

**NOTE: THIS IS A NEW CHAPTER**

**CHAPTER 43-02-07.1**  
**DEEP GEOTHERMAL ENERGY PRODUCTION**

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**43-02-07.1-01. Definitions.**

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 38-08 and 38-19 except:

1. "Certified or registered mail" means any form of service by the United States postal service, federal express, Pitney Bowes, and any other commercial, nationwide delivery service that provides the mailer with a document showing the date of delivery or refusal to accept delivery.
2. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

3. "Deep geothermal well" means any well drilled into rocks older than the Greenhorn Formation that encounters hot water or hot brines to develop or produce energy from deep-well geothermal resources.
4. "Facility" includes all surface structures (buildings, slabs or pads, pipelines, etc.) for the production of energy from deep-well geothermal resources as well as all subsurface structures including, but not limited to, deep geothermal and injection wells.
5. "Injection well" means a well into which fluids resulting from the development or production of energy from deep-well geothermal resources are being injected.
6. "Occupied dwelling" or "permanently occupied dwelling" means a residence which is lived in by a person at least six months throughout a calendar year.
8. "Pool" means an underground reservoir containing a common accumulation of geothermal energy; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.
9. "Underground source of drinking water" means an aquifer or its portion which supplies drinking water for human consumption or in which the ground water contains fewer than ten thousand milligrams per liter total dissolved solids.
10. "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-02. Scope of chapter.**

This chapter contains general rules of statewide application which have been adopted by the industrial commission to conserve the natural resources of North Dakota, to prevent waste, and to provide for operation in a manner as to protect correlative rights of all owners of deep-well geothermal resources. These rules do not apply to geothermal resource wells regulated under North Dakota Administrative Code chapter 43-02-07 that are used for the purpose of heating and cooling in ground- or water-source heat pump systems. Special rules, pool rules, field rules, and regulations and orders have been and will be issued when required and shall prevail as against general rules, regulations, and orders if in conflict therewith. However, wherever this chapter does not conflict with special rules heretofore or hereafter adopted, this chapter will apply in each case. The commission may grant exceptions to this chapter, after due notice and hearing, when such exceptions will result in the prevention of waste and operate in a manner to protect correlative rights.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-03. Enforcement of laws, rules, and regulations dealing with conservation, exploration and development of geothermal resources.**

The commission, its agents, representatives, and employees are charged with the duty and obligation of enforcing all rules and statutes of North Dakota relating to geothermal resources. However, it shall be the responsibility of all owners, operators, and contractors to obtain information pertaining to the regulation of geothermal resources before operations have begun.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-04. Waste prohibited.**

All operators, contractors, drillers, carriers, service companies, and all other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging, and site reclamation of a geothermal energy extraction facility in a manner that will prevent waste and the movement of fluid containing any contaminant into underground sources of drinking water or which may adversely affect human health.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-05. United States government leases.**

The commission recognizes that all persons drilling and producing on United States government land shall comply with the United States government regulations. Such persons shall also comply with all applicable state rules and regulations. Copies of the sundry notices, reports on wells, and well data required by this chapter of the wells on United States government land shall be furnished to the commission at no expense to the commission. Federal forms may be used when filing such notices and reports except for reporting the plugging and abandonment of a well. In such instance, the plugging record must be filed on a form approved by the commission.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-06. Forms upon request.**

Forms for written notices, requests, and reports required by the commission will be furnished upon request. These forms shall be of such nature as prescribed by the commission to cover proposed work and to report the results of completed work.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-07. Authority to cooperate with other agencies.**

The commission may from time to time enter into arrangements with state and federal agencies, industry, and individuals with respect to special projects, services, and studies relating to geothermal energy.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-08. Organization reports.**

