

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding a section numbered 32.1-172.1 and by adding in Article 4 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.19:3.5, relating to water facilities; staffing; licensed operators.

[H 220]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-172.1 and by adding in Article 4 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.19:3.5 as follows:

§ 32.1-172.1. Attendance by licensed operator.

A. The owner of every waterworks or treatment facility identified as a classified waterworks or treatment facility by the Department shall employ or contract an operator who holds a current waterworks operator license, issued in accordance with Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1, of the appropriate class for the classification of the waterworks or treatment facility, as determined by the Board, or higher class at the owner's option. If the position of the licensed operator of the appropriate class is unexpectedly vacated due to death, extended illness, firing for cause, resignation, or similar cause, the classified waterworks or treatment facility owner shall notify the Department promptly and in accordance with any specific timeframe directed by the Board. The Department shall temporarily waive the licensed operator requirement for the interim, provided the owner (i) informs the Department in writing of its designation of another licensed operator responsible for interim operations within five days of the vacancy, (ii) informs the Department in writing within 10 days of the vacancy arising of its plan to hire a replacement licensed operator of the appropriate class as soon as practicable, (iii) implements the hiring plan diligently, and (iv) provides a monthly report to the Department on the implementation and progress of such hiring plan. The Department may revoke the temporary waiver if the Department finds that continued operation pursuant to the waiver presents a public health threat due to statutory, regulatory, or permit violations.

B. Where a waterworks or treatment facility identified as a classified waterworks or treatment facility by the Department is equipped with adequate technological capability, the Department shall credit remote monitoring of the facility by a licensed operator of the appropriate class as operator attendance, provided that the owner submits and the Department approves a remote monitoring plan demonstrating that the waterworks or treatment facility possesses sufficient technology for the remote operator to adequately monitor the waterworks or treatment facility and manage onsite operators with a lower license class, mechanics, or other staff to operate the waterworks or treatment facility under the remote operator's direct supervision. In determining whether to approve a remote monitoring plan for multiple waterworks or treatment facilities, the Department may consider the number of waterworks or treatment facilities the remote operator is monitoring simultaneously, whether the multiple facilities being monitored remotely are under common ownership, whether the remote operator is employed by the owner of multiple facilities, and whether occasional in-person attendance is provided, among other factors. The Department may cease crediting remote monitoring if the Department finds that continued operation pursuant to the remote monitoring plan presents a public health threat due to statutory, regulatory, or permit violations. The Department shall not credit remote monitoring by an operator without the appropriate license class who is operating the waterworks or treatment facility pursuant to a temporary waiver issued under subsection A.

C. Reduced operator attendance for Class 1 through Class 6 waterworks may be considered by the Department on a case-by-case basis.

§ 62.1-44.19:3.5. Attendance by licensed operator.

A. Every sewage treatment works owner shall employ or contract an operator who holds a current wastewater operator license, issued in accordance with Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1, of the appropriate class for the type of facility, as determined by the Department, or higher class at the owner's option. If the position of the licensed operator of the appropriate class is unexpectedly vacated due to death, extended illness, firing for cause, resignation, or similar cause, the treatment works owner shall notify the Department promptly and in accordance with any specific timeframe directed by the Department. The Department shall temporarily waive the licensed operator requirement for the interim, provided the owner (i) informs the Department in writing of its designation of another licensed operator or professional engineer responsible for interim operations within five days of the vacancy, (ii) informs the Department in writing within 10 days of the vacancy arising of its plan to hire a replacement

57 licensed operator of the appropriate class as soon as practicable, (iii) implements the hiring plan
58 diligently, and (iv) provides a monthly report to the Department on the implementation and progress of
59 such hiring plan. The Department may revoke the temporary waiver if the Department finds that
60 continued operation pursuant to the waiver presents a public health or water quality threat due to
61 statutory, regulatory, or permit violations.

62 B. Where the facility is equipped with adequate technological capability, the Department shall credit
63 remote monitoring of the facility by a licensed operator of the appropriate class as operator attendance
64 toward recommended licensed operator attendance hours, provided that the owner submits and the
65 Department approves a remote monitoring plan demonstrating that the facility possesses sufficient
66 technology for the remote operator to adequately monitor the facility and manage onsite operators with
67 a lower license class, mechanics, or other staff to operate the facility under the remote operator's direct
68 supervision. In determining whether to approve a remote monitoring plan for multiple facilities, the
69 Department may consider the number of facilities the remote operator is monitoring simultaneously,
70 whether the multiple facilities being monitored remotely are under common ownership, whether the
71 remote operator is employed by the owner of the multiple facilities, and whether occasional in-person
72 attendance is provided, among other factors. The Department may cease crediting remote monitoring if
73 the Department finds that continued operation pursuant to the remote monitoring plan presents a public
74 health or water quality threat due to statutory, regulatory, or permit violations. The Department shall
75 not credit remote monitoring by an operator without the appropriate license class who is operating the
76 waterworks or treatment facility pursuant to a temporary waiver issued under subsection A.