems of less than 6,500 gpd capacity shall not require a permit.

(g) Notwithstanding any other provision of law, any person who owns or operates a concentrated animal feeding operation that requires a permit under the federal National Pollutant Discharge Elimination System permit regulations shall submit an application to the Secretary for a discharge permit and pay the required fees specified in 3 V.S.A. § 2822. On or before July 1, 2007, the Secretary of Natural Resources shall adopt rules implementing the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. Until such regulations are adopted, the substantive permitting standards and criteria used by the Secretary to evaluate applications and issue or deny discharge permits for concentrated animal feeding operations shall be those specified by federal regulations. The Secretary may issue an individual or general permit for these types of discharges in accordance with the procedural requirements of subsection (b) of this section and other State law. For the purposes of this subsection, "concentrated animal feeding operation" means a farm that meets the definition contained in the federal regulations. (Added 1969, No. 252

(Adj. Sess.), § 11, eff. April 4, 1970; amended 1973, No. 103, § 6, eff. April 24, 1973; 1981, No. 222 (Adj. Sess.), § 25; 1985, No. 199 (Adj. Sess.), § 7, eff. May 17, 1986; 1987, No. 76, § 4; 1987, No. 173 (Adj. Sess.), eff. May 6, 1988; 1987, No. 282 (Adj. Sess.), § 13; 1989, No. 116, § 2; 1993, No. 48, §§ 5, 6, eff. June 1, 1993; 2003, No. 115 (Adj. Sess.), § 27, eff. Jan. 31, 2005; 2005, No. 78, § 13, eff. June 24, 2005; 2005, No. 154 (Adj. Sess.), § 5b, eff. July 1, 2007; 2015, No. 150 (Adj. Sess.), § 16, eff. Jan. 1, 2018; 2015, No. 156 (Adj. Sess.), § 8, eff. Jan. 1, 2017; 2017, No. 144 (Adj. Sess.), § 11.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 10 : Conservation And Development

Chapter 047 : Water Pollution Control

Subchapter 001 : Water Pollution Control

(Cite as: 10 V.S.A. § 1265)

§ 1265. Temporary pollution permits

(a) A person who does not qualify for or has been denied a waste discharge permit under section 1263 of this title may apply to the Secretary for a temporary pollution permit. Application shall be made on a form prescribed by the Secretary and shall contain information as the Secretary may require. The person shall pay to the Secretary at the time of submitting the application a fee in accordance with 3 V.S.A. § 2822. The Secretary may require the person to submit any additional information he or she considers necessary for proper evaluation.

(b) When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit any additional information that the Secretary considers necessary, and may refuse to grant a permit until the information is furnished and evaluated.

(c) After consideration of the application, any additional information furnished and all written comments submitted, and the record of any public hearings the Secretary shall grant or deny a temporary pollution permit. No such permit shall be granted by the Secretary unless he or she affirmatively finds:

(1) the proposed discharge does not qualify for a discharge permit;

(2) the applicant is constructing, installing, or placing into operation or has submitted plans and reasonable schedules for the construction, installation, or operation of an approved pollution abatement facility or alternate waste disposal system, or that the applicant has a waste for which no feasible and acceptable method of treatment or disposal is known or recognized but he or she is making a bona fide effort through research and other means to discover and implement such a method;

(3) the applicant needs permission to pollute the waters of the State for a period of time necessary to complete research, planning, construction, installation, or the operation of an approved and acceptable pollution abatement facility or alternate waste disposal system;

(4) there is no present, reasonable, alternative means of disposing of the waste other than by discharging it into the waters of the State;

- (5) the denial of a temporary pollution permit would work an extreme hardship upon the applicant;
- (6) the granting of a temporary pollution permit will result in some public benefit;
- (7) the discharge will not be unreasonably destructive to the quality of the receiving waters;
- (8) the proposed discharge will not violate any applicable provisions of State or federal laws or regulations.

(d) Any temporary pollution permit issued shall:

- (1) Specify the manner, nature, volume, and frequency of the discharge permitted.
- (2) Require the proper operation and maintenance of any interim or temporary pollution abatement facility or system required by the Secretary as a condition of the permit, to include but not to be limited to all terms and conditions authorized under subsection 1263(c) of this title.
- (3) Require the permit holder to maintain monitoring equipment and make and file such records and reports as the Secretary deems necessary to ensure compliance with the terms of the permit and evaluate the effect of the discharge upon the receiving waters.
- (4) Be valid only for the period of time, not exceeding five years, necessary for the permit holder to place into operation the facility, system, or method required to obtain a permit under section 1263 of this title. However, the terms of the permit may be amended upon application of the permit holder and a finding by the Secretary that the amendment meets all of the requirements of subsection (c) of this section. Upon application of the permit holder and a finding by the Secretary that the amendment meets all of the requirements of subsection (c) of this section and that there is a substantial change in circumstances not under the control of the permit holder, the terms of the permit may be amended following all determinations and procedures for initial permit application.

