

Legislative Council
Administrative Rules Committee
December 10, 2009
North Dakota Administrative Code (N.D.A.C.) Article 33-17
Public Water Supply System

This information is provided in regard to ten issues of interest to the Legislative Council's Administrative Rules Committee.

1. Did the rule revisions result from statutory changes made by the Legislative Assembly?

No. The rule revisions did not result from statutory changes made by the Legislative Assembly.

2. Are the rule revisions related to any federal statute or regulation?

Yes. The rule revisions are in response to federal regulations recently promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the federal Safe Drinking Water Act (PL 104-182 or 42 U.S.C. 300f-300j-25). The rule revisions were made to conform our state rules to these federal rules. The federal rules were adopted by reference with permission by the EPA. Therefore, the revised state rules are no more stringent than the federal rules.

3. Describe the rule making procedure that was followed.

On December 15, 2008, the Department requested permission from the State Health Council to amend N.D.A.C. Art. 33-17 and proceed to public hearing. The Notice of Intent to Amend N.D.A.C. Art. 33-17 and a copy of the proposed rules were sent to the Legislative Council on June 1, 2009 and were posted on the Department's internet site. The public hearing notices were published one time in all county newspapers during the time period June 9 to June 15, 2009. The public hearing was held on July 16, 2009, at the Department's Environmental Training Center in Bismarck, N.D. A comment period of 11 days beyond the hearing date was provided.

On August 11, 2009, the State Health Council gave final approval to the rule revisions contingent upon approval of the Attorney General. The revised rules were submitted to the Attorney General for an opinion on August 12, 2009. The Attorney General's Opinion dated August 31, 2009, determined the administrative rules are in compliance with North Dakota Century Code (N.D.C.C.), chapter 28-32.

4. Did any person present a written or oral concern, objection, or complaint for agency consideration with regard to these rules?

No comments were received prior to or during the hearing, or within the comment period following the hearing.

9. Was a constitutional takings assessment prepared as required by N.D.C.C. Section 28-32-09?

A takings assessment is not required as the rules do not result in takings in the context of N.D.C.C. Section 28-32-09.

10. Were these rules adopted as emergency (interim final) rules under N.D.C.C. Section 28-32-03?

No, these rules were not adopted as emergency rules.