

FULL NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES
RELATING TO CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS,
WATER DISTRIBUTION AND STORAGE SYSTEM OPERATORS, WASTEWATER
TREATMENT FACILITY OPERATORS, AND WASTEWATER COLLECTION AND
TRANSFER SYSTEM OPERATORS

TAKE NOTICE that the North Dakota Department of Environmental Quality ("Department") will hold a public hearing to address proposed amendments to North Dakota Administrative Code (N.D. Admin. Code) chapter 33.1-19-01 at the following time and location:

2nd Floor Conference Room
North Dakota Department of Environmental Quality
4201 Normandy St, Bismarck, ND 58503-1324
December 30, 2025
10:00 AM CST

The purpose of the proposed amendment is to increase water and wastewater operator certification compliance with state requirements. This will be achieved with changes to testing type, testing availability, and clarified renewal requirements.

The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rulemaking implements bill number SB 2110, enacted during the 2025 legislative session, concerning certification of water treatment facility operators, water distribution and storage system operators, wastewater treatment facility operators, and wastewater collection and transfer system operators.

The proposed rules may be reviewed at the Department's office located at 4201 Normandy St, Bismarck, ND 58503-1324 or on the Department's website at: <https://deq.nd.gov/PublicNotice.aspx>. A copy of the proposed rule amendments may be requested by writing to the North Dakota Department of Environmental Quality, operator certification program at the above address or calling (701) 328-5150. Written comments on the proposed rule amendments sent to the above mailing address or by email to DEQ-MF-Inspection@nd.gov and received by January 9, 2025 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department at the above address or telephone number below at least two days prior to the public hearing. The Department will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. Language assistance services are available free of charge to you. To request accommodations or language assistance, contact the Department's Non-discrimination/EJ Coordinator at (701) 328-5150 or deqEJ@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888

There will be real time public streaming of the public hearing through a Microsoft Teams meeting. No testimony will be accepted through the Microsoft Teams meeting.

Information concerning listening access by telephone or through Microsoft Teams can be obtained by calling (701) 328-5150 or can be found on the Department's website at: <https://deq.nd.gov/PublicNotice.aspx>.

Dated this 25th day of November, 2025.

L. David Glatt, P. E.
Director
Department of Environmental Quality

REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08

TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 33.1-19-01
RELATING TO CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS,
WATER DISTRIBUTION AND STORAGE SYSTEM OPERATORS, WASTEWATER
TREATMENT FACILITY OPERATORS, AND WASTEWATER COLLECTION AND
TRANSFER SYSTEM OPERATORS

The following analysis is prepared to comply with the requirements for changes to the North Dakota Administrative Code. Under N.D.C.C. § 28-32-08, this regulatory analysis is not required. However, for consistency purposes, the North Dakota Department of Environmental Quality (NDDEQ) prepared this regulatory analysis.

1. Who are the classes of persons who will probably be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule? **The persons most affected by the proposed rule changes will be water and wastewater system operators and water and wastewater system administrators. The proposed rule changes are intended to benefit these persons by implementing changes to North Dakota's Operator Certification Program that these persons have requested. The proposed rule change was initiated as a request by the regulated community.**
2. What is the probable impact, including economic impact, of the proposed rule? **The probable impact of this rule is increased compliance with North Dakota Operator Certification requirements. These changes will have a minor economic impact on large public water systems that do not qualify for North Dakota Small System Operator Expense Reimbursement.**
3. What are the probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues? **North Dakota Century Code § 23.1-07-01 requires fees collected for exams and renewals under the Operator Certification Program to be retained in a special fund**

known as the Operator's Certification Fund for the purpose of implementing and maintaining the operator certification program.

4. What were the alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency/board and why was each method rejected in favor of the proposed rule? **The alternative to the proposed rule change is for the State of North Dakota to hire additional Operator Certification staff to increase testing opportunities and develop an online testing system to conduct remote testing for Operator Certification. The alternative solution was rejected based upon cost to the state and difficulty of design and implementation.**
5. Please explain the information and data assessment as well as how the amounts of impact were determined, to the extent practicable? **The proposed rule change was initiated as a request by the regulated community and serves to fulfill the requirements of ND Century Code chapter 23.1-07 and SB 2110 (2025 legislative session). The current administrative costs of the program are as follows:**

Time Processing Renewals/Exams (1-6 Employees)

4500 work hours at \$65.00/hr

\$292,500 (administrative total)

TAKINGS ASSESSMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-09

TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 33.1-19-01
RELATING TO CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS,
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1. Assess the likelihood that the proposed rule may result in a taking or regulatory taking. **The proposed rule change does not result in any takings.**
2. Clearly and specifically identify the purpose of the proposed rule. **The purpose of the proposed rule change is to increase water and wastewater operator certification compliance with state requirements. This will be achieved with changes to testing type, testing availability, and clarified renewal requirements.**
3. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners. **This proposed rule change will have no impact on private property owners and exhibits the most cost effective solution to advance the purpose of the change to the State of North Dakota and the affected regulated persons.**
4. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking. **The proposed rule change does not result in any takings.**
5. Identify the source of payment within the agency's budget for any compensation that may be ordered. **The proposed rule change does not result in any takings.**

6. Certify that the benefits of the proposed rule exceed the estimated compensation costs. **The proposed rule change does not result in any takings and will only benefit the regulated persons within the State of North Dakota.**

SMALL ENTITY REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1

TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 33.1-19-01
RELATING TO CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS,
WATER DISTRIBUTION AND STORAGE SYSTEM OPERATORS, WASTEWATER
TREATMENT FACILITY OPERATORS, AND WASTEWATER COLLECTION AND
TRANSFER SYSTEM OPERATORS

None of the rules amended under North Dakota Administrative Code chapter 33.1-19-01, were mandated by federal law.

