North Dakota Environmental Quality

North Dakota Legislative Council
Administrative Rules Committee
March 12, 2026
Article 33.1-19 Certification of Water and Wastewater Systems Operators

TESTIMONY OF

Karl Rockeman, Deputy Director, Department of Environmental Quality

Chairman Paulson and members of the Administrative Rules Committee, my name is Karl Rockeman, Deputy Director of the North Dakota Department of Environmental Quality. I am here today to request your consideration of updates to Article 33.1-19 of the Administrative Code, which relates to the certification of water and wastewater systems operators.

During the most recent legislative session, SB2110 changed renewal dates of operator certification licenses, fees associated with operator certification licenses, and the ability to utilize third-party professional testing services. This rulemaking is the result of those changes.

These rules maintain the current certification requirements and implement updates to the program that have been requested by regulated water and wastewater systems and their operators. These changes move the renewal date from the state fiscal year to the calendar year, shorten the timeline to reapply for renewal to 90 days, and allow the flexibility to make use of third-party testing options. The fees were increased to cover the cost of testing and a larger portion of the cost of administering the certification program.

The updated certification requirements will begin April 1st, 2026. A major part of this process will be notifying water and wastewater system operators of the implemented changes during the department's Spring Operator Training in April and May. The department is committed to working through this process with all interested parties and appreciates their cooperation thus far.

In response to the committee's questions relating to the development and content of the rules, I provide the following:

1) The rules are a result of SB 2110 from the 69th Legislative Assembly.

2) The rules are not related to any new federal statute or regulation.

3) A public notice for the rulemaking was issued by the department on November 25, 2025 published in the county papers of record, published on the department's website, which includes email notification to interested parties, and published by the North Dakota Newspaper Association on their website. A public hearing was held on December 5, 2025 at the Department of Environmental Quality's office in Bismarck. The public hearing was also made available online via Microsoft Teams.

4) No comments were received on the proposed rules.

5) The cost to provide public notice through publication in the appropriate newspapers totaled $4028.40. There were no further costs other than staff time.

6) The proposed rule changes expand operator certification testing opportunities for ND water and wastewater operators. These changes were initiated by request from the regulated entities.

7) A regulatory analysis was required and is provided.

8) The proposed amendments are not expected to have an impact on the small entities. A copy of the regulatory analysis and economic impact is provided.

9) The proposed amendments are expected to result in a small increase in funding for the operator certification fund, which partially funds the operator certification program. A copy of the fiscal note is provided.

10) A takings assessment was prepared, and no adverse impacts were found. A copy of the takings assessment is provided.

This concludes my testimony. I'd be happy to answer any questions.

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)

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, WATER DISTRIBUTION AND STORAGE SYSTEM OPERATORS, WASTEWATER TREATMENT FACILITY OPERATORS, AND WASTEWATER COLLECTION AND TRANSFER SYSTEM OPERATORS

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 3,300or 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.

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, WATER DISTRIBUTION AND STORAGE SYSTEM OPERATORS, WASTEWATER TREATMENT FACILITY OPERATORS, AND WASTEWATER COLLECTION AND TRANSFER SYSTEM OPERATORS

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.**

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)

STATE OF NORTH DAKOTA
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Drew H. Wrigley
ATTORNEY GENERAL

OPINION

January 27, 2026

Mr. David J. Bruschwein, P.E.
Director, Division of Municipal Facilities
North Dakota Department of Environmental Quality
4201 Normandy Street
Bismarck, ND 58503-1324

Dear Mr. Bruschwein:

The Office of Attorney General has examined the proposed amendments to N.D. Admin. Code ch. 33.1-19-01 concerning Certification of Water Treatment Facility Operators, Water Distribution and Storage System Operators, Wastewater Treatment Facility Operators, and Wastewater Collection and Transfer System Operators, along with the notice of the proposed rules, the publication of that notice, and the filing of that notice with the Legislative Council. This office has also determined that 1) a written record of the agency's consideration of any comments to the proposed rules was not made because there were no comments, 2) a regulatory analysis was issued, 3) a takings assessment was prepared, 4) a small entity regulatory analysis and an economic impact statement were prepared, and 5) the proposed rules are within the agency's statutory authority.

These administrative rules are in substantial compliance[1] with N.D.C.C. ch. 28-32 and are hereby approved as to their legality. Upon final adoption, these rules may be filed with the Legislative Council.

Sincerely,

Drew H. Wrigley
Attorney General

SRH

cc: Liz Fordahl, Legislative Council

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[1] The North Dakota Department of Environmental Quality requested publication of an abbreviated Notice of Intent to Adopt Administrative Rules and Notice of Public Hearing (Notice) in each official county newspaper in a timely manner. However, publication of the hearing notice listed a close of comments date of January 9, 2025. This was a typographical error. The date for the close of comments should have been listed as January 9, 2026. Because the notice listed the date of the public hearing as December 30, 2025, it is reasonable to conclude that the public would have understood the January 9, 2025, date to mean January 9, 2026, which was ten days after the hearing. The Department therefore substantially complied with the publication requirements notwithstanding the minor typographical error.