

HOUSE BILL 103

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Phelps Anderson and Willie D. Madrid

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CERTIFICATION; PROVIDING FOR AND ADDING CATEGORIES OF CERTIFICATION SERVICES TO THE UTILITY OPERATORS CERTIFICATION ACT; PROVIDING FOR LATE FEES; PROVIDING DEFINITIONS; ESTABLISHING FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-33-2 NMSA 1978 (being Laws 1992, Chapter 44, Section 2, as amended) is amended to read:

.218543.2SAAIC February 18, 2021 (11:44am)

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"61-33-2. DEFINITIONS.--As used in the Utility Operators Certification Act:

A. "certification examination" means an examination that is required for certification pursuant to the Utility Operators Certification Act;

B. "certification renewal review" means an application for a currently certified operator or sampler pursuant to the Utility Operators Certification Act;

C. "certification testing application review" means a review of the testing application for certification;

[A-] D. "certified operator" means a person who is certified by the department as being qualified to operate one of the classifications of public water supply systems or public wastewater facilities;

[B-] E. "commission" means the water quality control commission;

[G-] F. "department" means the department of environment;

[D-] G. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

[E-] H. "domestic liquid waste treatment unit" means any system that is designed to discharge less than two

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thousand gallons per day and that is subject to rules promulgated by the environmental improvement board pursuant to Paragraph (3) of Subsection A of Section 74-1-8 NMSA 1978 or a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid waste, including septic tanks;

I. "equivalency application review" means a review of an equivalency application for certified operators who hold valid certificates or licenses issued by a state, territory or foreign jurisdiction;

J. "examination review" means a post-examination assessment of an applicant's previous examination score;

K. "late penalty" means a monetary amount HSEIC→for←HSEIC HSEIC→that is assessed to←HSEIC a renewal application HSEIC→that is received by←HSEIC HSEIC→when the application is filed with←HSEIC the department after the established HSEIC→fee←HSEIC HSEIC→application ←HSEIC deadline;

[F-] L. "operate" means performing any activity, function, process control decision or system integrity decision regarding water quality or water quantity that has the potential to affect the proper functioning of a public water supply system or public wastewater facility or to affect human health, public welfare or the environment;

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[G.] M. "person" means any agency, department or instrumentality of the United States and any of its officers, agents or employees, the state or any agency, institution or political subdivision thereof, any public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any political subdivision or public or private corporation;

[H.] N. "public wastewater facility" means a system of structures, equipment and processes designed to collect and treat domestic and industrial waste and dispose of the effluent, but does not include:

(1) any domestic liquid waste treatment unit;

or

(2) any industrial facility subject to an industrial pretreatment program regulated by the United States environmental protection agency [~~under~~] pursuant to the requirements of the federal Clean Water Act of 1977; and

[I.] O. "public water supply system" means:

(1) a system for the provision through pipes or other constructed conveyances to the public of water for human consumption or domestic purposes if the system:

(a) has at least fifteen service connections; or

(b) regularly serves an average of at least twenty-five individuals at least sixty days of the year;

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and

(2) includes any water supply source and any treatment, storage and distribution facilities under control of the operator of the system."

SECTION 2. Section 61-33-4 NMSA 1978 (being Laws 1973, Chapter 394, Section 4, as amended) is amended to read:

"61-33-4. POWERS AND DUTIES OF COMMISSION.--The commission may adopt rules relating to the administration and enforcement of the Utility Operators Certification Act. The commission shall:

A. adopt rules that classify public water supply systems and public wastewater facilities based on:

(1) size and type of system or facility;
(2) capacity of the system or facility based on the size of the serviced area and the number and size of the users to be served;

(3) type and character of the water or wastewater to be treated; and

(4) physical conditions affecting the treatment plants, collection systems and distribution systems;

B. adopt rules providing standards and criteria for the certification of operators based on their qualifications and their ability to operate public water supply systems or public wastewater facilities of the various classifications;