Every person acting as principal or agent for another or independently engaged in the drilling of deep geothermal wells, or in the exploration, production, reclaiming, treating, and disposal of geothermal resources in North Dakota shall immediately file with the state geologist the name under which such business is being conducted or operated; and name and post-office address of such person, the business or businesses in which the person is engaged; the plan of organization, and in case of a corporation, the law under which it is chartered; and the names and post-office addresses of any person acting as trustee, together with the names and post-office addresses of any officials thereof on an organization report on a form approved by the commission. In each case where such business is conducted under an assumed name, such organization report shall show the names and post-office addresses of all owners in addition to the other information required. A new organization report shall be filed when and if there is

a change in any of the information contained in the original report.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-09. Reservoir surveys.**

By special order of the commission, periodic surveys may be made of the reservoirs in this state containing geothermal resources. These surveys will be thorough and complete and shall be made using methods approved by the director. The condition of the reservoirs containing geothermal resources and the practices and methods employed by the operators shall be investigated.

All operators of deep geothermal and injection wells are required to permit and assist the agents of the commission in making any and all special tests that may be required by the commission on any or all wells.

All geophysical operations must comply with NDCC 38-08.1.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-10. Access to sites and records.**

The commission, director, and their representatives shall have access to all records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, producing, operation, or servicing wells or constructing, servicing, and maintaining facilities shall permit the commission, director, and their representatives to come upon any property, well, or drilling rig operated or controlled by them, complying with state safety rules, and to inspect the records and operation, and to have access at all times to any and all records. If requested, copies of such records must be filed with the commission.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-11. Exploration well bond.**

Before any person receives a permit to drill a well while exploring for geothermal resources, the person shall submit to the commission and obtain its approval of a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of such well shall be the principal on the bond covering the well. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota. The bond will be based upon the projected total depth of the well and the surface restoration costs. Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-19, and all administrative rules and orders of the commission. The well bonds can eventually be transferred to the facility bond if both are under the same operator. If the well operator and the facility operator are not one and the same, the well bonds will continue until the well has been satisfactorily plugged, which shall include practical reclamation of the well site and appurtenances; and all logs, plugging records, and other pertinent data required by statute or rules and orders of the commission are filed and approved.

**Bond termination.** The commission shall, in writing, advise the principal and any sureties on any bond as to whether the plugging and reclamation is approved. If approved, liability under such bond may be formally terminated upon receipt of a written request by the principal. The request must be signed by an officer of the principal or a person authorized to sign for the principal.

**Director's authority.** The director is vested with the power to act for the commission as to all matters within this section, except requests for alternative forms of security, which may only be approved by the commission. The

commission may refuse to accept a bond if the operator or surety company has failed in the past to comply with statutes, rules, or orders relating to the operation of wells; if a civil or administrative action brought by the commission is pending against the operator or surety company; or for other good cause.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-12. Facility bond** Before any person receives a permit to construct a facility for the development or production of deep-well geothermal resources, the person shall submit to the commission and obtain its approval of a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of such facility shall be the principal on the bond covering the facility. The amount of the bond must be commensurate with the size and scope of the facility and the costs of abandoning the operation and reclamation. The information provided in section 43-02-07.1-14, along with any additional information available to the department, will be used to determine the amount of the bond. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota. Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-19, and all administrative rules and orders of the commission, and continue until the surface facility and all wells have been satisfactorily plugged and reclaimed and all logs, plugging records, and other pertinent data required by statute or rules and orders of the commission are filed and approved.

**Bond termination.** The commission shall, in writing, advise the principal and any sureties on any bond as to whether the plugging and reclamation is approved. If approved, liability under such bond may be formally terminated upon receipt of a written request by the principal. The request must be signed by an officer of the principal or a person authorized to sign for the principal.

**Director's authority.** The director is vested with the power to act for the commission as to all matters within this section, except requests for alternative forms of security, which may only be approved by the commission. The commission may refuse to accept a bond if the operator or surety company has failed in the past to comply with statutes, rules, or orders relating to the operation of wells; if a civil or administrative action brought by the commission is pending against the operator or surety company; or for other good cause.

