

MAR 23 2018



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



March 23, 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 Pretreatment Regulations and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,

A handwritten signature in black ink, appearing to read "Karl H. Rockeman".

Karl H. Rockeman, P.E.
Director
Division of Water Quality
North Dakota Department of Health

Enclosures

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

**NOTICE OF INTENT TO
AMEND AND ADOPT ADMINISTRATIVE RULES
RELATING TO THE PRETREATMENT REGULATIONS**

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 Pretreatment Regulations, N.D. Admin. Code ch. 33-16-01.1, and adoption of Pretreatment Regulations, N.D. Admin. Code ch. 33.1-16-01.1. 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 Friday, May 18, 2018, beginning at 1:00 PM CDT at the NDDH, Environmental Training Center, 2639 East Main Avenue, Bismarck, ND.

The purpose of the proposed amendments to Pretreatment Regulations, N.D. Admin. Code ch. 33-16-01.1, is to update the NDDH's rules to reflect the changes in U.S. Environmental Protection Agency rules regarding the Streamlining Rule for Pretreatment. As proposed, the amendments will provide updated regulations while adopting the legislative change. Specifically, the NDDH is proposing the following amendments to N.D. Admin. Code Chapter 33-16-01.1:

1. Amend N.D. Admin Code § 33-16-01.1-01 to amend and incorporate definitions for clarification to updated federal rule.
2. Amend N.D. Admin Code § 33-16-01.1-01.1 to adopt a new section, Purpose and Applicability.
3. Amend N.D. Admin Code § 33-16-01.1-02 to amend and incorporate updated federal rule.
4. Amend N.D. Admin Code § 33-16-01.1-03 to amend and incorporate updated federal rule.
5. Amend N.D. Admin Code § 33-16-01.1-04 to amend quantities and concentrations requirement. N.D. Century Code § 23-01-04.1 is being removed as this section is not more stringent than federal rule.
 - a. Update 40 CFR 403.6(a) incorporation by reference.
 - b. Update 40 CFR 403.6(c) incorporation by reference.
 - c. Update 40 CFR 403.6(e) incorporation by reference.
6. Amend N.D. Admin Code § 33-16-01.1-05 updated formatting.
7. Amend N.D. Admin Code § 33-16-01.1-06 updated formatting.
8. Amend N.D. Admin Code § 33-16-01.1-07 updated formatting.

9. Amend N.D. Admin Code § 33-16-01.1-08 updated formatting.
10. Amend N.D. Admin Code § 33-16-01.1-09 updated formatting.
11. Amend N.D. Admin Code § 33-16-01.1-10 updated formatting.
12. Amend N.D. Admin Code § 33-16-01.1-11 to amend and incorporate updated federal rule.
13. Amend N.D. Admin Code § 33-16-01.1-12 to amend and incorporate updated federal rule.
 - a. Update 40 CFR 403.12(p) incorporation by reference.
14. Amend N.D. Admin Code § 33-16-01.1-13 to amend and incorporate updated federal rule.
15. Amend N.D. Admin Code § 33-16-01.1-14 to incorporate updated federal rule. N.D. Century Code § 23-01-04.1 is being removed as this section is not more stringent than federal rule.
 - a. Update 40 CFR 403.7 incorporation by reference.
 - b. Update Appendix G in 40 CFR 403 incorporation by reference.
16. Amend N.D. Admin Code § 33-16-01.1-15 to incorporate updated federal rule. N.D. Century Code § 23-01-04.1 is being removed as this section is not more stringent than federal rule.
 - a. Update 40 CFR 403.13 incorporation by reference.
17. Amend N.D. Admin Code § 33-16-01.1-16 to incorporate updated federal rule. N.D. Century Code § 23-01-04.1 is being removed as this section is not more stringent than federal rule.
 - a. Update 40 CFR 403.15 incorporation by reference.
18. Amend N.D. Admin Code § 33-16-01.1-17 updated formatting.
19. Amend N.D. Admin Code § 33-16-01.1-18 to incorporate updated federal rule.
20. Amend N.D. Admin Code § 33-16-01.1-19 to incorporate updated federal rule. N.D. Century Code § 23-01-04.1 is being removed as this section is not more stringent than federal rule.
 - a. Update 40 CFR 403.18 incorporation by reference.
21. Amend N.D. Admin Code § 33-16-01.1-20 updated formatting.

22. Amend N.D. Admin Code § 33-16-01.1-21 to incorporate updated federal rule.
23. Amend N.D. Admin Code § 33-16-01.1 Appendix A to incorporate updated federal rule.
24. Amend N.D. Admin Code § 33-16-01.1 Appendix B updated formatting.

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 Pretreatment Regulations, N.D. Admin. Code ch. 33-16-01.1, including the proposed amendments, as the NDDEQ's Pretreatment Regulations, N.D. Admin. Code ch. 33.1-16-01.1. 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 Tuesday, May 29, 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 March, 2018.

L. David Glatt
Section Chief
Environmental Health Section