

December 17, 2019

Ms. Vonette Richter  
Code Revisor  
North Dakota Legislative Council  
State Capitol  
600 E Boulevard, 2<sup>nd</sup> Floor  
Bismarck, ND 58505-0360

Re: Revisions to the ND Air Pollution Control Rules

Dear Ms. Richter:

Please find enclosed a copy of the Notice of Intent to Amend North Dakota Administrative Code Article 33.1-15. A copy of the proposed rules are also enclosed as required by N.D.C.C. § 28-32-10(1).

If you have any questions, please contact Tom Bachman of my staff at (701)328-5187.

Sincerely,



James L. Semerad  
Director  
Division of Air Quality

JLS/TB:saj  
Enc:

Abbreviated Notice of Intent to Adopt  
and Amend Administrative Rules and State Implementation Plan  
for Air Pollution Control  
North Dakota Department of  
Environmental Quality

will hold a public comment period and public hearing to address proposed changes to the N.D. Admin. Code, Article 33.1-15 and the State Implementation Plan (SIP) for the control of air pollution. This includes plans under sections 111(d) and 129 of the Federal Clean Air Act for the control of emissions from existing commercial and industrial solid waste incinerators and landfills. 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.

Basement Conference Room  
Gold Seal Center  
918 East Divide Avenue  
Bismarck, ND  
February 7, 2020  
9:00 a.m. CST

A copy of the proposed rules, SIP revisions, 111(d)/129 plans and full public notice may be viewed at the Department's website at: <https://deq.nd.gov/PublicNotice.aspx>. A copy of these documents may be obtained by writing to the North Dakota Department of Environmental Quality, 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 through February 17, 2020. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Environmental Quality at the above-address at least seven days prior to the public hearing.

Dated this 17th day December, 2019

James L. Semerad, Director  
Division of Air Quality

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

will hold a public hearing to address proposed changes to the N.D. Admin. Code Article 33.1-15 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.

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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 the Permit to Construct, Title V Permit Operate, Prevention of Significant Deterioration (PSD), oil and gas production facility and Regional Haze rules. Revisions to the following rules shown in ~~strikeout~~/underline format (not the entire rule) will be submitted as a revision to the SIP.

Chapter 33.1-15-01	General Provisions
Chapter 33.1-15-02	Ambient Air Quality Standards
Chapter 33.1-15-03	Restriction of Emission of Visible Air Contaminants
Section 33.1-15-14-02	Permit to Construct
Chapter 33.1-15-15	Prevention of Significant Deterioration of Air Quality
Chapter 33.1-15-19	Visibility Protection
Chapter 33.1-15-20	Control of Emissions From Oil & Gas Well Production Facilities
Chapter 33.1-15-25	Regional Haze Requirements

Other changes to the SIP include revision of the Conflict of Interest requirements and replacement of the Regional Haze Federal Implementation Plan (FIP) for the Antelope Valley Station.

Section 2.15, Respecting Boards, of the SIP is being revised to delete the existing “Conflict of Interest” requirements used by the Department of Health and incorporate the requirements from the Department of Environmental Quality’s Personnel Policy Manual.

The Regional Haze SIP from Round 1 is being revised to adopt the requirements that EPA imposed on the Antelope Valley Station in their FIP from April 6, 2012 (77 FR 20894 -20945). This SIP revision will give the DEQ jurisdiction over the requirements.

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

Chapter 33.1-15-12	Standards of Performance for New Stationary Sources
Section 33.1-15-14-06	Title V Permit to Operate
Chapter 33.1-15-22	Emission Standards for Hazardous Air Pollutants for Source Categories

The Department was encouraged to adopt Subparts OOOO and OOOOa of 40 CFR 60 by the 66<sup>th</sup> Legislature. House Bill (HB) No. 1024, Section 7, specifically provided funding and staff positions for the DEQ to assume primacy over these subparts. The revisions to Chapter 33.1-15-12 incorporate Subparts OOOO and OOOOa by reference.

Several changes to the rules correct spelling, citations and grammatical errors. 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 commercial and industrial solid waste incinerators, landfills, brick and structural clay manufacturers and oil and gas production facilities. The changes to the Title V Permit to Operate (Section 33.1-15-14-06) and Prevention of Significant Deterioration rules (Chapter 33.1-15-15) allow the Department to post notices for public comment on the Department's website instead of publishing it in the local newspaper. The changes to Chapter 20 for oil and gas sources makes the chapter consistent with the requirements of Chapter 7 and other air pollution control rules. The changes to the Regional Haze rules require control equipment for the second, and subsequent planning periods, require operation and maintenance of this equipment, and monitoring of emissions.

Revisions to North Dakota's 111(d)/129 plan for commercial and industrial solid waste incinerators and North Dakota's 111(d) plan for landfills are also subject to public comment. The 111(d) Plan for municipal solid waste landfills is being revised to incorporate revised rules that were promulgated by EPA in June 2016 and April 2019. The revision will also update the plan to incorporate the DEQ laws and rules. The 111(d)/129 Plan for Commercial and Industrial Solid Waste Incinerators (CISWI) is being updated to be consistent with DEQ laws and rules.

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

None of the rule revisions are emergency rules.

A copy of the proposed rules, SIP revisions, 111(d)/129 plans and a regulatory analysis may be viewed at the Department's website at: <https://deq.nd.gov/PublicNotice.aspx>. A copy of these documents may be obtained by writing to the North Dakota Department of Environmental Quality, 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 through February 17,

2020. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Environmental Quality at the above-address at least seven days prior to the public hearing.

