



Oil and Gas Division

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Department of Mineral Resources

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North Dakota Industrial Commission

www.dmr.nd.gov/oilgas/

January 30, 2018

Representative Bill R. Devlin-Chairman
Administrative Rules Committee
Vonette J. Richter-Code Revisor
North Dakota Legislative Council
(letter/attachments sent via email 1-30-2018)

RE: Repeal Workover Regulations
NDAC Chapter 43-02-09

Dear Chairman Devlin:

House Bill 1043 was approved by the 65th Legislative Assembly of North Dakota. Section 18 of the bill amended, inter alia, Section 57-51.1-03.1 of the North Dakota Century Code (NDCC) to eliminate the extraction tax reduction for a workover well effective for taxable events occurring after December 31, 2015.

The Industrial Commission promulgated rules under North Dakota Administrative Code (NDAC) Chapter 43-02-09 for Workover Projects (effective May 1, 1990) pursuant to our obligation under NDCC Section 57-51.1-03.1 to provide a workover certification to the Tax Commissioner. House Bill 1043 eliminated the extraction tax reduction for a workover well and the need for the workover certification, thus rendering Chapter 43-02-09 ineffectual and the need to repeal the Workover Projects regulations.

NDCC Section 28-32-18.1 provides that an agency may amend or repeal a rule without complying with the other requirements of Chapter 28-32 (Administrative Agencies Practice Act) relating to adoption of administrative rules and may resubmit the change to the legislative council for publication provided:

- a. The agency initiates the request to the Administrative Rules Committee for consideration of the amendment or repeal;
- b. The agency provides notice to the regulated community, in a manner reasonably calculated to provide notice to those persons interested in the rule, of the time and place the administrative rules committee will consider the request for amendment or repeal of the rule; and
- c. The agency and the Administrative Rules Committee agree the rule amendment or repeal eliminates a provision that is obsolete or no longer in compliance with law and that no detriment would result to the substantive rights of the regulated community from the amendment or repeal.

Please place the Industrial Commission on the March 2018 Administrative Rules Committee hearing agenda for consideration of repealing the Workover Projects rules. It is the Industrial Commission's intent to provide evidence and testimony at that time indicating our need to repeal NDAC Chapter 43-02-09 and our compliance with NDCC Section 28-32-18.1. Please note we will also appear on said agenda for consideration of rule changes to other regulations under our jurisdiction.

Find copies of House Bill 1043, NDAC Chapter 43-02-09, and NDCC Section 28-32-18.1 attached. Thank you for your attention to this matter. If you have any questions or comments, do not hesitate to contact this office.

Sincerely,

Assistant Director
Oil and Gas Division

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1043
(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact section 1-02-12, subsection 10 of section 11-31-03, subsection 1 of section 14-20-12, subsection 1 of section 15.1-21-02.1, section 24-02-30, subsection 1 of section 25-02-01.1, sections 50-06-06.2 and 52-10-04, subsection 4 of section 52-10-05, section 52-10-07, subsection 3 of section 54-44.7-03, subsection 17 of section 54-52-01, subsection 3 of section 54-52-05, sections 57-15-06 and 57-15-08, subsection 1 of section 57-34-03, subsection 7 of section 57-38-30.3, section 57-51.1-03.1, and subsection 19 of section 58-03-07 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; to repeal sections 54-40.3-03, 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North Dakota Century Code, relating to obsolete provisions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

1-02-12. HeadnoteCaption, cross-reference note, and source note.

No headnotecaption, source note, or cross-reference note, whether designating an entire title, chapter, section, subsection, or subdivision, constitutes any part of a statute. A headnotecaption may not be used to determine legislative intent or the legislative history for any statute. An effective date or expiration date note precedingimmediately following a headnotecaption is not a part of the headnotecaption and is a part of the statute.

SECTION 2. AMENDMENT. Subsection 10 of section 11-31-03 of the North Dakota Century Code is amended and reenacted as follows:

10. Cooperate with the ~~public-roads~~federal highway administration or successors, the state department of transportation, and the townships of the county.

SECTION 3. AMENDMENT. Subsection 1 of section 14-20-12 of the North Dakota Century Code is amended and reenacted as follows:

1. An acknowledgment of paternity must:
 - a. Be in a record;
 - b. Be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish his paternity;
 - c. State that the child whose paternity is being acknowledged:
 - (1) Does not have a presumed father, or has a presumed father whose full name is stated; and
 - (2) Does not have another acknowledged or adjudicated father;
 - d. State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and

- e. State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after ~~one year~~two years.

