

Administrative Rules for Pollution Abatement Facility Operators

Part 1: Definitions and Clarification of Terms

1-1 “Board” where used in the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*, as applied to the regulation of pollution abatement facility operators, includes the Director.

1-2 “DEC” means the Department of Environmental Conservation within the Agency of Natural Resources.

1-3 “DEC rules” means any administrative rule or rules, adopted by DEC, governing wastewater facilities, including without limitation the DEC Wastewater Treatment Facility Operator Certification Rule, CVR 12-034-002, as it may from time to time be modified or re-titled.

1-4 “Director” means the Director of the Office of Professional Regulation.

1-5 “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

1-6 “Office website” means www.sec.state.vt.us/professional-regulation.

1-7 “Permit” when used as a noun, means an authorization by ANR to operate a pollution abatement facility.

1-8 “Pollution abatement facility operator” or “operator” means any person who is licensed under 26 V.S.A. chapter 99 and these rules, to engage in the practice of pollution abatement facility operation.

Part 2: Administration

2-1 Applicable Law. The practice of pollution abatement facility operation is defined and regulated pursuant to 26 V.S.A. § 5101 *et seq.* Copies of these and other statutes are available online at www.legislature.vermont.gov/statutes/. The Director administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

2-2 Resources for Applicants and Licensees. The Office maintains a website at www.sec.state.vt.us/professional-regulation with information and links relevant to all licensed professionals. Information specific to pollution abatement facility operators, including links to forms and online applications, is available from www.sec.state.vt.us/professional-regulation/list-of-professions/pollution-abatement-facility-operators.

2-3 DEC Regulates Scope of Authority. Licenses issued under these rules grant operators in a given grade a defined scope of authority governed by DEC rules. Licensees are at all times responsible to maintain familiarity with the DEC rules, and their related requirements, as they may from time to time be modified.

Part 3: Procedures

3-1 Applications. License applications are available from the Office website.

(a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.

(b) When the Director intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before an administrative law officer.

(c) The Director may refuse to accept any application found to be redundant with a denied or in-process application.

3-2 Complaints. Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted online, free of charge, on a standard form available from the Office website. Complaint procedures are explained in detail at www.sec.state.vt.us/professional-regulation/file-a-complaint.

3-3 Contested Cases. Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

3-4 Declaratory Rulings. Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Office may be made as provided by 3 V.S.A. § 808.

3-5 Conflict of Standards. Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern, pursuant to 3 V.S.A. § 129a(e).

3-6 Determination of Equivalency. Where the Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Office has no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, training, or fellowship and may resolve all inferences in favor of withholding a credential, approval, or recognition.

3-7 Contacting the Office. See the Office website for contact details. Send mail to: Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402.

Part 4: License Requirements and Grades

4-1 General Requirements. To be eligible for licensure as a pollution abatement facility operator of any grade, an applicant must satisfy the criteria of 26 V.S.A. § 4121; all applicants must:

- (a) be at least 18 years of age;
- (b) be able to read and write the English language; and

(c) hold a high school diploma, General Equivalency Diploma (GED), or equivalent educational credential acceptable to the Director.

4-2 License Grades and Requirements. Operator licenses are available in 14 grades identified in Table 1 below and are specific to the type, complexity, and design flow of pollution abatement facilities as classified by DEC rules. Each operator’s license issued under these rules shall state the facility type and grade to which it corresponds. Licensure in multiple types is permitted.

TABLE 1: Available Licenses by Type (Domestic, Industrial Paper, Industrial Dairy, Industrial Metal) and Grade (I, II, III, IV, V)

Domestic I	Industrial Paper I	Industrial Dairy I	Industrial Metal I
Domestic II	Industrial Paper II	Industrial Dairy II	Industrial Metal II
Domestic III	Industrial Paper IV	Industrial Dairy IV	Industrial Metal IV
Domestic IV			
Domestic V			

(a) To be eligible for licensure in a given grade, an applicant must:

- (i) pass the written examination prescribed by Table 2, below, and then
- (ii) submit a completed application to the Office, together with all required fees and documentation, including documentation of the experience prescribed by Table 2.

(b) Education may be substituted for experience for up to one-half of the experience requirement established in Table 2. All education 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 coursework 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. Requests for educational substitution shall be reviewed and approved by the Director, who may delegate equivalency assessment to DEC or otherwise consult with DEC in determining equivalency. Education may be substituted for experience as follows:

- (i) a technical school or college certificate may equate to not more than 6 months;
- (ii) a two-year associate’s degree may equate to not more than to 1 year;
- (iii) a four-year bachelor’s degree may equate to not more than 2 years;
- (iv) a master’s degree may equate to not more than 3 years

TABLE 2: Experience and Exam Combinations

Facility Classification	License Grade	Highest Examination Passed	Experience* in Facility Operation
I Domestic or Industrial	I	Grade 1	2 years
II Domestic or Industrial	II	Grade 2	2 years
III Domestic	III	Grade 3	3 years
IV Domestic or Industrial	IV	Grade 4	4 years
V Domestic	V	Grade 5	5 years

* nominal years may include educational substitution under Rule 4-2(c)

4-3 Endorsement. The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the grade of license sought in this State. The applicant’s previous job description and experience in the pollution abatement field may be considered. 26 V.S.A. § 5121(b).

Part 5: Provisional Licenses

5-1 Eligibility. Individuals new to a particular type of license who meet Rule 4-1 requirements but have not yet acquired the examination and experience credentials required to obtain a full license under Part 4 for the grade of license sought, may be issued a provisional license for the grade of license sought to facilitate further professional training. No person formerly fully licensed under Part 4 for a particular license type may obtain a provisional license for another grade within that type. Provisional license applicants must be employed at a Vermont pollution abatement facility at the time of application, and applicants seeking provisional licenses of Grade III or above must have the following documented minimum experience:

- (a) for Grade III, one year;
- (b) for Grade IV, two years; or
- (c) for Grade V, three years.

