

INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS
Part C – Recommended Elements

(a) The State’s process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law:

North Dakota Century Code (NDCC) 38-08-04.4 states in part

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the site, cannot be legally required to plug or replug the well or to reclaim the site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond or damage is the result of an illegal dumping incident.
3. The well, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

NDCC 38-08-04 (12) states in part

After a well has been in abandoned-well status for one year, the single-well bond referred to above, or any other bond covering the well if the single-well bond has not been obtained, is subject to forfeiture by the commission.

NDCC 38-08-04.9 states

When the commission intends to exercise or has exercised its right to plug a well or reclaim a well site, pipeline facility, production facility, saltwater handling facility, or treating plant, the commission, as compensation for its costs, may confiscate any equipment and salable oil at the well site, pipeline facility, production facility, saltwater handling facility, or treating plant. The equipment subject to confiscation is limited to that owned by the operator, former operator, or working interest owner. If the commission exercises its authority under this section and there is salable oil at the well site, that oil must be confiscated. The commission shall pay the mineral owners the royalty interest in the oil confiscated at the well site. In determining the mineral owners and their royalty interests, the commission may rely upon the most recent division order it is able to obtain. If one is unavailable or the commission finds the order unreliable, the commission may rely upon any other source of information the commission deems reasonable to determine and pay mineral owners. A confiscation must be by an order of the commission after notice and hearing. A confiscation order transfers title to the commission.

(b) A description of the State’s plugging standards, including the witnessing requirements (qualifications of witness, documentation):

North Dakota Administrative Code (NDAC) 43-02-03-34. METHOD OF PLUGGING. All wells shall be plugged in a manner which will confine permanently all oil, gas, and water in the separate strata originally containing them. This operation shall be accomplished by the use of mud-laden fluid, cement, and plugs, used singly or in combination as may be approved by the director. All casing strings shall be cut off at least three feet [91.44 centimeters] below the final surface contour, and a cap with file number shall be welded thereon. Core or Stratigraphic test holes drilled to or below sands containing freshwater shall be plugged in accordance with the applicable provisions recited above.

Placement of cement and mechanical plugs is witnessed by Department of Mineral Resources (DMR) staff.

(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities:

Public health and safety, potential environmental risk, land use, geography, weather, time of year, cost.

(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process:

Not applicable

(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities:

Plan to use the U.S. Department of Interior screening tool (geoplatform.gov).

(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions:

The North Dakota Industrial Commission (NDIC), will utilize information from the April 2018 EPA study to estimate emissions prior to well plugging and North Dakota Department of Environmental Quality (DEQ) to implement monitoring of methane emissions from a statistically representative set of wells after plugging and reclamation to confirm emissions reduction.

(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination:

Surface casing and cement integrity is evaluated during well plugging operations by a pressure test. State plugging standards require a cement plug below the deepest USDW, at the base of the surface casing, and at the surface.

(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure:

Equipment will be cleaned with fluids and solids removed to class II injection or a special waste landfill. Equipment is sold for salvage, or if contaminated, removed to an approved special waste disposal facility. Pipelines will either be removed or flushed with fresh water until clean with fluids and solids removed to class II injection or a special waste landfill. Soil will be remediated to established DMR standards and then revegetated.

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public:

A public hearing at which the public can comment is required prior to well and equipment confiscation by the state. Reclamation plans are provided to landowners for comment prior to reclamation operations.

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance:

Latitude and longitude as well as legal location of wells is provided on the DMR website along with US Well ID/API, Well Name, Well Type, Producing Geologic Formations, State, County, Horizontal Datum, Date Restoration Complete, Well Status.

(k) How the State will use funding to locate currently undocumented orphaned wells:

The NDIC will rely primarily on citizen input along with new methods developed under the DOE grant program for identification of undocumented orphaned wells.

(l) Plans the State has to engage third parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to:

NDIC has an agreement to work with the grazing associations.

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation:

NDIC has access to training programs through Career and Technical Education programs, Train ND, and with the ND Petroleum Councils One Basin One Way program for safety training.

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project:

ND Career and Technical education programs.

(o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development:

Plan to use the U.S. Department of Interior screening tool (geoplatform.gov) along with ND Career and Technical education programs.

(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land:

NDIC developed coordination procedures during the CARES Act orphan well project. This project will require a joint effort between private service companies, state government, and appropriate federal agencies.

(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface:

NDAC 43-02-03-14. ACCESS TO SITES AND RECORDS authorizes the commission to access the locations.

(r) A work schedule covering the period of performance of the Initial grant:

Once the grant funds are received, well plugging will be bid in packages of 10-20 wells. As wells are plugged, equipment demolition will be bid in packages of approximately 10 wells. As equipment demolition is completed, site reclamation contracts will be bid. Successful bidders will be required to submit reclamation plans for approval by the state and, when appropriate, federal agencies. Reclamation of the well site(s) will then proceed to restore locations back to as close to original condition as practicable. Following site reclamation, the NDIC will conduct a site inspection to determine if any additional emissions or water pollution remediation is needed.

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

NDIC-DMR will use the de minimis rate (10%) regarding indirect costs.

Conflict of Interest Disclosure

NDIC-DMR does not have any actual or potential conflict-of-interest existing at the time of grant submission.

Single Audit Reporting Statement

ND Single Audit Reports are conducted biennially under the Single Audit Act Amendments of 1996, and the U.S. Office of Management and Budget Uniform Guidance, Audits of States, Local Governments, and Non-profit Organizations. The most recent reports can be found at:

<https://www.nd.gov/auditor/state-government-audit-reports/state-north-dakota-single-audit>