SECTION 4. AMENDMENT. Subsection 1 of section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The twenty-two units of high school coursework set forth in section ~~15.1-21-25~~15.1-21-02.2; and

SECTION 5. AMENDMENT. Section 24-02-30 of the North Dakota Century Code is amended and reenacted as follows:

24-02-30. Conditions precedent to demand for arbitration against director.

No right exists to demand arbitration against the director until the conditions specified in this section have been complied with. The contractor shall give the director notice in writing that the contractor claims the contract has been or will be performed fully on a day stated, which may not be less than ten days after the giving of such notice. At the time stated in the notice the director shall cause the work to be inspected, and if the director claims the work has not been completed, the director, with all reasonable dispatch, having regard to the early completion of the work, shall specify the particulars in which it is incomplete and shall direct that it be completed accordingly, or if the director considers further work necessary to bring the project up to the desired standard for acceptance either by the director or the ~~United States public roads~~federal highway administration, even though the director considers such contract complete, the director likewise may specify any such additional work. The contractor shall proceed with all reasonable dispatch, having due regard to weather conditions, with the performance of all such additional work with a view to a speedy completion of the project. When the contractor claims in good faith, supported by affidavit furnished to the director, that the contractor has completed such additional work according to the specifications furnished to the contractor, and the director fails for ten days to accept such work as completed, the contractor has the right to institute proceedings under this chapter.

SECTION 6. AMENDMENT. Subsection 1 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of human services shall seek appropriations and resources sufficient to ensure maintenance of the state hospital's accreditation by the joint commission ~~on accreditation of health care organizations~~ and certification by the health care financing administration or by similar accrediting and certifying organizations and agencies possessing hospital standards recognized by the health care industry and accepted by the department.

SECTION 7. AMENDMENT. Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by regional human service centers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in regional human service centers and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished to eligible individuals by county social service boards and regional human service centers.

SECTION 8. AMENDMENT. Section 52-10-04 of the North Dakota Century Code is amended and reenacted as follows:

52-10-04. Contributions by employees of the state and of political subdivisions.

1. Every employee of the state or of a political subdivision and every employer is required to pay for the period of such coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or the employee's entry upon such service, after the enactment of this chapter.
2. The employee's contribution imposed by this section must be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction does not relieve the employee from liability for such contribution.
3. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, must be made, without interest, in such manner and at such times as the state agency shall prescribe.
4. ~~All unexpended employer contributions in the social security contribution fund paid in to provide a fund out of which the legislative assembly could appropriate for the administration of this chapter and chapter 52-09 as of June 30, 1987, must be transferred by the office of management and budget to the bureau for deposit by the bureau into the old-age survivors' fund established by section 52-09-05.~~

SECTION 9. AMENDMENT. Subsection 4 of section 52-10-05 of the North Dakota Century Code is amended and reenacted as follows:

4. Delinquent payments due under subdivision a of subsection 3 must bear interest at the rate specified in the Social Security Act at 42 U.S.C. 418 and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. In no case may the interest imposed hereby be less than five dollars. In addition, a penalty may be assessed on delinquent reports if such penalty is provided for in the Social Security Act at 42 U.S.C. 418. Any such penalty must be under the terms, conditions, and in the amounts specified in the Social Security Act. In no case may any penalty imposed hereby be less than five dollars. ~~Annually, on each September thirtieth, the bureau shall determine the balance in the fund created by section 52-10-06 resulting from interest and penalties collected which are not or will not be due to the secretary of the treasury. The bureau shall transfer this balance on September thirtieth to the old-age survivors' fund created by section 52-09-05.~~

SECTION 10. AMENDMENT. Section 52-10-07 of the North Dakota Century Code is amended and reenacted as follows:

52-10-07. Referenda and certification.

1. ~~With respect to employees of the state and political subdivisions who are under chapter 52-09 or who may by election come under that chapter, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision who are under a locally administered retirement system, the governor shall authorize a referendum upon request of the governing body of such subdivision; and with respect to employees covered by any other retirement system, the governor may authorize a referendum; and in either case the referendum must be conducted and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social~~

Security Act [42 U.S.C. 418], on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by section 218(d)(3)(C) of the Social Security Act [42 U.S.C. 418] to be given to employees must contain or must be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

2. Upon receiving evidence satisfactory to the governor that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act [42 U.S.C. 418] have been met, the governor, or an official designated by the governor to act in the governor's behalf in respect to this subsection, shall so certify to the secretary of health and human services.

