FULL NOTICE OF INTENT TO
AMEND AND ADOPT ADMINISTRATIVE RULES
RELATING TO STANDARDS OF QUALITY FOR WATERS OF THE STATE

TAKE NOTICE that the North Dakota Department of Environmental Quality (NDDEQ) will hold a public hearing on proposed amendments to the Standards of Quality for Waters of the State, N.D. Admin. Code ch. 33.1-16-02.1. The hearing will be held at:

North Dakota Department of Environmental Quality
918 East Divide Avenue
Bismarck, ND 58501-1947
or due to Covid-19 remotely by calling:
1-866-836-7636
October 12, 2020
5:30 p.m. CST

The proposed changes are not expected to have an impact on the regulated community in excess of $50,000.

The proposed amendments to the Standards of Quality for Waters of the State, N.D. Admin. Code ch. 33.1-16-02.1, are the result of the NDDEQ's periodic review of the Standards of Quality for Waters of the State, as required by 33 U.S.C. § 1313(c). As proposed, the NDDEQ's amendments will provide clarification in the standards and include changes to the narrative and numeric criteria, definitions and formatting. Specifically, the NDDEQ is proposing the following amendments to N.D. Admin. Code Chapter 33.1-16-02.1:

Summary of Proposed Changes to the Standards

1. **33.1-16-02.1-05. Variances and Compliance schedules:**

    - Correct spelling of the word exceedance

2. **Water Quality Criteria:**

    - Add the word "None" in the Cas No. Column when no Cas Number exist for the criteria.

    - Update the Ammonia Criteria in Table 1, to reflect Clean Water Act, Section 304(a) Criteria Recommendations for the protection of aquatic life.

    - Removed from Table 1 the Site-Specific Ammonia Criteria applied to the Red River of the North beginning at 12th Avenue North bridge in Fargo, North Dakota

and continuing north approximately 32 miles as Fargo's current waste treatment systems is sufficient to meet the Clean Water Act, Section 304(a) Criteria Recommendations for the Protection of Aquatic Life.

- Updated pH in Table 1 for Class I and IA streams from 7.0-9.0 to 6.5-9.0 to reflect the CWA Section 304(a) Criteria Recommendation for the Protection of Aquatic Life.

- Adding selenium fish flesh to Table 1. Criteria is applied in a hierarchy process beginning with Egg-Ovary of 15.1, Whole Body of 8.5 and Muscle of 11.1 mg/kg as dry weight. The addition reflects the fish flesh CWA Section 304(a) Criteria Recommendation for the Protection of Aquatic Life.

- Changed the example of the hardness dependent criteria for Cadmium, Chromium(III), Copper, Lead, Nickel, Silver, and Zinc from a hardness of 100 mg/l to 400 mg/l to more accurately reflect the hardness in North Dakota waters.

- Corrected the spelling of Chromium.

- Updated the chronic aquatic life Mercury criteria from 0.012 µg/l to 0.88 µg/l total recoverable to reflects the CWA Section 304(a) Criteria Recommendation for the Protection of Aquatic Life.

3. **Discharge of Wastes:**

- Updated the language in 33.1-16-02.1-11. (4) Discharge of wastes to accurately reflect the process of reporting any spill or discharge of waste that causes or is likely to cause pollution of waters.

4. **APPENDIX I, STREAM CLASSSIFICATION TABLE:**

- Improved formatting of table.

5. **APPENDIX II, LAKE & RESERVOIR CLASSIFICATION TABLE:**

- Improved formatting of table.

6. **APPENDIX III, MIXING ZONE & DILUTION POLICY & PROCEDURES:**

- Improve a grammar and spelling.
- Updated Step 1 for implementing mixing zone procedures during critical low-flow conditions.

7. APPENDIX IV, ANTIDEGREDATION PROCEDURES:

- Improve a grammar and spelling.

- Updated language in the review process for Category 3 Waters. Primarily removing reference to Pollution Control Board.

The proposed changes and supporting material may be viewed at the NDDEQ, Division of Water Quality, 918 East Divide Ave. Bismarck, ND 58501-1947, or online at https://deq.nd.gov/PublicNotice.aspx. A copy of the proposed changes and supporting material may be requested by writing to the NDDEQ, Division of Water Quality, 918 East Divide Avenue, Bismarck, ND 58501-1947 or calling 701-328-5210.

All comments received by October 23, 2020 on the proposed amendments to the North Dakota Administrative Code will be considered. Written or oral comments on the Standards of Quality for Waters of the State, N.D. Admin. Code ch. 33.1-16-02.1 or the proposed changes may be submitted to the NDDEQ, Division of Water Quality, 918 East Divide Avenue, Bismarck, ND 58501-1947.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Division of Water Quality at the above address or telephone number at least seven days prior to the public hearing.

Dated this 12th day of August 2020
Karl H. Rockeman
Director, Division of Water Quality