



January 19, 2018

Ms. Vonette Richter
Assistant Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Dear Ms. Richter:

The Notice of Intent to Amend and Adopt Administrative Rules relating to the Control of Pollution from Animal Feeding Operations and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,



L. David Glatt, P.E.
Environmental Health Section Chief
North Dakota Department of Health

Enclosures

**NOTICE OF INTENT TO
AMEND AND ADOPT ADMINISTRATIVE RULES
RELATING TO THE CONTROL OF POLLUTION FROM ANIMAL FEEDING
OPERATIONS**

TAKE NOTICE that the North Dakota Department of Health (NDDH) and the Environmental Health Section Chief, on behalf of the North Dakota Department of Environmental Quality (NDDEQ), will hold a public information meeting and hearing on proposed changes to the N.D. Admin. Code. The proposed changes are amendments to Control of Pollution from Animal Feeding Operations, N.D. Admin. Code ch. 33-16-03.1, and adoption of Control of Pollution from Animal Feeding Operations, N.D. Admin. Code ch. 33.1-16-03.1. The proposed changes are not expected to have an impact on the regulated community in excess of \$50,000. The hearing will be held on Tuesday, February 20, 2018, beginning at 1:00 PM CST at the NDDH, Environmental Training Center, 2639 East Main Avenue, Bismarck, ND.

The purpose of the proposed amendments to Control of Pollution from Animal Feeding Operations, N.D. Admin. Code ch. 33-16-03.1, is to update the NDDH's rules to provide clarification and reflect the change in U.S. Environmental Protection Agency rules regarding what animal feeding operations require a National Pollutant Discharge Elimination System (NPDES) permit. Specifically, the NDDH is proposing the following amendments to N.D. Admin. Code Chapter 33-16-03.1:

1. Amend N.D. Admin Code § 33-16-03.1-03 to update and clarify definitions.
2. Amend N.D. Admin Code § 33-16-03.1-04 to provide instruction on the designation of a small animal feeding operation.
3. Amend N.D. Admin Code § 33-16-03.1-05 to update this subsection to be in conformance with Federal rules from the U.S Environmental Protection Agency. NDDH is also adding qualifiers for medium and small animal feeding operations.
4. Amend N.D. Admin Code § 33-16-03.1-06 is repealing this section.
5. Amend N.D. Admin Code § 33-16-03.1-07 is removing the timeline of when a permit was needed. NDDH is also updated the "Confidentiality" section by reference and updating for clarity.
6. Amend N.D. Admin Code § 33-16-03.1-08 is removing references for a NPDES permit and updating for clarity.
7. Amend N.D. Admin Code § 33-16-03.1-09 is removing references for a NPDES permit and updating for clarity.

8. Amend N.D. Admin Code § 33-16-03.1-10 is removing references for a NPDES permit while providing clarity on when a state permit could be modified, suspended, revoked, or denied.
9. Amend N.D. Admin Code § 33-16-03.1-11 is updating for clarity.
10. Amend N.D. Admin Code § 33-16-03.1-12 is updating for clarity.
11. Amend N.D. Admin Code § 33-16-03.1-13 is updating for clarity.

The proposed rulemaking also implements Senate Bill No. 2327, enacted during the most recent legislative session, concerning the creation of the NDDEQ. The Environmental Health Section Chief, who is authorized under S.L. 2017, ch. 199, § 1 (S.B. 2327) to adopt rules for the NDDEQ, is proposing to adopt the NDDH's Control of Pollution from Animal Feeding Operations, N.D. Admin. Code ch. 33-16-03.1, including the proposed amendments, as the NDDEQ's Control of Pollution from Animal Feeding Operations, N.D. Admin. Code ch. 33.1-16-03.1. In addition, the proposed NDDEQ rules contain minor edits to reflect the creation of the new agency. If adopted, the proposed NDDEQ rules will be effective upon establishment of the NDDEQ, as specified in S.L. 2017, ch. 199, § 1 (S.B. 2327).

Comments regarding changes to the existing North Dakota Administrative Code will be considered. Comments regarding rules being transferred from NDDH to NDDEQ that are not substantively changed from existing code are beyond the scope of this proceeding and will not be considered because the transfer of authority is mandated by S.B. 2327. Comments regarding rules only changed in formatting or numbering that are not substantively changed from existing code, will be considered only as they relate to such changes.

The proposed changes and supporting material for both the NDDH and NDDEQ may be viewed at the NDDH, Division of Water Quality, 918 East Divide Ave. Bismarck, ND 58501-1947, or on the Department's website at deg.nd.gov/PublicNotice.aspx. A copy of the proposed amendments may be obtained by writing to the above address or by calling 701.328.5210. Written comments on the proposed changes for both the NDDH and NDDEQ sent to the above mailing address and received by Friday, March 2, 2018 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 at least seven days prior to the public hearing.

Dated this 19 day of January, 2018.

L. David Glatt
Section Chief
Environmental Health Section