SECTION 11. AMENDMENT. Subsection 3 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms ~~SF 254 and SF 255~~ form SF330, architect-engineer related services questionnaire for specific project, or such similar information as the agency selection committee may prescribe by rule.

SECTION 12. AMENDMENT. Subsection 17 of section 54-52-01 of the North Dakota Century Code, which becomes effective after July 31, 2017, is amended and reenacted as follows:

17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created~~ under section 54-52-03.

SECTION 13. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee ~~or from the levy authorized by subsection 5 of section 57-15-28.4.~~ The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

SECTION 14. AMENDMENT. Section 57-15-06 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06. County general fund levy.

The board of county commissioners may levy property taxes for county general fund purposes at a tax rate not exceeding sixty mills per dollar of taxable valuation of property in the county.

A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes consolidated into the general fund levy by this Act which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.

Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all property taxes the board of county commissioners is authorized to levy for general county purposes.

SECTION 15. AMENDMENT. Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

57-15-08. General fund levy limitations in cities.

The aggregate amount levied for city general fund purposes may not exceed an amount produced by a levy of one hundred five mills on the taxable valuation of property in the city. A city, when authorized by a majority vote of the electors of the city voting on the question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of the city, may increase the maximum mill levy for general city purposes by not more than ten mills.

A city that levied more than one hundred five mills for taxable year 2015 in the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes consolidated into the general fund levy by this Act which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred five mills plus twenty-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015.

SECTION 16. AMENDMENT. Subsection 1 of section 57-34-03 of the North Dakota Century Code is amended and reenacted as follows:

1. On or before July fifteenth of each year, the tax commissioner shall review the report under ~~subsection 3 of~~ section 57-34-02 and compute the total tax to be assessed against each telecommunications carrier in this state at a rate of two and one-half percent of adjusted gross receipts. If the tax commissioner's computation of the total tax differs from the amount computed by a telecommunications carrier, the tax commissioner shall give notice of the change by mail to that telecommunications carrier on or before July fifteenth. The state board

of equalization shall assess the tax under this section after consideration of any contest presented.

SECTION 17. AMENDMENT. Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:
 - a. Family care tax credit under section 57-38-01.20.
 - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - c. Agricultural business investment tax credit under section 57-38.6-03.
 - d. Seed capital investment tax credit under section 57-38.5-03.
 - e. Planned gift tax credit under section 57-38-01.21.
 - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
 - g. Internship employment tax credit under section 57-38-01.24.
 - h. Workforce recruitment credit under section 57-38-01.25.
 - i. Angel fund investment tax credit under section 57-38-01.26.
 - j. Microbusiness tax credit under section 57-38-01.27.
 - k. Marriage penalty credit under section 57-38-01.28.
 - l. ~~Homestead income tax credit under section 57-38-01.29.~~
 - ~~m. Commercial property income tax credit under section 57-38-01.30.~~
 - n. Research and experimental expenditures under section 57-38-30.5.
 - ~~e.m.~~ Geothermal energy device installation credit under section 57-38-01.8.
 - ~~p.n.~~ Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
 - ~~e.o.~~ Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
 - ~~f.p.~~ Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).
 - ~~s.q.~~ Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.

SECTION 18. AMENDMENT. Section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-03.1. Stripper well, new well, ~~work-over~~, and secondary or tertiary project certification for tax exemption or rate reduction - Filing requirement.

