



**NORTH DAKOTA**  
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION  
Gold Seal Center, 918 E. Divide Ave.  
Bismarck, ND 58501-1947  
701.328.5200 (fax)  
www.ndhealth.gov

SEP 01 2015



August 31, 2015

Mr. John Walstad  
Code Revisor  
ND Legislative Council  
State Capital  
600 E Boulevard Avenue, 2<sup>nd</sup> Floor  
Bismarck, ND 58505-0360

Dear Mr. Walstad:

The North Dakota Department of Health is currently in the process of revising the North Dakota Air Pollution Control Rules (NDAC 33-15). In accordance with NDCC 28-32-10.1, enclosed are the following items:

1. A copy of the proposed rules.
  - Chapter 33-15-01 - General Provisions
  - Chapter 33-15-03 - Restriction of Emissions of Visible Air Contaminants
  - Chapter 33-15-12 - Standards of Performance for New Stationary Sources
  - Chapter 33-15-14 - Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate
  - Chapter 33-15-15 - Prevention of Significant Deterioration of Air Quality
  - Chapter 33-15-20 - Control of Emissions from Oil & Gas Well Production Facilities
  - Chapter 33-15-22 - Emission Standards for Hazardous Air Pollutants for Source Categories
  - Chapter 33-15-23 - Fees
  - Chapter 33-15-25 - Regional Haze Requirements
  
2. The full and abbreviated notice of intent to adopt and amend the administrative rules.

If you have any questions, please contact Tom Bachman of my staff at (701)328-5188.

Sincerely,

Terry L. O'Clair, P.E.  
Director  
Division of Air Quality

TLO/TB:saj  
Enc:

Full Notice of Intent to Adopt  
and Amend Administrative Rules and State Implementation Plan  
Relating to Air Pollution Control  
North Dakota Department of Health  
and Air Pollution Control Advisory Council

will hold a public hearing to address proposed changes to the N.D. Admin. Code Article 33-15 and the State Implementation Plan (SIP) for the control of air pollution. Some of the rule revisions and other documents that are the subject of this public notice will be submitted to the United States Environmental Protection Agency to be included in or revise the SIP required by the Federal Clean Air Act.

4<sup>th</sup> Floor Conference Rm.  
Gold Seal Center  
918 E Divide Ave.  
Bismarck, ND  
Tuesday, November 10, 2015  
9:00 a.m. CST

The primary purpose of the proposed rules and SIP revisions is to implement requirements under the Federal Clean Air Act and to clarify and update existing rules. This includes changes to permitting requirements, requirements of oil and gas wells and a Permit to Construct fee increase. Revisions to the following rules shown in ~~strikeout~~/underline format (not the entire rule) will be submitted as a revision to the SIP.

Chapter 33-15-01	General Provisions
Chapter 33-15-03	Restriction of Emission of Visible Air Contaminants
Section 33-15-14-02	Permit to Construct
Section 33-15-14-03	Minor Source Permit to Operate
Chapter 33-15-15	Prevention of Significant Deterioration of Air Quality
Chapter 33-15-20	Control of Emissions From Oil & Gas Well Production Facilities
Section 33-15-23-02	Permit to Construct Fees

The revisions to the following rules will not be submitted as a SIP revision. Direct delegation or approval will be requested.

Chapter 33-15-12	Standards of Performance for New Stationary Sources
Section 33-15-14-06	Title V Permit to Operate
Chapter 33-15-22	Emission Standards for Hazardous Air Pollutants for Source Categories
Chapter 33-15-25	Regional Haze Requirements

The changes to the General Provisions, Standards of Performance for New Stationary Sources, Prevention of Significant Deterioration and Emission Standards for Hazardous Air Pollutants for

Source Categories incorporate by reference federal standards. The updates are intended to make State rules consistent with federal requirements. The rule changes affect industrial / commercial / institutional boilers and electric utility steam generators. The other changes provide clarification of existing rules, revise public comment procedures and increase the filling fee for a Permit to Construct.

The rule changes are expected to have an impact on the regulated community in excess of \$50,000.

A copy of the proposed rules, SIP revisions and a regulatory analysis may be viewed at the Department's website at: [www.ndhealth.gov/AQ/PublicCom.aspx](http://www.ndhealth.gov/AQ/PublicCom.aspx). A copy of the proposed rules and regulatory analysis may be obtained by writing to the North Dakota Department of Health, Division of Air Quality, 918 E Divide Avenue, 2<sup>nd</sup> Floor, Bismarck, ND 58501-1947 or calling (701)328-5188. Written comments may be submitted to the above-address from October 10, 2015 through November 20, 2015. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Health at the above-address at least seven days prior to the public hearing.

Dated this 31<sup>st</sup> day of August 2015.

Terry L. O'Clair, P.E.  
Director, Division of  
Air Quality

Abbreviated Notice of Intent to Adopt  
and Amend Administrative Rules and State Implementation Plan  
Relating to Air Pollution Control  
North Dakota Department of Health  
and Air Pollution Control Advisory Council

will hold a public comment period and public hearing to address proposed changes to the N.D. Admin. Code, Article 33-15 and the State Implementation Plan (SIP) for the control of air pollution. Some of the rule revisions and other documents that are the subject of this public notice will be submitted to the United States Environmental Protection Agency to be included in or to revise the SIP required by the Federal Clean Air Act.

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A copy of the proposed rules and full public notice may be viewed at the Department's website at: [www.ndhealth.gov/AQ/PublicCom.aspx](http://www.ndhealth.gov/AQ/PublicCom.aspx). A copy of the proposed rules and full public notice may be obtained by writing to the North Dakota Department of Health, Division of Air Quality, 918 E Divide Avenue, 2<sup>nd</sup> Floor, Bismarck, ND 58501-1947 or calling (701)328-5188. Written comments may be submitted to the above-address from October 10, 2015 through November 20, 2015. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Health at the above-address at least seven days prior to the public hearing.