The proposed amendments are to update rules regarding the certification of water treatment facility operators, water distribution and storage system operators, wastewater treatment facility operators, and wastewater collection and transfer system operators under the North Dakota Department of Environmental Quality.

The following methods were considered for reducing impact on small entities:

1. Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?

No. Only individuals may be licensed as operators, and Operator Certification requirements are clearly outlined within North Dakota Century Code and serve to maintain North Dakota primacy with US EPA rules and regulations.

2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities? To what results?

No. Only individuals may be licensed as operators, and Operator Certification requirements are clearly outlined within North Dakota Century Code and serve to maintain North Dakota primacy with US EPA rules and regulations.

3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? To what results?

Yes. The proposed rule change simplifies compliance and reporting requirements within the parameters established by North Dakota Century Code and The North Dakota Department of Environmental Quality Primacy Agreement with US EPA.

4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?

The proposed rule change does not establish any operational or performance standards. Performance standards and operational standards for water and wastewater system operator certification are defined in North Dakota Century Code and The North Dakota Department of Environmental Quality Primacy Agreement with US EPA.

5. Was exemption of small entities from all or any part of the requirements in the proposed rules considered? To what result?

No. Only individuals may be licensed as operators, and exemptions for operator certification requirements beyond those that are already defined were considered. Operator certification requirements are defined in North Dakota Century Code and the North Dakota Department of Environmental Quality Primacy Agreement with US EPA.

SMALL ENTITY ECONOMIC IMPACT STATEMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1

TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 33.1-19-01
RELATING TO CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS,
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1. Which small entities are subject to the proposed rule?

Small public water and wastewater systems.

2. What are the administrative and other costs required for compliance with the proposed rule?

Administrative costs:

Time processing of Renewals and Exams (1-6 Employees)	4500 hours x \$65.00/hour =	\$292,500
Testing Membership Cost	\$1200/year =	\$1200
Test Bank Development	\$500/test bank x 2	\$1000
Annual Maintenance	\$175/test bank x 2	\$350
TOTAL		\$295,050

3. What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?

The proposed rule change was initiated as a request from the regulated community. The benefit will be clearer definition of operator certification requirements, ease of access to testing, and increased opportunity for certification. The cost to small entities in ND will be minimal. North Dakota offers reimbursement for operator certification expenses to small systems with a population of 3,300 or less.

4. What is the probable effect of the proposed rule on state revenues?

The proposed rule change will result in an increase in funding to the Operator's Certification Fund, which will be used for implementation of the program. This increase in funding will cover the increased costs of testing.

5. Is there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule?

The less costly alternative to the proposed rule change is to make no change. However, that option does not address the concerns of the regulated

community. The concerns of the regulated community include testing opportunity and availability.

Yearly Fiscal Note for Implementing Rules:

COST TO AGENCY AND EFFECT ON STATE REVENUES

**N.D.A.C. CHAPTER 33.1-19-01 – CERTIFICATION OF WATER TREATMENT
FACILITY OPERATORS, WATER DISTRIBUTION AND STORAGE SYSTEM
OPERATORS, WASTEWATER TREATMENT FACILITY OPERATORS, AND
WASTEWATER COLLECTION AND TRANSFER SYSTEM OPERATORS**

The North Dakota Department of Environmental Quality, Division of Municipal Facilities – Operator Certification, Inspection, and Training Program is amending North Dakota Administrative Code chapter 33.1-19-01.

The proposed fee increases will have additional cost impacts to agency. However, the increase in revenue from the fee increases will reduce funds needed from the general operating fund to operate the Operator Certification Program.

Fees will help with administrative costs:

Current Administrative Costs

Time processing of Renewals and Exams (1-6 Employees)	4500 hours x \$65.00/hour =	\$292,500
TOTAL		\$292,500

New Administrative Costs

Time processing of Renewals and Exams (1-6 Employees)	4500 hours x \$65.00/hour =	\$292,500
Testing Membership Cost	\$1200/year =	\$1200
Test Bank Development	\$500/test x 2	\$1000
Annual Maintenance	\$175/test x 2	\$350
TOTAL		\$295,050

CURRENT YEARLY FEES AS OF 2025

CERTIFICATION FEES	1186 Certificates x \$25.00 =	\$29,650
EXAMINATION FEES	470 Annual Exams x \$50.00 =	\$23,500
TOTAL		\$53,150

PROPOSED YEARLY FEES*

CERTIFICATION FEES	1186 Certificates x \$40.00 =	\$47,440
EXAMINATION FEES	470 Annual Exams x \$150.00 =	\$70,500
TOTAL		\$117,940

*The certification fee difference of \$17,790 will be used to operate the program.

*The examination fee difference of \$47,000 is the projected exam costs to use the 3rd party service. (\$100/exam test cost + \$50/exam processing = \$150/exam)