5-2 Duration; Training Hours Required to Transition. A provisional license shall be valid for not more than two years and serves to allow an applicant seeking full licensure under Part 4 to acquire experience prerequisite to eligibility for a full license valid for the facility at which he or she is employed.

- (a) In addition to the requirements of Part 4, a provisional licensee must, within two years, complete the following hours of approved transitional training:
 - (i) for Grade I, 10 hours;
 - (ii) for Grade II, 12 hours;
 - (iii) for Grade III, 15 hours;
 - (iv) for Grade IV, 15 hours;
 - (v) for Grade V, 20 hours.

(b) Upon satisfactory evidence that an applicant meets Part 4 requirements, the Office shall transition the provisional license to the full license for which the licensee qualifies, to the end of the biennium, at no charge to the licensee.

(c) Where a provisional licensee fails to transition to a full license under Part 4 within two years of first issuance, the provisional license may not be renewed. The Director may issue a waiver allowing one-time renewal of a provisional license, at his or her sole discretion, upon a finding of extraordinary circumstances, such as undue hardship or serious illness of a licensee or immediate family member.

(d) When a permit requires facility operation by certified operators, the granting of a provisional license under these rules shall not be a defense to improper operation and maintenance of any pollution abatement facility or equipment or for noncompliance 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. § 1973.

Part 6: License Renewal; Continuing Education; Status Changes

6-1 Biennial Licensing Period. Licenses are valid for fixed, two-year periods beginning and ending midnight, July 31 of odd* years and lapse if not renewed before the end of each biennial period. An initial license issued fewer than 90 days prior to the beginning of the fixed biennial period shall be valid through the end of full biennial licensing period following initial licensure. Expiration dates are printed on licenses. A look-up tool available at the Office website may be considered a primary source verification as to the license status and expiration date of all Office licensees.

6-2 License Renewal. License renewal applications are available from the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

6-3 Late Renewal Penalties. Late renewal applications are subject to reinstatement fees pursuant to 3 V.S.A. § 127(d). Late reinstatement fees are waivable at the discretion of the Director where a licensee has fully and completely removed himself or herself from practice for a period and has ceased holding himself or herself out as licensed. Licensees planning extended absence from practice are advised to document such intentions in advance to eliminate any subsequent question as to waiver eligibility.

6-4 Continuing Education. As a condition of license renewal, applicants must document completion, in the biennium proceeding renewal, of the required numbers of approved training as indicated in Tables 3 and 4:

TABLE 3: Required Education Hours - Domestic

Domestic	Education Hours
Grade I	8
Grade II	10
Grade III	12
Grade IV	12
Grade V	16

TABLE 4: Required Education Hours - Industrial

Industrial	Education Hours
Grade I	4
Grade II	6
Grade IV	12

(a) Online-, webinar-, or distance-learning activities may constitute not more than half of continuing education.

(b) All licensees shall retain continuing education documentation for two licensing cycles following the renewal to which the relevant education is applied. The Office, at the Director's discretion, may require presentation of certificates as a prerequisite to renewal, may verify compliance electronically with providers, or may verify compliance by affidavit. The Office may conduct a retrospective compliance audit of any licensee at any time.

(c) An applicant for license renewal who has been unable to comply with continuing education requirements may apply to the Director for a corrective action plan, to be completed within 90 days, and at the Director's sole discretion may be issued a temporary renewal license pending completion of the same, pursuant to 3 V.S.A. §§ 129(k)&(l).

(d) Persons on active duty in the U.S. Armed Forces may apply to the Director for waiver or modification of continuing education requirements, pursuant to 3 V.S.A. § 129(a)(12), as may be appropriate to the particular circumstance and consistent with reasonable assurance of continuing professional competence.

6-5 Re-Examination. Where a license is lapsed for two or more years, the Director may require re-examination.

6-6 Upgrades. A licensee who becomes eligible for licensure at a higher or different grade may upgrade the license at no charge by presenting evidence of applicable Part 4 qualifications to the Office. Should the Office determine that a licensee is ineligible for a requested upgrade, and where an application for the same is complete, the procedure to be followed shall be the same as that applicable to an initial applicant under Rule 3-1(c).

Part 7: Duties and Standards

7-1 Duty to Update and Self-Report. Applicants and licensees owe a duty of candor to the Office and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee or applicant shall report to the Office in writing, within ten calendar days of:

(a) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;

(b) any arrest, charge, or conviction for a misdemeanor offense occurring within the scope of the practice of the profession or related to the practice of the profession, or any felony;

(c) any legal claim for damages, judgment, or settlement arising from alleged professional negligence, misconduct, or malpractice;

(d) any adverse action against a foreign professional license or certification, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct in relation to pollution abatement facility operation.

7-2 Licenses to be Displayed. A licensee shall see that a copy of his or her license is conspicuously displayed in the facility or facilities where he or she is employed, in a common area reasonably calculated to be accessible to employees, inspectors, and visitors to the facility.

Part 8: Discipline

8-1 Bases. Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees) and 26 V.S.A. § 5126 (applicable to pollution abatement facility operators). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

8-2 Remedies. Upon a finding by an administrative law officer that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Director may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license. *See* 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

8-3 Procedures. Disciplinary proceedings are contested cases for purposes of Rule 3-3, above, and therefore are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005.

8-4 Non-Preclusion. Disciplinary proceedings and sanctions against a license issued under these rules are independent of DEC proceedings against a permittee, do not preclude such proceedings, and shall not be precluded by such proceedings.

Effective Date: August 1, 2017