1. To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:

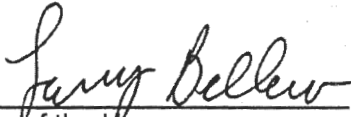
4. a. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.
2. ~~To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 and a rate reduction on production from a new well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after a new well is completed.~~
3. ~~To receive, from the first day of eligibility, a tax exemption under subsection 4 of section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the work-over project is completed.~~
4. b. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 ~~and a tax rate reduction under section 57-51.1-02~~ on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within the following time periods:
 - a. ~~For a tax exemption, within~~ eighteen months after the month in which the first incremental oil was produced.
 - b. ~~For a tax rate reduction, within eighteen months after the end of the period qualifying the project for the rate reduction.~~
5. c. To receive, from the first day of eligibility, a tax exemption or the reduction on production for which any other tax exemption or rate reduction may apply, the industrial commission's certification must be submitted to the tax commissioner within eighteen months of the completion, recompletion, or other qualifying date.
6. ~~To receive, from the first day of eligibility, a tax exemption under subsection 6 of section 57-51.1-03 on production from a two-year inactive well, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the two-year inactive well's qualification period.~~
2. If the industrial commission's certification is not submitted to the tax commissioner within the eighteen-month period provided in this section, then the exemption or rate reduction does not apply for the production periods in which the certification is not on file with the tax commissioner. When the industrial commission's certification is submitted to the tax commissioner after the eighteen-month period, the tax exemption or rate reduction applies to prospective production periods only and the exemption or rate reduction is effective the first day of the month in which the certification is received by the tax commissioner.

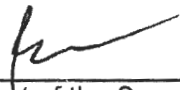
SECTION 19. AMENDMENT. Subsection 19 of section 58-03-07 of the North Dakota Century Code is amended and reenacted as follows:

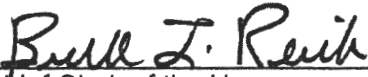
19. To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section ~~57-15-37-12-06-15~~.

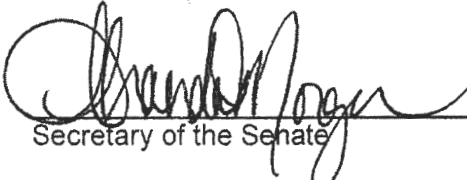
SECTION 20. REPEAL. Sections 54-40.3-03, 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North Dakota Century Code are repealed.

SECTION 21. EFFECTIVE DATE. Section 18 of this Act is effective for taxable events occurring after December 31, 2015.


Speaker of the House


President of the Senate

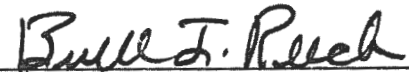

Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1043.

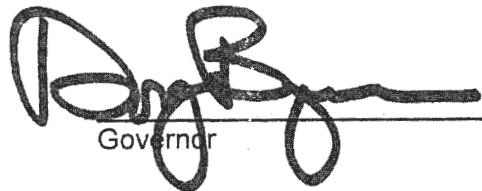
House Vote: Yeas 85 Nays 0 Absent 9

Senate Vote: Yeas 47 Nays 0 Absent 0


Chief Clerk of the House

Received by the Governor at 8:30 A M. on April 13, 2017.

Approved at 11:11 A M. on April 13, 2017.


Governor

Filed in this office this 13 day of April, 2017,
at 12:10 o'clock P M.


Secretary of State

WORKOVER PROJECTS

CHAPTER 43-02-09

Section

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WORKOVER PROJECTS

CHAPTER 43-02-09

43-02-09-01. DEFINITIONS. The terms used throughout this chapter have the same meaning as in chapter 43-02-03 and North Dakota Century Code chapters 38-08 and 57-51.1, except:

1. "Continuous employment" means the specific period of time a workover rig has been obtained to perform a workover project on a qualifying well.
2. "Continuous production" means production in the latest six consecutive calendar months prior to filing the notice of intention to perform a workover project during which the well produced an average of at least fifteen days per month.
3. "Recompletion" means the subsequent completion of a well in a different pool from the pool in which it is completed at the time of the notice given pursuant to section 43-02-09-03.
4. "Reentry" means the entering of a well that has been plugged.
5. "Workover" means the employment of a workover rig and other services for the purpose of restoring or improving producing capability of a well from the pool in which it is presently completed.
6. "Workover project" means the continuous employment of a workover rig for workovers, recompletions, or reentries.
7. "Workover rig" means any rig used to perform work on a workover project.

Upon approval by the commission, an applicant may obtain an exception to the definition of "continuous production" set forth in subsection 2 if it is shown that the well was produced an average of less than fifteen days per month because such method of operation was the most efficient and allowed for approximately the same amount of production as would have resulted had the well produced an average of fifteen or more days per month.