Dated this 31<sup>st</sup> day of August 2015.

Terry L. O'Clair, P.E.  
Director, Division of  
Air Quality

## Proposed Rule Revisions Summary

### Chapter 33-15-01: General Provisions

- 1) Page 8, Subsection 52 – The date for incorporation by reference is changed to July 1, 2015.

### Chapter 33-15-03: Restriction of Emissions of Visible Air Contaminants

- 1) Page 2, Subsection 33-15-03-04.3 – This subsection is deleted.

### Chapter 33-15-12: Standards of Performance for New Stationary Sources

- 1) Page 1, Section 33-15-12-01.1 – The date for incorporating the standards by reference is changed to July 1, 2015.

### Chapter 33-15-14: Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate

- 1) Page 9, Subdivision c. – Public comment is being added for a proposed general Permit to Construct, any changes to a general Permit to Construct and renewal of a general Permit to Construct.
- 2) Page 13, Paragraph b(2) – The change will allow the Department to post the application, proposed permit and Air Quality Effects Analysis on its website rather than mailing it to the city or county auditor.
- 3) Page 23, Subparagraph b – The change will allow the Department to post the renewal application, proposed permit and supporting information on its website rather than mailing it to the city or county auditor.
- 4) Page 23, Subparagraph d – The change allows the Department to provide just a notice to affected land managers of the permit instead of providing the permit and public notice.
- 5) Page 25, Subdivision 9.a – The revision changes the term of the permit from a fixed five year period to a maximum of five years. Applications for renewal must be submitted 90 days prior to the expiration date listed in the permit.
- 6) Page 25, Subdivision 9.b – This subdivision is eliminated since it is no longer necessary.
- 7) Page 31, Paragraph (2) – The change eliminates greenhouse gases from consideration when determining whether a source is major under the Title V rules.
- 8) Page 36, Paragraphs (1) and (2) – These paragraphs are eliminated since greenhouse gases are not considered when determining applicability.
- 9) Page 45, Paragraph (2) – The term of the Title V permit is changed to allow a shorter term for certain permits (e.g. for permit renewals that are issued after the expiration date listed on the previous permit).
- 10) Page 52, Item (5)(c)[2] – This change adds language from a 7/18/14 change by EPA. It requires Title V sources to consider all available information when making their compliance certification.

**Chapter 33-15-15: Prevention of Significant Deterioration of Air Quality**

- 1) Page 1, Subsection 33-15-15-01.2 – The date for incorporation of 40 CFR 52.21 by reference is changed to July 1, 2015.
- 2) Page 2, 40 CFR 52.21(b)(1) – The change eliminates greenhouse gases from consideration when determining whether a source is a “major source”.
- 3) Page 2, 40 CFR 52.21(b)(2) – The change eliminates greenhouse gases from consideration when determining whether a change to major stationary source is a “major modification”.
- 4) Page 2, 40 CFR 52.21(23)(i) – 75,000 tons per year of greenhouse gases is added to the definition of “significant”.
- 5) Page 3, 40 CFR 52.21(b)(49)(ii)(a) – This change eliminates the exemption for greenhouse gases from biogenic sources which has expired.
- 6) Page 4, 40 CFR 52.21(b)(49)(iv) and (v) – These paragraphs are eliminated since they deal with the applicability of greenhouse gases for determining whether a source is a “major source” or whether a “major modification” will occur.
- 7) Page 7, 40 CFR 52.21(q)(2)(b) – The change will allow the Department to post the renewal application, proposed permit and supporting information on its website rather than mailing it to the city or county auditor.

**Chapter 33-15-20: Control of Emissions from Oil and Gas Well Production Facilities**

- 1) Page 1, Subsection 33-15-20-01.1 – the change makes it clear that all producing wells are subject to the requirements of this chapter, not just those that emit sulfur compounds.
- 2) Page 1, Subsection 33-15-20-01.2 – A definition of “actively producing” is added.
- 3) Page 3, Subsection 33-15-20-02.1 – This change clarifies that only actively producing wells must be registered. The subsection is also revised to indicate that a registration form is required to be submitted 90 days after the well achieves active production status.
- 4) Page 3, Subsection 33-15-20-02.2 – This subsection is eliminated since it is no longer relevant.
- 5) Page 3, Subsection 33-15-20-03.1 – This subsection is revised to correct the Prevention of Significant Deterioration applicability to oil and gas wells.
- 6) Page 3, Subsection 33-15-20-03.2 – Parentheses are added to the equation.
- 7) Page 4, Subsection 33-15-20-03.2 – Language is added to clarify that the gas volume must be measured at 60 degrees Fahrenheit and 14.7 psia.

**Chapter 33-15-22: Emission Standards for Hazardous Air Pollutants for Source Categories**

- 1) Page 1, Section 33-15-22-01 – The date for incorporating the standards by reference is changed to July 1, 2015.

**Chapter 33-15-23: Fees**

- 1) Page 1, Subsection 33-15-23-02.1 – The filing fee for Permit to Construct is changed to 325 dollars.
- 2) Page 2, Subsection 33-15-23-02.2 – The filing fee is changed to 325 dollars.

- 3) Page 2, Subdivision 33-15-23-02.2(b) – The last line of the subsection is deleted.

**Chapter 33-15-25: Regional Haze Requirements**

- 1) Page 1, Subsection 33-15-25-02.1 – This subsection is eliminated since it is no longer relevant.
- 2) Page 2, Section 33-15-25-03 – This section is eliminated since it is no longer relevant.