CHAPTER 33.1-15-23
FEES

Section
33.1-15-23-01 Definitions
33.1-15-23-02 Permit to Construct Fees
33.1-15-23-03 Minor Source Permit to Operate Fees
33.1-15-23-04 Major Source Permit to Operate Fees
33.1-15-23-05 Phase I Substitution Units
33.1-15-23-06 Oil and Gas Well Production Facilities

33.1-15-23-01. Definitions.

For purposes of this chapter:

1. "Major source" means any source that has been issued or is required by this article to obtain a title V permit to operate. This includes sources that have begun operation but have not yet applied for a title V permit to operate.

2. "Minor source" has the meaning given to it in section 33.1-15-14-01.1.

3. "Regulated contaminant" means any "regulated air contaminant", as defined in section 33.1-15-14-06, except the following:

   a. Carbon monoxide.

   b. Any contaminant that is a regulated air contaminant solely because it is a class I or II substance subject to a standard promulgated under or established by title VI of the federal Clean Air Act.

   c. Any contaminant that is a regulated air contaminant solely because it is subject to a standard or regulation under section 112(r) of the federal Clean Air Act.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-08; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04, 23.1-06-08; S.L. 2017, ch. 199, § 21

33.1-15-23-02. Permit to construct fees.

Any person constructing, installing, or establishing a new stationary source or altering an existing source which requires a permit to construct under subsections 1 and 3 of section 33.1-15-14-02 is required to pay a permit to construct application filing fee and a permit to construct processing fee to the department.

1. **Application fee.** A nonrefundable filing fee of three hundred twenty-five dollars must be submitted with the permit application.

2. **Processing fee.** The applicant shall pay a processing fee based on actual processing costs, including computer data processing costs, incurred by the department for all sources which would involve a major analysis the cost of which would exceed three hundred twenty-five dollars as determined by the department. The following procedures and criteria will be utilized in establishing the fee:

   a. A record of all permit to construct application processing costs incurred must be maintained by the department.

b. Upon request, the department, in consultation with the applicant, will prepare an estimate of the processing fee and the billing schedule that will be utilized in processing the application.

c. Statements will be sent to the applicant containing the actual processing costs incurred by the department.

d. The applicant must pay the processing fee regardless of whether a permit to construct is issued, denied, or withdrawn.

e. Any source that initiates operation under a permit to construct prior to receiving a permit to operate is subject to the fees outlined in section 33.1-15-23-03 or 33.1-15-23-04, whichever is applicable.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 21

33.1-15-23-03. Minor source permit to operate fees.

1. The owner or operator of each installation subject to a permit issued under section 33.1-15-14-03 shall pay an annual permit fee based on the following table:

Classification	Annual Fee
Designated	$300
Other	$100
State and local government	$0
Exempt	$0

The following criteria are used to classify sources for determining minor source annual fees:

Designated:	A source that is designated for scheduled inspections.
Other:	As designated by the department.
State and local government:	Any installation owned by the state of North Dakota or a local government.
Exempt:	As designated by the department.

2. The following activities conducted by the department are not included in the annual costs and will be charged to affected sources based on the actual costs incurred by the department:

   a. Observation of source or performance specification testing, or both.

   b. Audits of source operated ambient air monitoring networks.

   An accounting of the actual costs incurred under this subsection must accompany the notice of the annual permit fee.

3. Annual emissions are derived using representative source test data, "compilation of air pollution emission factors (AP-42)" or other reliable data.

4. The classification of "other" and "exempt" shall be designated by the department on a case-by-case basis.

5. The department shall send a notice, identifying the amount of the annual permit fee, to the owner or operator of each affected source. The fee is due within sixty days following the date of such notice.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-10; S.L. 2017, ch. 199, § 21

33.1-15-23-04. Major source permit to operate fees.

1. The owner or operator of each installation that meets the applicability requirements of subsection 2 of section 33.1-15-14-06 shall pay an annual fee. The fee is determined by the actual annual emissions of regulated contaminants. Fugitive emissions will be included in the fee calculation for sources that are required to count them when determining applicability under section 33.1-15-14-06.

2. Effective January 1, 2005, the annual fee shall be assessed at a rate of twenty-five dollars per ton of emissions of each regulated contaminant identified in section 112(b) of the federal Clean Air Act. All other regulated contaminants will be assessed a fee at a rate of twelve dollars per ton. The minimum fee will be five hundred dollars per source.

3. In determining the amount due, that portion of any regulated contaminant which is emitted in excess of four thousand tons [3,628.74 metric tons] per year will be exempt from the fee calculation.

4. Each boiler with a heat input greater than two hundred fifty million British thermal units per hour will be assessed fees on an individual basis and independent of the fees associated with the rest of the installation. The four thousand ton [3,628.74 metric ton] per year cap referenced in subsection 3 is applied to each boiler.

5. Any state-owned or local government-owned facility is exempt from the fee.

6. The fee calculation must be based upon actual annual emissions from the previous calendar year.

7. The fee must be calculated independently for each installation, facility, source, or unit which has been issued a separate permit to operate.

8. The fee rates and the limits established under subsection 2 may be adjusted on an annual basis to account for any increase in the consumer price index published by the department of labor, as of the close of the twelve-month period ending on August thirty-first of each calendar year.

9. Any source that qualifies as a "small business" under section 507 of the federal Clean Air Act may petition the department to reduce or exempt any fee required under this section. Sufficient documentation of the petitioner's financial status must be submitted with the request to allow the department to evaluate the request.

10. The department shall send a notice, identifying the amount of the annual permit fee, to the owner or operator of each affected source. The fee is due within sixty days following the date of such notice.

11. Greenhouse gases are exempt from the fees in this section.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 21

33.1-15-23-05. Phase I substitution units.

Substitution units, as defined in 40 CFR part 72, shall pay an annual administrative fee equal to one hundred thousand dollars per source. This fee must be adjusted on an annual basis to account for any increase in the consumer price index. The adjustment shall be made on August thirty-first of each year and shall be based on the department of labor's published change in the index.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-10; S.L. 2017, ch. 199, § 21

33.1-15-23-06. Oil and gas well production facilities.

The owner or operator of an oil and gas well production facility that is required to register the facility in accordance with section 33.1-15-20-02 shall pay a nonrefundable filing fee of one hundred fifty dollars per well. The filing fee must be submitted with the registration form.

History: Effective January 1, 2019.
General Authority: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 23.1-06-04, 23.1-06-10; S.L. 2017, ch. 199, § 21