

**NOTICE OF INTENT TO
ADOPT ADMINISTRATIVE RULES
RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF
ENVIRONMENTAL QUALITY**

TAKE NOTICE that the North Dakota Department of Health (NDDH) Environmental Health Section Chief (Environmental Chief), on behalf of the North Dakota Department of Environmental Quality (NDDEQ), will hold a public hearing to address several proposed new articles to be located in Department of Environmental Quality, N.D. Admin. Code Title 33.1, at 1:30 PM on June 5, 2018, at the Environmental Training Center, 2639 East Main Avenue, Bismarck, ND. The proposed rules are not expected to have an impact on the regulated community in excess of \$50,000. Some of the rules and other documents that are the subject of this public notice will be submitted to the United States Environmental Protection Agency (U.S. EPA) to be included in or revise the State Implementation Plan (SIP) required by the Federal Clean Air Act.

The purpose of the proposed articles is to implement Senate Bill No. 2327, enacted during the most recent legislative session, concerning the creation of the NDDEQ. The Environmental Chief, who is authorized under S.L. 2017, ch. 199, § 1 (S.B. 2327) to adopt rules for the NDDEQ, is proposing to adopt several existing NDDH rules in State Department of Health, N.D. Admin. Code Title 33, as the NDDEQ's rules in Department of Environmental Quality, N.D. Admin. Code Title 33.1. The proposed NDDEQ rules contain minor edits to existing NDDH rules, which are primarily intended to reflect the creation of the new agency. Where necessary, changes have been made to existing NDDH rules referencing or relying on repealed statutes. 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). The Environmental Chief is proposing to adopt additional rules for NDDEQ in separate rulemakings.

In this rulemaking, the Environmental Chief is proposing to adopt:

- Article 33.1-03, relating to water works and sewerage systems (currently Article 33-03)
- Article 33.1-10, relating to radiological health (currently Article 33-10) (Note: Proposed Article 33.1-10 includes a proposed revision to NDDH's Article 33-10 which is currently subject to a separate NDDH rulemaking.)
- Article 33.1-15, relating to air pollution control (currently Article 33-15)
- Article 33.1-17, relating to public water supply systems (currently Article 33-17)
- Article 33.1-18, relating to water well contractors (currently Article 33-18)
- Article 33.1-19, relating to certification of water and wastewater systems operators (currently Article 33-19)
- Article 33.1-20, relating to solid waste management and land protection (currently Article 33-20)
- Article 33.1-23, relating to the division of chemistry laboratories (currently Article 33-23)

- Article 33.1-24, relating to hazardous waste management (currently Article 33-24)
- Article 33.1-34, relating to petroleum and fuel products (currently Article 33-34)
- Article 33.1-35, relating to revolving loan fund (currently Article 33-35)

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 following rules will be submitted to the U.S. EPA for inclusion in the SIP for the Air Quality Control Program:

- Chapter 33.1-15-01 – Entire Chapter
- Chapter 33.1-15-02 – Entire Chapter including Tables 1 and 2
- Chapter 33.1-15-03 – Entire Chapter
- Chapter 33.1-15-04 – Entire Chapter
- Chapter 33.1-15-05 – Entire Chapter
- Chapter 33.1-15-06 – Entire Chapter
- Chapter 33.1-15-07 – Entire Chapter
- Chapter 33.1-15-08 – Entire Chapter
- Chapter 33.1-15-10 – Entire Chapter
- Chapter 33.1-15-11 – Entire Chapter including Tables 6 and 7
- Chapter 33.1-15-14 – Sections 33.1-15-14-01, 33.1-15-14-01.1, 33.1-15-14-02, 33-15.1-14-03, and 33.1-15-14-07
- Chapter 33.1-15-15 – Entire Chapter
- Chapter 33.1-15-17 – Entire Chapter
- Chapter 33.1-15-18 – Entire Chapter
- Chapter 33.1-15-19 – Entire Chapter
- Chapter 33.1-15-20 – Entire Chapter
- Chapter 33.1-15-23 – Sections 33.1-15-23-01, 33.1-15-23-02, 33.1-15-23-03, and 33.1-15-23-06
- Chapter 33.1-15-25 – Entire Chapter

The following rules will not be submitted as a SIP revision. Direct delegation or approval will be requested.

- Chapter 33.1-15-12 Standards of Performance for New Stationary Sources
- Chapter 33.1-15-13 Emission Standards for Hazardous Air Pollutants
- Section 33.1-15-14-06 Title V Permit to Operate
- Chapter 33.1-21 Acid Rain Program
- Chapter 33.1-15-22 Emission Standards for Hazardous Air Pollutants for Source Categories

- Section 33.1-15-23-04 Major Source Permit to Operate Fees
- Chapter 33.1-15-24 Standards for Lead Based Paint Activities
- Chapter 33.1-15-25 Regional Haze Requirements

The Environmental Chief, on behalf of NDDEQ, will also be submitting updates to the SIP including Sections 1.A which provides a cross reference of the name change, law changes and rule changes in the SIP. Section 11.27 provides a listing of the rules included in the SIP and the changes to the rules. The Environmental Chief will also be updating the Infrastructure SIPs (I-SIP) for the 1997 PM_{2.5} NAAQS, 2006 PM_{2.5} NAAQS, 2008 Ozone NAAQS, 2008 Lead NAAQS, 2010 Nitrogen Dioxide NAAQS, 2010 Sulfur Dioxide NAAQS and the 2012 PM_{2.5} Annual NAAQS.

Documentation, including the program descriptions, was developed for requesting approval/redelegation of the New Source Performance Standards Program, Title V Permit to Operate Program (including the Acid Rain Program, National Emission Standards for Hazardous Air Pollutants and National Emission Standards for Hazardous Air Pollutants for Source Categories), and the Asbestos Model Accreditation Program. The documentation is also available for comment and can be found at the website listed below.

Chapter 33.1-15-16, Restriction of Odorous Air Contaminants, is a state-only rule and will not be submitted to the U.S. EPA.

The proposed changes and supporting material may be viewed at the NDDH, 918 East Divide Ave. Bismarck, ND 58501-1947, or on the Department's website at deq.nd.gov/PublicNotice.aspx. A copy of the proposed amendments may be obtained by writing to the above address or by calling 701.328.5150. Written comments on the proposed changes sent to the above mailing address and received by Friday, June 15, 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 16th day of April, 2018.

L. David Glatt
Section Chief
Environmental Health Section