

NORTH DAKOTA INDUSTRIAL COMMISSION DRILLING PERMIT REVIEW POLICY

NDIC-PP 1.01. For all applications for a permit to drill under NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05, regardless of location, the director shall consider the proximity of the proposed location to the following:

- a. A shallow glacial aquifer;
- b. A lake (with a water surface of 640 acres or more);
- c. Lake Sakakawea;
- d. A wellhead protection area;
- e. Near-surface coal, sand, or gravel deposit;
- f. Unstable soils or areas with a high potential for soil instability;
- g. A natural drainage;
- h. An "Area of Special Flood Hazard" as defined under the national flood insurance program 44 CFR § 59-60. Maps can be accessed on FEMA portal at the following link;
<https://msc.fema.gov/portal/home>
- i. An occupied dwelling;
- j. A military facility;
- k. A plugged and/or abandoned well;
- l. A planned bypass route that has been proposed in an approved ten year, or less, county, state, or federal road master plan;
- m. 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway;
- n. A city's extra-territorial boundary;
- o. A county, state, or federally designated historic site; a public recreation area; or a wildlife management area;
- p. A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications; military airport under construction, or an airport under construction that will be available for public use; airport operated by a Federal agency or the DOD; airport or heliport with at least one FAA-approved instrument approach procedure; and
- q. Any other areas or geographical formations the director deems appropriate.

NDIC-PP 1.02. Because of the proximity of a surface location to any of items listed in NDIC-PP 1.01, the director may attach additional stipulations to the permit deemed necessary, such as:

- a. Closed mud system with no cuttings pit;
- b. Impermeable liner underlying the entire site;
- c. Casing cemented to ground level placed in the rat and mouse holes;
- d. Prohibiting the drilling pit from being constructed with porous materials, i.e., sand, coal, gravel, or scoria;
- e. Spill contingency plan and diking around the entire location;
- f. Hydrogen sulfide contingency plan;
- g. Fencing around the site;
- h. Additional casing strings;
- i. Additional precautions to avoid adverse effects to nearby well(s);
- j. Locating production equipment further from occupied dwellings than the well head;
- k. Requiring access from an off-spacing unit site;
- l. Planting of trees to minimize visual impact;

- m. Restrictions on access road location;
- n. Limiting flaring to completion or work over flow back periods;
- o. Restricting excavation during site construction;
- p. Timing limits on construction, drilling and fracture stimulating operations; or
- q. Any other provision deemed necessary.

NDIC-PP 1.03. If the proposed location is within 1/4 mile of a military installation, the director shall require documentation that the applicant has notified the applicable military service.

NDIC-PP 1.04. If the proposed location is within a wellhead protection area, the director shall require documentation that the applicant has notified the North Dakota Department of Environmental Quality.

NDIC-PP 1.05. If the proposed location is within 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway, or is within any setback previously established by the governing body prior to the filing of the application, the director shall require documentation that the applicant has notified the applicable county or township.

NDIC-PP 1.06. If the proposed location is an off-spacing unit site, the applicant must provide an affidavit affirming that the surface owner of the pad location agrees to accept the underground burial of cuttings generated from drilling.

NDIC-PP 1.07. If the proposed location is within 2,640 feet of any runway end of an airport as defined in NDIC-PP 1.01(p), the director shall require documentation that the applicant has notified the appropriate city, airport, and federal officials in compliance with Title 14 CFR Part 77. Comments regarding the permit application regarding potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport may be accepted by the Industrial Commission executive director's designee within 45 calendar days after the notice is provided. All comments shall be reviewed by the executive director's designee who shall summarize any comments received for the director. The director may consider, but is not bound to act upon, the comments. The director may attach conditions to any permit pursuant to NDCC 38-08 and 38-12, and NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport to the maximum extent allowed by North Dakota law. This policy will not impact any other legal remedies available under NDCC chap 38-08.

If the proposed location is within 10,000 feet of any runway end of an airport as defined in NDIC-PP 1.01(p), the director shall require documentation that the applicant has notified the appropriate officials in compliance with Title 14 CFR Part 77. The director may attach conditions to any permit pursuant to NDCC 38-08 and 38-12, and NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport to the maximum extent allowed by North Dakota law. This policy will not impact any other legal remedies available under NDCC chap 38-08.

NDIC-PP 1.08. If the proposed location is within an "Area of Special Flood Hazard" as defined in NDIC PP 1.01 (h), the director shall require documentation that the applicant notified the appropriate flood plain administrators to include the local Floodplain Administrator (community building permitting office or planning department), state flood plain administrator (State Engineer) and Director of the Federal Emergency Management

Agency (FEMA) in compliance with 44 CFR § 59-60. Comments regarding the permit application and the potential impacts of oil and gas operations within the flood plain will be accepted by the Industrial Commission executive director's designee within 45 calendar days after the notice is provided. The director may consider, but is not bound to act upon, the comments. The director may attach conditions to any permit pursuant to NDCC 38-08 and 38-12, and NDAC 43-02- 02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts of oil and gas operations within the flood plain to the maximum extent allowed by North Dakota law. This policy will not impact any other legal remedies available under NDCC chapter 38-08.

Revised as of October 22, 2019