

FULL NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES
RELATING TO LICENSING OF ONSITE WASTEWATER SYSTEM INSTALLERS

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 33.1-21-01 at the following time and location:

2nd Floor Conference Room
North Dakota Department of Environmental Quality
4201 Normandy St, Bismarck, ND 58503-1324
September 5, 2025
1:00 PM CST

The purpose of the proposed amendment is to adopt rules for licensing of current and future onsite wastewater treatment system installers.

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 2267, enacted during the most recent legislative session, concerning onsite wastewater treatment systems and installations.

These rules are emergency rules with an effective date of August 1, 2025.

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, Deputy Director, at the above address or calling (701) 328-5210. Written comments on the proposed rule amendments sent to the above mailing address and received by September 16, 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 NDDEQ 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 NDDEQ 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) 328-5210 or can be found on the Department's website at: <https://deq.nd.gov/PublicNotice.aspx>.

Dated this __ day of July, 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 33.1-21-01 – INSTALLERS LICENSING

The following analysis is prepared to comply with the requirements for changes to the North Dakota Administrative Code (N.D.A.C.). 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 classes of persons who will be affected by the proposed rules are individuals who possess valid licenses to install onsite wastewater treatment systems issued by local public health units under N.D.C.C. § 23-35-08 or individuals that wish to become licensed.**
2. What is the probable impact, including economic impact, of the proposed rule? **There is not a probable impact for this rule amendment.**
3. What is the probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues? **There are no estimated costs to the agency for the implementation of the proposed rule amendments. These emergency rules will be replaced when more comprehensive rules are developed.**
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? **SB 2267 requires NDDEQ to promulgate rules for licensing onsite wastewater treatment system installers. The Department considered establishing more comprehensive rules at this time but felt more input from stakeholders was needed.**

5. Please explain the information and data assessment as well as how the amounts of impact were determined, to the extent practicable? **N/A.**

TAKINGS ASSESSMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-09
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 33.1-21-01 – INSTALLERS LICENSING

1. Assess the likelihood that the proposed rule may result in a taking or regulatory taking. **The proposed amendments to N.D.C.C. ch. 33.1-21-01 will not limit the use of real property, therefore, a taking assessment is not required**
2. Clearly and specifically identify the purpose of the proposed rule. **The purpose of the proposed amendment is to is to adopt rules for licensing of current and future onsite wastewater treatment system installers.**
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. **SB 2267 requires the North Dakota Department of Environmental Quality (NDDEQ) to promulgate rules for licensing onsite wastewater treatment system installers. The amendments are necessary to address an immediate gap and uncertainty in the licensing of onsite wastewater treatment system installers and will ensure installers are properly licenses and tracked by NDDEQ while it promulgates its full regulations of onsite wastewater treatment systems**
4. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking. **N/A**
5. Identify the source of payment within the agency's budget for any compensation that may be ordered. **N/A**
6. Certify that the benefits of the proposed rule exceed the estimated compensation costs. **N/A**

SMALL ENTITY REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 33.1-21-01 – INSTALLERS LICENSING

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

Licenses may only be issued to individuals and not entities. Therefore, there was no consideration of different requirements for small entities.

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

See 1 above.

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

See 1 above.

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

See 1 above.

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

See 1 above.

SMALL ENTITY ECONOMIC IMPACT STATEMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 33.1-21-01 – INSTALLERS LICENSING

1. Which small entities are subject to the proposed rule?

Licenses may only be issued to individuals and not entities. Therefore, there was no consideration of different requirements for small entities.

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

There are no expected compliance costs in connection with the proposed rule.

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

There are no expected compliance costs in connection with the proposed rule.

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

\$0.00

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

There are no expected compliance costs in connection with the proposed rule.

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 33.1-21-01, N.D. Admin. Code, is being amended as follows:

CHAPTER 33.1-21-01
[RESERVED]ONSITE WASTEWATER TREATMENT SYSTEM INSTALLERS
LICENSING

Section

33.1-21-01-01. Installers Licensing.

33.1-21-01-01. Installers Licensing.

1. Onsite wastewater treatment system installers licenses issued by local public health units under North Dakota Century Code section 23-35-08 valid on July 31, 2025, do not expire and shall remain in effect until December 31, 2026, or when the department of environmental quality adopts rules regarding licensing, whichever occurs first.
2. Until December 31, 2026, or when the department of environmental quality adopts rules licensing, whichever occurs first, onsite wastewater treatment system installers that are not currently licensed may obtain a license from the department by submitting an application form prescribed by the department.

History: Effective _____, 2025

General Authority: NDCC 23.1-07.1-02

Law Implemented: NDCC 23.1-07.1-02, 23.1-07.1-03