The size and the scope of the operation will be evaluated annually and the department may increase or decrease the bond amount to reflect the results of the evaluation.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-13. Exploration permit.**

Before any person shall begin any well-site preparation for the drilling of any well other than surveying and staking for the purpose of exploring for deep-well geothermal resources, such person shall file an application for permit to drill on a form approved by the commission with the director, together with a permit fee of \$100 dollars. No drilling activity shall commence until such application is approved and a permit to explore is issued by the director. The application must be accompanied by the bond pursuant to section 43-02-07.1-11 or the applicant must have previously filed such bond with the commission, otherwise the application is incomplete. An incomplete application received by the commission has no standing and will not be deemed filed until it is complete.

A permit shall be required for each test well. The application for permit to explore shall be accompanied by an accurate plat certified by a registered surveyor showing the location of the proposed well with reference to true north and the nearest lines of a governmental section, the latitude and longitude of the proposed well location to the nearest tenth of a second, and the ground elevation. Information to be included in such application shall be the proposed depth to which the well will be drilled, estimated depth to the top of important stratigraphic markers, estimated depth to the top of objective horizons, the proposed mud program, the proposed casing program,

including size and weight, the depth at which each casing string is to be set, the proposed pad layout, including cut and fill diagrams, and the proposed amount of cement to be used, including the estimated top of the cement, the proposed procedure, and the estimated completed total depth. The drilling, testing and plugging of exploratory wells will comply with all applicable rules in 43-02-03.

The exploration permit is in effect for one year.

**History:**

**General Authority:** NDCC 38-19-04

**Law Implemented:** NDCC 38-19-04

**43-02-07.1-14. Facility permit.**

Before any person shall begin any site preparation for the construction of a deep-well geothermal facility, such person shall file an application for a facility permit on a form approved by the commission with the director, together with a permit fee. The amount of the permit fee to be determined by the state geologist based upon the cost for the commission to review, investigate, and process the application. The department could take up to 180 days to review the permit application. No drilling activity shall commence until such application is approved and a facility permit is issued by the director. The application must be accompanied by the bond pursuant to section 43-02-07.1-12 or the applicant must have previously filed such bond with the commission, otherwise the application is incomplete. An incomplete application received by the commission has no standing and will not be deemed filed until it is complete.

Before any person shall begin any well-site preparation for the drilling of any well other than surveying and staking, such person shall file an application for a permit to drill on a form approved by the commission with the director, together with a permit fee of one hundred dollars. Verbal approval may be given for site preparation by the director in extenuating circumstances. No drilling activity shall commence until such application is approved and a permit to drill is issued by the director. The application must be accompanied by the bond or the applicant must have previously filed such bond with the commission, otherwise the application is incomplete. An incomplete application received by the commission has no standing and will not be deemed filed until it is completed.

A permit shall be required for each facility. The facility permit application must include:

1. A description of the facility to be permitted. The facility area shall be outlined on the application and the permit shall be valid in the area so outlined. The application for a facility permit shall be accompanied by an accurate plat certified by a registered surveyor showing the location of the proposed facility and wells with reference to true north and the nearest lines of a governmental section, the latitude and longitude of the proposed well locations to the nearest tenth of a second, the ground elevation, and the proposed road access to the nearest existing public road.
2. A description of the proposed geothermal production and injection (disposal) formations that includes the following:
  - a. Regional and site-specific geology pertaining to the geothermal operation.
  - b. A discussion of the geothermal regime and geothermal gradient of the production formation.
  - c. A discussion of the bounding formations of the disposal formation that includes, but is not limited to, continuity and thickness, lithology, integrity, and containment features.
  - d. Reservoir hydrogeology of the proposed production and disposal formations.
3. A description of the chemical and physical properties of the geothermal production and disposal formation waters that includes:
  - a. Water quality (density, chemical constituents, total dissolved solids [TDS], and other relevant data).

