

1 AN ACT
2 RELATING TO CERTIFICATION; PROVIDING FOR AND ADDING
3 CATEGORIES OF CERTIFICATION SERVICES TO THE UTILITY OPERATORS
4 CERTIFICATION ACT; PROVIDING FOR LATE FEES; PROVIDING
5 DEFINITIONS; ESTABLISHING FEES.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

10 "61-33-2. DEFINITIONS.--As used in the Utility
11 Operators Certification Act:

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

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

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

20 D. "certified operator" means a person who is
21 certified by the department as being qualified to operate one
22 of the classifications of public water supply systems or
23 public wastewater facilities;

24 E. "commission" means the water quality control
25 commission;

1 F. "department" means the department of
2 environment;

3 G. "domestic liquid waste" means human excreta and
4 water-carried waste from typical residential plumbing
5 fixtures and activities, including waste from toilets, sinks,
6 bath fixtures, clothes or dishwashing machines and floor
7 drains;

8 H. "domestic liquid waste treatment unit" means
9 any system that is designed to discharge less than two
10 thousand gallons per day and that is subject to rules
11 promulgated by the environmental improvement board pursuant
12 to Paragraph (3) of Subsection A of Section 74-1-8 NMSA 1978
13 or a watertight unit designed, constructed and installed to
14 stabilize only domestic liquid waste and to retain solids
15 contained in such domestic liquid waste, including septic
16 tanks;

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

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

23 K. "late penalty" means a monetary amount that is
24 assessed to a renewal application when the application is
25 filed with the department after the established application

1 deadline;

2 L. "operate" means performing any activity,
3 function, process control decision or system integrity
4 decision regarding water quality or water quantity that has
5 the potential to affect the proper functioning of a public
6 water supply system or public wastewater facility or to
7 affect human health, public welfare or the environment;

8 M. "person" means any agency, department or
9 instrumentality of the United States and any of its officers,
10 agents or employees, the state or any agency, institution or
11 political subdivision thereof, any public or private
12 corporation, individual, partnership, association or other
13 entity, and includes any officer or governing or managing
14 body of any political subdivision or public or private
15 corporation;

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

20 (1) any domestic liquid waste treatment
21 unit; or

22 (2) any industrial facility subject to an
23 industrial pretreatment program regulated by the United
24 States environmental protection agency pursuant to the
25 requirements of the federal Clean Water Act of 1977; and

1 0. "public water supply system" means:

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

5 (a) has at least fifteen service
6 connections; or

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

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

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

15 "61-33-4. POWERS AND DUTIES OF COMMISSION.--The
16 commission may adopt rules relating to the administration and
17 enforcement of the Utility Operators Certification Act. The
18 commission shall:

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

21 (1) size and type of system or facility;

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

25 (3) type and character of the water or

1 wastewater to be treated; and

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

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

10 C. appoint a seven-member board from certified
11 operators to function with the commission to establish
12 qualifications of operators, classify public water supply
13 systems and public wastewater facilities, adopt rules and
14 advise the department on the administration of the Utility
15 Operators Certification Act. Two board members selected by
16 the board shall sit as commission members on matters to which
17 that act is applicable;

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

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

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

- 6 (1) a certification examination;
- 7 (2) a certification testing application
8 review;
- 9 (3) an equivalency application review; or
- 10 (4) an examination review."

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

13 "61-33-5. APPLICATION REQUIREMENTS--FEES--FUND
14 CREATED--ENDORSEMENT.--

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

- 17 (1) submit an application on forms provided
18 by the department;
- 19 (2) submit evidence satisfactory to the
20 department that the applicant has reached the age of
21 majority; and
- 22 (3) pay to the department all applicable
23 fees at the time the application is submitted, including any
24 late penalty. A late penalty shall be applied to a
25 certification renewal application for each month that the

1 application is received by the department after the
2 established application deadline for up to one year.

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

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

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

9 (3) equivalency application review, \$50.00;

10 (4) examination review, \$25.00;

11 (5) late penalty, \$25.00; and

12 (6) certification examination, \$60.00.

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

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

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

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

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

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

22 SECTION 4. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2021. _____