Dated this 17th day of December 2019

James L. Semerad, Director  
Division of Air Quality

# Air Pollution Control Proposed Rule Revisions Summary

## Chapter 33.1-15-01: General Provisions

- 1) Page 2, Section 33.1-15-01-01, Purpose, line 3 - A comma is added after “property”.
- 2) Page 6, Subsection 33.1-15-01-04.45 – A comma is added after “emission”.
- 3) Page 6, Subsection 33.1-15-01-04.52 – The date for incorporation by reference of the definition of “volatile organic compounds” is changed to July 1, 2019.
- 4) Page 8, Abbreviation of PM<sub>10</sub> – The words “a nominal” is added.

## Chapter 33.1-15-02: Ambient Air Quality Standards

- 1) Page 4, Table 1, PM<sub>2.5</sub> – The determination of compliance is clarified by adding “three-year average” to the annual standard and “three year average of the annual” added to the 24-hour standard.
- 2) Page 4, Table 1 – The text describing compliance with the standard is being revised to change 0.075 ppm to 0.070 ppm.

## Chapter 33.1-15-03: Restriction of Emission of Visible Air Contaminants

- 1) The title of the chapter is revised to remove an “M” from EMISSIONS.

## Chapter 33.1-15-12: Standards of Performance for New Stationary Sources

- 1) Page 1, Section 33.1-15-12-01.1 – The date for incorporating the standards by reference is being changed to July 1, 2019. Language is added to clarify that Part 60 within a subpart means Chapter 33.1-15-12.
- 2) Page 1, Section 33.1-15-12-02, Subpart A – “or the administrator’s authorized representative” is added.
- 3) Page 2, Subpart Ce – This subpart for hospital/medical/infectious waste incinerators is deleted in its entirety since there are no affected sources anymore.
- 4) Page 3, Subpart Cf for existing landfills is added.
- 5) Page 9, Subpart XXX for new landfills is added.
- 6) Page 10, Subpart DDDD, Table 1 – The Increments of Progress are deleted since the final compliance dates have passed.
- 7) Page 10, Subparts OOOO and OOOOa for oil and gas production facilities are added.
- 8) Page 10, Subpart TTTT for greenhouse gases from electric generating units is added.

## Chapter 33.1-15-14: Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate

- 1) Page 6, Paragraph 33.1-15-14-01.1.2b. – the word “onsite” is added.
- 2) Page 8, Subdivision 33.1-15-14-02.4.a – The date for incorporation by reference of Appendix W is changed to July 1, 2019 and the reference to the North Dakota Modeling Guideline is deleted.
- 3) Page 9, Subsection 33.1-15-14-02.5, line 2, - “an” is added before application.

- 4) Page 9, Subdivision 33.1-15-14-02.5.a, Table – The significant impact level (SIL) for annual PM<sub>2.5</sub> is revised to 0.2 µg/m<sup>3</sup> and a SIL for 8-hour ozone of 2.0 µg/m<sup>3</sup> is added.
- 5) Page 11, Subsection 33.1-15-14-02.8, line 3 – “or” is changed to “and”.
- 6) Page 48, Paragraph 33.1-15-14-06.6.h(1) – The paragraph is modified to allow public notice of Title V permit issuance or renewal on the Department’s website instead of publication in the local newspaper.
- 7) Page 50, Subdivision 33.1-15-14-06.10.a – “the department and” is deleted and “or the administrator’s authorized representative” is added.

#### Chapter 33.1-15-15: Prevention of Significant Deterioration of Air Quality

- 1) Page 1, Section 33.1-15-01.2 – The date for incorporation of 40 CFR 52.21 by reference is changed to July 1, 2019 and “or the administrator’s authorized representative” is added.
- 2) Page 5, paragraph q(2)(c) – The revision allows the Department to post notice of the proposed permit, air quality effects analysis, application and supporting data on the Department’s website instead of publishing the notice in the local newspaper.

#### Chapter 33.1-15-19: Visibility Protection

- 1) Page 1, Subsection 33.1-15-19-01.1, line 2 – The reference to subsection 33.1-15-15-01 is corrected by adding “.2”.
- 2) Page 1, Subsection 33.1-15-19-01.2, line 2 - The reference to subsection 33.1-15-15-01 is corrected by adding “.2”.

#### Chapter 33.1-15-20: Control of Emissions from Oil and Gas Well Production Facilities

- 1) Page 4, Subsection 33.1-15-20-04.2 – The paragraph is revised to indicate that all flares at a production facility, not just those combusting gas containing hydrogen sulfide, must be maintained and operated in good working order. On the last line, “sulfur dioxide” is replaced with “air contaminants as”.
- 2) Page 4, Subsection 33.1-15-20-04.3 – The word “volatile” is removed to be consistent with Chapter 33.1-15-07. The words “gas” and “vapor” are pluralized.
- 3) Page 4, Subsection 33.1-15-20-04.4 – The reference to gas containing hydrogen sulfide is removed and replaced with “at production facility”.

#### Chapter 33.1-15-22: Emission Standards for Hazardous Air Pollutants for Source Categories

- 1) Page 1, Section 33.1-15-22-01 – The date for incorporating the standards by reference is changed to July 1, 2019.
- 2) Page 3, Section 33.1-15-22-03 – Subpart JJJJJ for brick and structural clay products manufacturing is being adopted.

#### Chapter 33.1-15-25: Regional Haze Requirements

- 1) Section 33.1-15-25-03 is added to the list of sections.
- 2) Page 1, Section 33.1-15-25-03 – This section is added to require control equipment for the second and subsequent planning periods for the regional haze program.
- 3) Page 2, Section 33.1-15-25-04 – The section is revised to make it applicable to sources under the second and subsequent planning periods.