

CHAPTER 23-26

WATER DISTRIBUTION AND WASTEWATER SYSTEMS OPERATORS

23-26-01. Statement of policy. It is hereby declared to be the policy of the state of North Dakota to act to protect the public health and welfare of the people of the state and to protect the state's water resources by classifying all public water supply and wastewater disposal systems in the state and by requiring the examination of operators and the certification of their competency to supervise the operations of such facilities.

23-26-02. Definitions. For the purpose of this chapter, the following words and phrases have the meanings ascribed to them in this section:

1. "Certificate" means a certificate of competency issued by the department stating that the operator holding the certificate has met the requirements for the specified operator grade in the certification program.
2. "Department" means the state department of health.
3. "Ground water under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.
4. "Operator" means the person in direct responsible charge of the operation of a water treatment plant, a water distribution system, a wastewater treatment plant, or a wastewater collection system.
5. "Population equivalent" for a wastewater collection system or treatment plant means the calculated population that would normally contribute the same amount of biochemical oxygen demand per day computed on the basis of seventeen hundredths of one pound [77.11 grams] of five-day, twenty-degree Celsius [68-degree Fahrenheit] biochemical oxygen demand per capita per day.
6. "Wastewater collection system" means that portion of the wastewater disposal system in which wastewater is conveyed to a wastewater treatment plant from the premises of a contributor.
7. "Wastewater disposal system" means the system of pipes, structures, and facilities through which wastewater from a public sewer system or industry is collected and treated for final disposal. Such system must serve a population equivalent of twenty-five or more persons.
8. "Wastewater treatment plant" means that portion of the wastewater disposal system used for the treatment and disposal of wastewater and the solids removed from such wastewater.
9. "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.
10. "Water supply system" means the system of pipes, structures, and facilities through which a public water supply is obtained, treated, and sold or distributed for human consumption or household use. Such system must have at least fifteen service connections or regularly serve an average of twenty-five or more persons for at least sixty days a year.

11. "Water treatment plant" means that portion of the water supply system which in some way alters the physical, chemical, or bacteriological quality of the water.

23-26-03. Classification of plants and systems. The department shall classify all water treatment plants, water distribution systems, wastewater treatment plants and wastewater collection systems with due regard to the size, type, character of water and wastewater to be treated, and other physical conditions affecting such facilities, and according to the skill, knowledge, and experience that an operator in responsible charge must have to successfully supervise the operation of such facilities, so as to protect the public health and prevent pollution of the waters of the state.

23-26-04. Advisory board of certification. Repealed by S.L. 1991, ch. 280, § 8.

23-26-05. Certification. When the department is satisfied that an applicant is qualified by examination or otherwise to supervise the operation of such treatment plants and systems, the department will issue a certificate attesting to the competency of the applicant as an operator. The certificate will indicate the classification of treatment plant or system which the operator is qualified to supervise.

1. **Renewal of certificate.** A certificate issued under the provisions of this chapter is valid for only one year and expires on the first day of July of the year after which it was issued.
2. **Revocation.** The department may revoke or suspend the certificate of an operator issued hereunder if it is found that the operator has practiced fraud or deception in obtaining the certificate or in the performance of the operator's duty as an operator; or when it is found that reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties; or when it is found that the operator is incompetent and unable properly to perform the operator's duties as an operator. No certificate shall be revoked or suspended except after a hearing before the chief of the environmental health section of the department, or the chief's designated representative. If a certificate is suspended or revoked as herein provided, a new application for certification may be considered by the department if, when, and after the conditions upon which suspension or revocation was based have been corrected and evidence of this fact has been satisfactorily submitted to the department. A new certificate may then be granted by the department.
3. **Prior certificates honored.** Certificates in appropriate classification issued to operators before the effective date of this chapter continue in effect.

23-26-06. Fees. The department is authorized to charge a fee for certificates issued under this chapter, but such fees shall not exceed fifty dollars for the initial certificate, nor more than twenty-five dollars for the annual renewal certificate. All receipts from such fees shall be deposited in the state treasury to be credited to a special fund to be known as the "operators' certification fund" to be used by the department to administer and enforce the provisions of this chapter and financially assist the department in conducting operator training programs. Any surplus at the end of the fiscal year shall be retained by the department for future expenditures.

23-26-07. Duties of the department. It shall be the duty of the department to:

1. Hold at least one examination each year at a designated time and place for the purpose of examining candidates for certification.
2. Promote the program of certification of water supply and wastewater disposal system operators.
3. Distribute notices and applications and to receive and evaluate applications.

4. Collect fees for initial certification and annual renewal in an amount not to exceed that permitted by this chapter.
5. Prepare, conduct, and grade examinations.
6. Maintain records of operator qualifications, certification examination results, and a register of certified operators.
7. Promote and schedule regular training schools and programs.
8. Promulgate such rules necessary to carry out the provisions of this chapter.

23-26-08. Unlawful operation. Except as provided in this section, it is unlawful for any person, firm, corporation, limited liability company, municipality, or any other governmental subdivision or agency, after three years following July 1, 1991, to operate a water treatment plant or water distribution system serving twenty-five or more persons or a wastewater treatment plant or wastewater collection system serving a population equivalent of twenty-five or more persons unless the competency of the operator to operate such a plant or system is certified by the department in a grade corresponding to the classification of that portion of the system to be supervised. Operators of wastewater collection systems and wastewater stabilization ponds or other nonmechanical wastewater treatment plants that serve a population equivalent of less than five hundred persons are excluded from this chapter. Operators of water supply systems that serve other than year-round residents are excluded from this chapter if all of the following conditions are met:

1. The water supply is obtained solely from ground water sources that are not under the direct influence of surface water.
2. Treatment, if provided, consists strictly of disinfection, fluoridation, sequestration, corrosion control, or other processes that involve simple chemical addition and minor operational control.
3. The water supply system is not required by the federal Safe Drinking Water Act or its implementing regulations to be operated by qualified personnel.

23-26-09. Violations - Penalty. Any person violating any provisions of this chapter or the rules and regulations adopted thereunder after written notice thereof by the department, is guilty of a class A misdemeanor.