C. appoint a seven-member board from certified

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operators to function with the commission to establish qualifications of operators, classify public water supply systems and public wastewater facilities, adopt rules and advise the department on the administration of the Utility Operators Certification Act. Two board members selected by the board shall sit as commission members on matters to which that act is applicable;

D. adopt and file under the State Rules Act rules necessary to carry out the provisions of the Utility Operators Certification Act; ~~and~~

E. adopt rules providing criteria for identifying the minimum number of certified operators needed to operate the various classifications of public water supply systems or public wastewater facilities in order to protect human health, public welfare or the environment; and

F. provide for the department to administer a program for certification or review of qualifications of an operator pursuant to the standards established pursuant to Subsection B of this section or for the assistance of an operator applicant through:

- (1) a certification examination;
- (2) a certification testing application
review;
- (3) an equivalency application review; or
- (4) an examination review."

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SECTION 3. Section 61-33-5 NMSA 1978 (being Laws 1973, Chapter 394, Section 5, as amended) is amended to read:

"61-33-5. APPLICATION REQUIREMENTS--FEES--FUND CREATED--ENDORSEMENT.--

A. An applicant for certification as a certified operator shall:

- (1) ~~[make]~~ submit an application on forms ~~[furnished]~~ provided by the department;
- (2) submit evidence satisfactory to the department that the applicant has reached the age of majority; and
- (3) pay ~~[in advance to the department fees set by rule not to exceed:~~
 - ~~(a) for examination for certification in each classification \$100;~~
 - ~~(b) for renewal of a certificate after a period set by rule \$40; and~~
 - ~~(c) for issuance of a certificate by endorsement \$100]~~ to the department all applicable fees at the time the application is submitted, including HSEIC→~~a~~←HSEIC HSEIC→~~any~~←HSEIC late penalty HSEIC→~~,~~←HSEIC HSEIC→~~.~~←HSEIC HSEIC→~~which~~←HSEIC HSEIC→~~A late penalty~~←HSEIC shall be applied to a certification renewal application for each month that the application is received by the department after the established HSEIC→~~fee~~←HSEIC HSEIC→~~application~~←HSEIC deadline for up to

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one year.

B. The department shall collect fees for the following services at the following initial rates:

(1) certification testing application review, \$25.00;

(2) certification renewal review application, \$50.00;

(3) equivalency application review, \$50.00;

(4) examination review, \$25.00;

(5) late penalty, \$25.00; and

(6) certification examination, \$60.00.

C. The commission may approve subsequent adjustments in the fees for the services listed in Subsection B of this section and may promulgate rules pursuant to the State Rules Act and the Water Quality Act to establish reasonable fees for additional services necessary to support the purposes of the Utility Operators Certification Act; provided that:

(1) fees may not be increased more than once per calendar year; and

(2) the fee for certification examination shall not be greater than the fee charged by the association of boards of certification or other examination provider approved by the department.

D. A fee paid by an applicant approved by the department for a scheduled examination shall not be refundable.

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~~[B.]~~ E. Fees collected pursuant to Subsection A of this section shall be deposited with the state treasurer in the "public water supply system operator and public wastewater facility operator fund", hereby created. The fund shall be used solely for the purpose of administering and enforcing the Utility Operators Certification Act. The fund shall be administered by the department. Money in the fund shall be retained by the department for use, subject to appropriation by the legislature. Balances in the fund at the end of any fiscal year shall not revert to the general fund, but shall accrue to the credit of the fund. Earnings on the fund shall be credited to the fund.

~~[G.]~~ F. The department may, in its discretion, endorse for certification without examination an operator who submits evidence satisfactory to the department that the applicant has reached the age of majority and holds a valid license or certification in any state, territory or foreign jurisdiction having standards equal to or exceeding those of New Mexico.

~~[D. Fees shall not be increased more than once per calendar year. The first increase of the fees shall not result in any fee greater than thirty dollars (\$30.00). Any subsequent increase of the fees shall not be more than five percent of the existing fee.]"~~

SECTION 4. EFFECTIVE DATE.--The effective date of the

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provisions of this act is July 1, 2021.

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