- b. A discussion of the compatibility of the disposal fluids with the disposal formation.
4. The proposed depth to which the deep geothermal and injection wells will be drilled, estimated depth to the top of important stratigraphic markers, estimated depth to the top of objective horizons, the proposed mud program, the proposed casing program, including size and weight, the depth at which each casing string is to be set, the proposed pad layout, including cut and fill diagrams, and the proposed amount of cement to be used, including the estimated top of the cement, the proposed procedure, and the estimated completed total depth. The drilling, testing, disposal, and plugging of deep geothermal and injection wells will comply with all applicable rules in 43-02-03.
5. A detailed description of the mechanical construction and operating procedures of the facility
6. A justification of the need for the facility to be permitted, including economic impact.
7. A detailed discussion and description of a monitoring system to be used to ascertain the integrity of the facility and to ensure compliance with this chapter.
8. A detailed discussion and description of a reclamation program for the restoration of the surface as nearly as possible to its original condition and productivity upon expiration of the permit or termination of any activities regulated by this chapter.
9. Architectural plans for all buildings and infrastructure within the facility boundaries.
10. Any other information required by the commission.

The commission shall review the facility permit at least once every five years to determine whether it should be amended, modified, or revoked.

**History:**

**General Authority:** NDCC 38-19-04

**Law Implemented:** NDCC 38-19-04

**43-02-07.1-15. Notice and hearing.**

The commission may require notice and hearing before a permit application is approved or denied.

Except in the case of an emergency, the commission will give thirty days' notice to the general public of the time and place of the hearing on the application. Immediately upon receiving notice of the hearing date, the permit applicant shall give notice by certified mail to surface and subsurface owners within the permit application area and to the county recorder in the county or counties in which the proposed permit area is located.

**History:**

**General Authority:** NDCC 38-19-04 and NDCC 38-19-05

**Law Implemented:** NDCC 38-19-04 and NDCC 38-19-05

**NDAC 43-02-07.1-16. Approval or denial of permit application.**

The commission may approve the permit application as submitted, approve with conditions that ensure the protection of human health and the environment, or deny the application.

The commission may deny a permit application if the exploration, drilling, or operation poses a threat to human health or the environment.

**History:**

**General Authority:** NDCC 38-19-04

**Law Implemented: NDCC 38-19-04**

**43-02-07.1-17. Operators of class V injection wells.**

Prior to the construction of any injection well to be utilized for the disposal of fluids resulting from deep geothermal energy production, an operator shall be permitted by the department of environmental quality to operate the underground injection well pursuant to North Dakota Administrative Code chapter 33.1-25.

All underground injection wells are also subject to the provisions of chapter 43-02-03 where applicable.

**History:**

**General Authority: NDCC 38-19-04**

**Law Implemented: NDCC 38-19-04**

**43-02-07.1-18. Geologic data.**

The following basic data collected by the operator shall be delivered, free of charge, to the state geologist within thirty days of collection:

1. Washed and packaged sample cuts.
2. Cores, except those portions used for necessary testing or analysis, in which case the results of the testing, the analysis, and the description of missing portions shall be submitted to the state geologist.
3. Copies of all logs, including but not limited to, sample logs, radioactivity logs, resistivity logs, and other types of electrical or mechanical logs.
4. Elevation and location information on the data collection points.
5. Other pertinent information required by the state geologist.

**History:**

**General Authority: NDCC 38-19-03**

**Law Implemented: NDCC 38-19-03**

**43-02-07.1-19. Report of production and injection.**

The operator of each deep geothermal well completed in any pool shall, on or before the first day of the second month succeeding the month in which production occurs, file a report with the state geologist showing the amount and temperature of production made by each such well upon on a form approved by the commission. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included.

The operator of each and every injection well shall, on or before the first day of the second month succeeding the month in which injection occurs, file a report with the state geologist showing the amount and composition of fluid injected upon a form approved by the commission. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included.

