CHAPTER 33.1-15-03
RESTRICTION OF EMISSION OF VISIBLE AIR CONTAMINANTS

Section
33.1-15-03-01 Restrictions Applicable to Existing Installations
33.1-15-03-02 Restrictions Applicable to New Installations and All Incinerators
33.1-15-03-03 Restrictions Applicable to Fugitive Emissions
33.1-15-03-03.1 Restrictions Applicable to Flares
33.1-15-03-04 Exceptions
33.1-15-03-05 Method of Measurement

33.1-15-03-01. Restrictions applicable to existing installations.

No person may discharge into the ambient air from any single source of emission whatsoever, with the exception of existing incinerators, any air contaminant which exhibits an opacity greater than forty percent except that a maximum of sixty percent opacity shall be permissible for not more than one six-minute period per hour. Provided, however:

1. In consideration of public health and welfare, when it becomes both technically and economically feasible, the source shall comply with visible air contaminant restrictions as outlined in section 33.1-15-03-02 when directed by the department.

2. Any existing source which has installed control technology capable of complying with the visible air contaminant restrictions applicable to new installations shall comply with section 33.1-15-03-02 when directed by the department.

3. If any party is aggrieved by the department's decision as referenced in subsections 1 and 2, that party may request a hearing before the department to review such decision. Such hearing must be conducted according to North Dakota Century Code chapter 28-32. If a hearing is requested, the requirements of section 33.1-15-03-02 are not effective until ordered by the department at the conclusion of the hearing process.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-03-02. Restrictions applicable to new installations and all incinerators.

No person may discharge into the ambient air from any single source of emission whatsoever any air contaminant which exhibits an opacity greater than twenty percent except that a maximum of forty percent opacity is permissible for not more than one six-minute period per hour.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-03-03. Restrictions applicable to fugitive emissions.

No person may discharge into the ambient air from any source of fugitive emissions, as determined or identified by the department, any air contaminant which exhibits an opacity greater than forty percent for more than one six-minute period per hour. Such visible emissions shall have been visibly transported off the property of emission origination and remains visible to an observer positioned off said property when sighting along a line which does not cross the property of emission origination.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-03-03.1. Restrictions applicable to flares.

No person may discharge into the ambient air from any single source of emission whatsoever any air contaminant which exhibits an opacity greater than twenty percent except that a maximum of sixty percent opacity is permissible for not more than one six-minute period per hour.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-03-04. Exceptions.

The provisions of sections 33.1-15-03-01, 33.1-15-03-02, 33.1-15-03-03, and 33.1-15-03-03.1 shall not apply in the following circumstances:

1. Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements.

2. When smoke is emitted for the purpose of training or research when approved by the department, including training schools for firefighting personnel.

3. [Reserved].

4. [Reserved].

5. Where fugitive emissions are caused by agricultural activities related to the normal operations of a farm. However, agricultural practices such as tilling of land, application of fertilizers, harvesting of crops, and other activities shall be managed in such a manner as to minimize dust from becoming airborne.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21

33.1-15-03-05. Method of measurement.

1. Method 9. Compliance with visible emission standards in chapter 33.1-15-03 shall be determined by conducting observations in accordance with Reference Method 9 of Appendix A to chapter 33.1-15-12. Per hour for Reference Method 9 means any contiguous sixty-minute time period. When Reference Method 9 opacity readings are not available, continuous opacity monitors may be substituted. Per hour for monitors means any sixty-minute period commencing on the hour. The results of continuous monitoring by transmissometer, which indicate that the opacity at the time visible emissions were taken, were not in excess of the standard, are probative but not conclusive evidence of the actual opacity of an emission; provided, that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

2. Method 22. When a visible emissions limit is specified in a permit issued in accordance with this article as zero percent opacity except for a certain frequency, compliance shall be determined using Reference Method 22 of Appendix A to chapter 33.1-15-12.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04; S.L. 2017, ch. 199, § 21