

HOUSE BILL NO. 220

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on January 24, 2024)

(Patron Prior to Substitute--Delegate Orrock)

A BILL 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.

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

27 continued operation pursuant to the waiver presents a public health threat due to statutory, regulatory, or
28 permit violations.

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

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

48 **§ 62.1-44.19:3.5. Attendance by licensed operator.**

49 A. Every sewage treatment works owner shall employ or contract an operator who holds a current
50 wastewater operator license, issued in accordance with Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1, of
51 the appropriate class for the type of facility, as determined by the Department, or higher class at the owner's
52 option. If the position of the licensed operator of the appropriate class is unexpectedly vacated due to
53 death, extended illness, firing for cause, resignation, or similar cause, the treatment works owner shall

54 notify the Department promptly and in accordance with any specific timeframe directed by the
55 Department. The Department shall temporarily waive the licensed operator requirement for the interim,
56 provided the owner (i) informs the Department in writing of its designation of another licensed operator
57 or professional engineer responsible for interim operations within five days of the vacancy, (ii) informs
58 the Department in writing within 10 days of the vacancy arising of its plan to hire a replacement licensed
59 operator of the appropriate class as soon as practicable, (iii) implements the hiring plan diligently, and (iv)
60 provides a monthly report to the Department on the implementation and progress of such hiring plan. The
61 Department may revoke the temporary waiver if the Department finds that continued operation pursuant
62 to the waiver presents a public health or water quality threat due to statutory, regulatory, or permit
63 violations.

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

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