**History:**

**General Authority: NDCC 38-19-03**

**Law Implemented: NDCC 38-19-03**

**43-02-07.1-20. Measurement of rate of flow of water and steam and of pressure and temperature of fluids.**

The rate of the flow of water or steam, or both, and the pressure and temperature of the fluids from each deep



geothermal well must be accurately measured. Metering must be on a continuous basis and each well must be gauged at the frequency prescribed by the state geologist.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-21. Additional information may be required.**

This chapter shall not be taken or construed to limit or restrict the authority of the commission to require the furnishing of such additional reports, data, or other information relative to production or products as may appear to be necessary or desirable, either generally or specifically, for the prevention of waste, protection of correlative rights, and the conservation of natural resources.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-22. Books and records to be kept to substantiate reports.**

All operators within North Dakota shall make and keep appropriate books and records for a period not less than six years covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-23. Disposal of waste material.**

All waste material associated with exploration or production of geothermal energy must be properly disposed of in an authorized facility in accordance with all applicable local, state, and federal laws and regulations.

All waste material recovered from spills, leaks, and other such events shall immediately be disposed of in an authorized facility, although the remediation of such material may be allowed onsite if approved by the state geologist.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

**43-02-07.1-24. Facility annual operating fee.**

The annual operating fee will be based upon the costs to monitor and inspect the facility.

**43-02-07.1-25. Reclamation of exploration wells.**

The plugging and reclamation of exploration wells to comply with all applicable rules in 43-02-03, including plugging and site reclamation. All lands disturbed during exploration for geothermal resources are to be reclaimed to a condition consistent with prior land use and productive capacity.

**History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

#### **43-02-07.1-26. Reclamation of facilities.**

The plugging and reclamation of all wells to comply with all applicable rules in 43-02-03, including plugging and site reclamation. All buildings and infrastructure are to be removed. The site, access road, and other associated facilities constructed are to be reclaimed to a condition consistent with prior land use and productive capacity.

#### **History:**

**General Authority:** NDCC 38-19-03

**Law Implemented:** NDCC 38-19-03

#### **43-02-07.1-27. Hearings – Complaint proceedings – Emergency proceedings – Other proceedings.**

1. Except as more specifically provided in North Dakota Century Code section 38-08-11, the rules of procedure established in subsection 1 of North Dakota Century Code section 28-32-21 apply to proceedings involving a complaint and a specific-named respondent.
2. For proceedings that do not involve a complaint and a specific-named respondent the commission shall give at least fifteen days' notice (except in emergency) of the time and place of hearing thereon by one publication of such notice in a newspaper of general circulation in Bismarck, North Dakota, and in a newspaper of general circulation in the county where the land affected or some part thereof is situated, unless in some particular proceeding a longer period of time or a different method of publication is required by law, in which event such period of time and method of publication shall prevail. The notice shall issue in the name of the commission and shall conform to the other requirements provided by law.
3. In case an emergency is found to exist by the commission which in its judgement requires the making of a rule or order without first having a hearing, the emergency rule or order shall have the same validity as if a hearing with respect to the same had been held after notice. The emergency rule or order permitted by this section shall remain in force no longer than forty days from its effective date, and in any event, it shall expire when the rule or order made after due notice and hearing with respect to the subject matter of such emergency rule or order becomes effective.

Any person moving for a continuance of a hearing and who is granted a continuance, shall submit a twenty-five dollar fee to the commission, or if the cost of republication exceeds fifty dollars the commission may bill the applicant to pay the cost of republication of notice of the hearing.

#### **History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

#### **43-02-07.1-28. Investigatory hearings.**

The commission may hold investigatory hearings upon the institution of a proceeding by application or by motion of the commission. Notice of the hearing must be served upon all parties personally or by certified mail at least five days before the hearing.

#### **History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

#### **43-02-07.1-29. Official record.**

The evidence in each case heard by the commission, unless specifically excluded by the hearing officer, includes the certified directional surveys, and all geothermal resource production records, and all injection records on file with the commission.

