



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	160
VAC Chapter Number:	20
Regulation Title:	Virginia Board For Waterworks and Wastewater Works Operators Regulation
Action Title:	Amend
Date:	November 6, 2003

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 2.2-4007(B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to determine whether experience obtained while employed at a non-classified waterworks or wastewater works facility should qualify an individual to sit for the Board's licensing examination and become licensed.

The Board's current regulations recognize as qualifying only the experience obtained while employed at a classified facility. Waterworks facilities must be classified by the Virginia Department of Health (VDH) in order to lawfully supply water for public consumption. Wastewater works facilities must be classified by the Virginia Department of Environmental Quality (DEQ) in order to lawfully discharge treated wastewater into the environment.

Non-classified facilities use the same processes to treat water and wastewater. However, their product is used for purposes other than distribution for public consumption or is

discharged into a classified facility for testing and any further treatment that is necessary before being discharged into the environment.

Bottled water operations produce bottled water for sale to the public, rather than for distribution through a public water system, and are not required to be classified by the VDH. Reverse osmosis is a water treatment process used by both bottled water operations and by operations classified by VDH to provide water for public consumption.

Industrial pre-treatment facilities are not classified and discharge their product into a classified facility, which determines that the discharge is sufficiently “clean” to be discharged into the environment. Raising the Ph by adding lime; precipitating harmful heavy metals (mercury, cadmium, lead, etc.); and using a cooling tower to lower the temperature are examples of treatment methods used by both classified and non-classified facilities.

The Board’s intent is to examine whether the experience obtained at a non-classified facility using the same processes as those used at a classified facility produces an individual that is as competent as an individual who obtained his experience at a classified facility.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Section 54.1-2301 B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that the Board shall examine operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth.

The imperative form of the verb “shall” is used, making the Board’s authority to regulate mandatory rather than discretionary.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a

statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board may propose amendments to its regulations to recognize as qualifying the experience obtained at a non-classified facility. The amendments, if any, will reflect the Board’s determination of the extent to which the experience obtained at a non-classified facility results in an individual minimally qualified for licensure.

The Board must determine whether non-classified facilities using the same processes employed at classified facilities obtain the same levels of performance and quality control as the classified facilities, thereby imparting to their staff the level of competence necessary to protect the public.

Amending the regulation to accept experience obtained at a non-classified facility will increase the number of individuals qualified for licensure.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

This may result in a new alternative for those with experience limited to non-classified facilities.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

No family impact has been identified.