

Art. 43, § 406A(f)(9), which provide for review by the Secretary of Health and Mental Hygiene, or the general appeal provisions for health occupations in Art. 41 of the Code, the Commission to Revise the Annotated Code has revised this section to correspond to the general appeal process of the other health occupations in this article. This revision is called to the attention of the General Assembly.

The introductory language of this section conforms to the Administrative Procedure Act, which provides a right of judicial review of any "final decision" of an agency in a "contested case". A situation is a contested case if a party has a right to a hearing (see the Administrative Procedure Act definition of "contested case" in Art. 41, § 244 of the Code).

As to the application of this section, the Secretary and the Board of Review have general jurisdiction over final decisions of the Board under this subtitle. Therefore, for some actions, decisions of the Secretary and the Board of Review are a prerequisite to judicial review. This section reflects that general procedure.

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

20-401. CLASSIFICATION OF WATERWORKS, WASTEWATER WORKS, AND INDUSTRIAL WASTEWATER WORKS.

(A) IN GENERAL.

THE SECRETARY SHALL CLASSIFY ALL WATERWORKS, WASTEWATER WORKS, AND INDUSTRIAL WASTEWATER WORKS IN THIS STATE.

(B) FACTORS INVOLVED IN CLASSIFICATION.

IN DETERMINING THE CLASSIFICATION OF A WATERWORKS, WASTEWATER WORKS, OR INDUSTRIAL WASTEWATER WORKS, THE SECRETARY SHALL CONSIDER:

- (1) THE SIZE OR CAPACITY OF THE FACILITY;
- (2) THE TYPE OF TREATMENT USED;
- (3) THE CHARACTER OF THE WATER OR WASTES TREATED; AND
- (4) ANY OTHER PHYSICAL CONDITIONS THAT AFFECT THE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 43, § 406A(d).