Any interested party may submit written comments on, or objections to, the application prior to the hearing date.

Such submissions must be received no later than five p.m. on the last business day prior to the hearing date and may be part of the record in the case if allowed by the hearing examiner. Settlement negotiations between parties to a contested case are only admissible as governed by North Dakota Century Code section 28-32-24, although the hearing officer may strike such testimony from the record for good cause.

**History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

**43-02-07.1-30. Petitions for review of recommended order and oral arguments prohibited.**

Neither petitions for review of a recommended order nor oral arguments following issuance of a recommended order and pending issuance of a final order are allowed.

**History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

**43-02-07.1-31. Notice of order by mail.**

The commission may give notice of an order by mailing the order, and findings and conclusions upon which it is based, to all parties by regular mail provided it files an affidavit of service by mail indicating upon whom the order was served.

**History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

**43-02-07.1-32. Service and filing.**

All pleadings, notices, written motions, requests, petitions, briefs, and correspondence to the commission or commission employee from a party (or vice versa) relating to a proceeding after its commencement, must be filed with the director and entered into the commission's official record of the procedure provided the record is open at the time of receipt. All parties shall receive copies upon request of any or all of the evidence in the record of the proceedings. The commission may charge for the actual cost of providing copies of evidence in the record. Unless otherwise provided by law, filing shall be complete when the material is entered into the record of the proceeding.

**History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08

**43-02-07.1-33. Designation of examiners.**

The commission may by motion designate and appoint qualified individuals to serve as examiners. The commission may refer any matter or proceeding to any legally designated and appointed examiner or examiners.

**History:**

**General Authority:** NDCC 38-19-05

**Law Implemented:** NDCC 38-19-05

**43-02-07.1-34. Powers and duties of examiner.**

The commission may by motion limit the powers and duties of any examiner in any particular case to such issues or to the performance of such acts as the commission deems expedient; however, subject only to such limitation as may be ordered by the commission, the examiner or examiners to whom any matter or proceeding is referred under this chapter shall have full authority to hold hearings on such matter or proceeding in accordance with and

pursuant to this chapter. The examiner shall have the power to regulate all proceedings before the examiner and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including ruling on prehearing motions, the swearing of witnesses, receiving of testimony and exhibits offered in evidence, subject to such objections as may be imposed, and shall cause a complete record of the proceedings to be made and retained.

**History:**

**General Authority:** NDCC 38-19-05

**Law Implemented:** NDCC 38-19-05

**43-02-07.1-35. Report of examiner.**

Upon conclusion of any hearing before an examiner, the examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing, the examiner shall prepare a report and recommendations for the disposition of the matter or proceeding by the commission. Such report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order and shall be submitted to the commission.

**History:**

**General Authority:** NDCC 38-19-05

**Law Implemented:** NDCC 38-19-05

**43-02-07.1-36. Commission order from examiner hearing.**

After receipt of the report and recommendations of the examiner, the commission shall enter its order disposing of the matter or proceeding.

**History:**

**General Authority:** NDCC 38-19-05

**Law Implemented:** NDCC 38-19-05

**43-02-07.1-37. Prehearing motion practice.**

In a matter pending before the commission, all prehearing motions must be served by the moving party upon all parties affected by the motion. Service must be upon a party unless a party is represented by an attorney, in which case service must be upon the attorney. Service must be made by delivering a copy of the motion and all supporting papers in conformance with one of the means of service provided for in rule 5(b) of the North Dakota Rules of Civil Procedure. Proof of service must be made as provided in rule 4 of the North Dakota Rules of Civil Procedure or by the certificate of an attorney showing that service has been made. Proof of service must accompany the filing of a motion. Any motion filed without proof of service is not properly before the commission.

**History:**

**General Authority:** NDCC 38-19-08

**Law Implemented:** NDCC 38-19-08