(5) [Repealed.]

(6) Contain other requirements, restrictions, and conditions that the Secretary deems necessary and desirable to protect the quality of the receiving waters and promote the public interest.

(e), (f) [Repealed.] (Added 1969, No. 252 (Adj. Sess.), § 12, eff. April 4, 1970; amended 1971, No. 93, § 1, eff. April 22, 1971; 1971, No. 255 (Adj. Sess.), §§ 4, 5, 10, 11, eff. April 11, 1972; 1973, No. 103, § 7, eff. April 24, 1973; 1981, No. 222 (Adj. Sess.), § 25; 1987, No. 76, § 5; 1989, No. 278 (Adj. Sess.), § 2; 2013, No. 34, § 6; 2015, No. 150 (Adj. Sess.), § 17, eff. Jan. 1, 2018.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Mar 23, 2021

Please submit comments to the agency or primary contact person listed below, before the deadline.

Rule Details

Rule Number:	21P001
Title:	Vermont Pollution Abatement Facility Operator Rule.
Type:	Standard
Status:	Proposed
Agency:	Agency of Natural Resources
Legal Authority:	10 V.S.A. § 1251a(a); 10 V.S.A. § 1263(d); 10 V.S.A. § 1265(d).
Summary:	This rule amendment reflects the transfer of pollution abatement facility operator licensing to the Office of Professional Regulation (OPR) (26 V.S.A. Chapter 99), updates the requirements for pollution abatement facility owners to employ licensed

operators and adequate staff, and modifies and updates the pollution abatement facility classification. Most of the rule amendment is a complete reorganization and replacement of text, but only very targeted changes have been made to the facility classification.

Persons Affected:

Municipalities, pollution abatement facilities (including wastewater treatment facilities/publicly owned treatment works and indirect discharge systems), dairies, industries, Office of Professional Regulation, consulting firms, small businesses (contract wastewater operation services), individual pollution abatement facility operators and prospective operators.

Economic Impact:

This rule amendment is unlikely to have a significant economic impact compared to the existing rule. Overall, the rule is understood to have a net positive impact by formalizing and providing guidelines on the requirement for adequate staffing of pollution abatement facilities and therefore helping to protect the state's receiving waters. The provisions regarding adequate staffing may have a limited effect on the number of individuals employed by a given pollution abatement facility. The rule amendment also clarifies when certain industrial dairy or metal facilities may employ a chief operator with a domestic-type license rather than an industrial-type license, potentially easing the recruitment and hiring burden for those facilities.

Posting date:

Feb 03,2021

Hearing Information

Information for Hearing # 1

Hearing date:

03-09-2021 4:00 PM 

Location:

Virtual Hearing via Microsoft Teams ID: 884 389 19#

Address:

Call in #: +1 802-828-7667

City:

Montpelier

State:

VT

Zip:

05633-7701

Hearing Notes:

A link to the hearing is available on the agency's website: <https://dec.vermont.gov/watershed/wastewater/rulemaking>

Contact Information

Information for Contact # 1

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Keyword Information

Keywords:

Pollution Abatement
Wastewater
Sewage
Wastewater treatment facility
WWTF
Publicly owned
treatment works

POTW
Discharge
Indirect Discharge
Operator
License
NPDES



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	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: Louise Corliss, APA Clerk

Date of Fax: February 3, 2021

RE: The "Proposed State Rules " ad copy to run on

February 11, 2021

PAGES INCLUDING THIS COVER MEMO:

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***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact Louise Corliss at 802-828-2863, or E-Mail louise.corliss@vermont.gov, Thanks.

PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Vermont Pollution Abatement Facility Operator Rule.

Vermont Proposed Rule: 21P001

AGENCY: Agency of Natural Resources

CONCISE SUMMARY: This rule amendment reflects the transfer of pollution abatement facility operator licensing to the Office of Professional Regulation (OPR) (26 V.S.A. Chapter 99), updates the requirements for pollution abatement facility owners to employ licensed operators and adequate staff, and modifies and updates the pollution abatement facility classification. Most of the rule amendment is a complete reorganization and replacement of text, but only very targeted changes have been made to the facility classification.

FOR FURTHER INFORMATION, CONTACT: Amy Polaczyk, Agency of Natural Resources, 1 National Life Drive, Davis 3, Montpelier, VT 05620-3520 Tel: 802-490-6185 Email: Amy.Polaczyk@vermont.gov

URL: <https://dec.vermont.gov/watershed/wastewater/rulemaking>.

FOR COPIES: Katelyn Ellermann, Agency of Natural Resources, 1 National Life Drive, Davis 3, Montpelier, VT 05620-3520 Tel: 802-522-7125 Email: Katelyn.Ellermann@vermont.gov.
