## **The Vermont Statutes Online**

## [**Title 26: Professions And Occupations**](https://legislature.vermont.gov/statutes/title/26)

### [**Chapter 99: Pollution Abatement Facility Operators**](https://legislature.vermont.gov/statutes/chapter/26/099)

* ***Subchapter 1: General Provisions***
* **§ 5101. Purpose and effect**
* In order to safeguard the life and health of the people of this State, a person shall not practice or offer to practice pollution abatement facility operation unless currently licensed under this chapter. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5102. Definitions**
* As used in this chapter:
* (1) "Director" means the Director of the Office of Professional Regulation.
* (2) "License" means a current authorization granted by the Director permitting the practice of pollution abatement facility operation.
* (3) "Permit," when used as a noun, means an authorization by the Agency of Natural Resources to operate a facility regulated under 10 V.S.A. § 1263.
* (4) "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."
* (5) "Pollution abatement facility operator" means a person who is licensed under this chapter, or pursuant to rules developed pursuant to this chapter, to engage in the practice of pollution abatement facility operation consistent with a permit. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5103. Prohibitions; offenses**
* (a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:
* (1) sell or fraudulently obtain or furnish any pollution abatement facility operation degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;
* (2) practice or knowingly permit the practice of pollution abatement facility operation under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;
* (3) practice or permit the practice of pollution abatement facility operation other than by a person duly registered and currently licensed or otherwise authorized to do so under the provisions of this chapter;
* (4) represent himself or herself as being licensed or otherwise authorized by this State to practice pollution abatement facility operation or use in connection with a name any words, letters, signs, or figures that imply that a person is a pollution abatement facility operator when not licensed or otherwise authorized under this chapter;
* (5) practice pollution abatement facility operation during the time a license or authorization issued under this chapter is suspended or revoked; or
* (6) employ an unlicensed or unauthorized person to practice as a pollution abatement facility operator.
* (b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127(c). (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5104. Exceptions**
* This chapter does not prohibit:
* (1) the furnishing of assistance in the case of an emergency or disaster; or
* (2) a person not licensed under this chapter from working under the direct or indirect supervision of a pollution abatement facility operator, where such employment is consistent with the terms, conditions, and intent of a facility's permit. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)

* ***Subchapter 2: Administration***
* **§ 5111. Duties of the Director**
* (a) The Director shall:
* (1) provide general information to applicants for licensure as pollution abatement facility operators;
* (2) receive applications for licensure, administer or approve examinations and training programs, and provide licenses to applicants qualified under this chapter;
* (3) administer fees as established by law;
* (4) refer all disciplinary matters to an administrative law officer;
* (5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and
* (6) explain appeal procedures to licensed pollution abatement facility operators and to applicants, and complaint procedures to the public.
* (b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources. These rules may establish grades, types, classes, or subcategories of licenses corresponding to facilities of distinct types and complexity. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5112. Advisor appointees**
* (a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be pollution abatement facility operators and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to operation. Two of the initial appointments may be for a term of fewer than five years.
* (2) A pollution abatement facility operator appointee shall have not fewer than five years' experience as a pollution abatement facility operator immediately preceding appointment, shall be licensed as a pollution abatement facility operator in Vermont, and shall be actively engaged in the practice of pollution abatement facility operation in this State during incumbency.
* (3) An appointee representing the Agency of Natural Resources shall be involved in the administration of the permitting program established under 10 V.S.A. § 1263.
* (b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)

* ***Subchapter 3: Licenses***
* **§ 5121. Eligibility for licensure**
* (a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.
* (b) 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 class of license sought in this State. The applicant's previous job description and experience in the pollution abatement field may be considered. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017; 2019, No. 178 (Adj. Sess.), § 26, eff. Oct. 1, 2020.)
* **§ 5122. License renewal**
* (a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.
* (2) A license that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.
* (b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a pollution abatement facility operator is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5123. Applications**
* Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5124. Licensure generally**
* The Director shall issue a license or renew a license upon payment of the fees required under this chapter to an applicant or licensee who has satisfactorily met all the requirements of this chapter. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5125. Fees**
* Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b). (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)
* **§ 5126. Unprofessional conduct**
* (a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person who later becomes an applicant:
* (1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a water treatment facility operator;
* (2) whether or not committed in this State, has been convicted of a crime related to pollution abatement or environmental compliance or a felony that evinces an unfitness to practice water treatment facility operation;
* (3) is unable to practice pollution abatement facility operation competently by reason of any cause;
* (4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont Water Pollution Control Permit Regulations, or the Vermont Water Quality Standards;
* (5) is habitually intemperate or is addicted to the use of habit-forming drugs;
* (6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice pollution abatement facility operation competently;
* (7) engages in conduct of a character likely to deceive, defraud, or harm the public;
* (8) fails to display prominently his or her pollution abatement facility operator license in the office of a facility at which he or she performs licensed activities; or
* (9) unreasonably fails to ensure proper operations of the facility.
* (b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a pollution abatement facility operator or facility, corporation, or municipal corporation employing such person. (Added 2015, No. 156 (Adj. Sess.), § 13, eff. Jan. 1, 2017.)