History: Effective May 1, 1990; amended effective May 1, 1992; May 1, 1994.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-02. EXEMPTION FROM TAXES. Production from a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production, upon which a workover project has been performed, is exempt from taxes

imposed pursuant to North Dakota Century Code chapter 57-51.1 for twelve months beginning with the first day of the third calendar month after the completion of a workover project if:

1. The commission has received a notice of intention to begin a workover project in accordance with section 43-02-09-03.
2. A workover project is performed on the well.
3. The cost of the workover project exceeds sixty-five thousand dollars, or if the average daily production is increased at least fifty percent during the first two months after completion of the workover project, based upon a comparison to the average daily production for the latest six calendar months of continuous production prior to the filing of the notice of intention to begin a workover project.

For the exemption from the oil extraction tax for workover projects pursuant to North Dakota Century Code section 57-51.1-03, the reentry of a plugged and abandoned well is a workover project provided the cost of the operation exceeds sixty-five thousand dollars.

History: Effective May 1, 1990; amended effective May 1, 1994; July 1, 1996; May 1, 2004.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-03. NOTICE OF INTENTION TO BEGIN A WORKOVER PROJECT. If an exemption from taxation is sought pursuant to subsection 4 of North Dakota Century Code section 57-51.1-03, a notice of intention to begin a workover project must be filed by the well operator with the commission prior to commencement of the project. The notice of intention must be sent to the following address:

North Dakota State Industrial Commission
Oil and Gas Division
600 East Boulevard
Bismarck, ND 58505-0840

The notice of intention must include, but is not limited to, the following:

1. A sundry notice (form 4) upon which it is indicated that it is a notice of intention to perform a workover project.
2. The sundry notice must contain a detailed description of the nature and scope of the workover project. The information provided must include a description of all replacement equipment to be installed that is known to the well operator at the time of filing, and whether such equipment is new or used.

3. The average daily production during the latest six calendar months of continuous production.

If required by the director, the operator of the well to be worked over shall make arrangements to determine the crude oil inventory stored on the well premises immediately before the commencement of the workover and submit all gauge tickets for the month.

Workover projects must be completed within one year after the initial notice of intention to perform a workover is filed. Thereafter such notice is null and void.

History: Effective May 1, 1990; amended effective May 1, 1994; July 1, 1996; July 1, 2002.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-04. APPLICATION FOR WORKOVER PROJECT DETERMINATION FOR TAXABLE EVENTS OCCURRING THROUGH DECEMBER 31, 2015. The applicant has the burden of establishing entitlement to the exemption provided in North Dakota Century Code section 57-51.1-03 and upon completion of the workover project shall submit all information necessary for a determination by the director. The cost of a workover project includes only direct costs for material, equipment, services, and labor used in the workover project. Labor and services included must be performed onsite and materials and equipment must be used onsite. The value of capital equipment removed from the site must be deducted from the cost of the project.

The application must include the following:

1. The name and address of the applicant and the name and address of the person operating the well, if different.
2. The well name and number and legal description of the well.
3. The dates during which the workover rig was in service actually performing work on the workover project, and the date the workover was completed.
4. A detailed list identifying all labor, services, and materials used and equipment replaced during the workover project, the cost of each item, and whether the replacement equipment was new or used. Also, the value of all of the equipment removed from service must be listed. The list must be verified by a person knowledgeable in the costs of workover projects and the value of used equipment. At any time the director may require the applicant to submit actual invoices to verify any costs set forth in the application.
5. A sundry notice (form 4) detailing all work done.

6. The average daily oil production from the well during the first two months after completion of the project, if the costs of the project did not exceed sixty-five thousand dollars. The project is completed and the two-month period commences the first day of production through the wellhead equipment after the workover rig is removed from over the well.
7. All gauge tickets of oil produced in incomplete months during the first two months after completion of the workover, and the volume of oil stored on the well premises immediately prior to the commencement of the workover project.

If the application does not contain sufficient information to make a determination, the director will advise the applicant of the additional information that must be filed in order to make a determination. If the requested additional information is not received within fifteen working days after receipt of the request, the application will be returned to the applicant.

History: Effective May 1, 1990; amended effective May 1, 1992; May 1, 1994; July 1, 1996; August 1, 1999; January 1, 2016.

General Authority
NDCC 38-08-04
57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-05. WORKOVER PROJECT DETERMINATION.

1. Upon receipt of an application for workover project determination, the director shall review the application, information, or comments submitted by an interested person and all relevant information contained in the books, files, and records of the commission.
2. Within thirty days of the receipt of a complete application for workover project determination, or a reasonable time thereafter, the director shall either grant or deny the application.
3. If an application for workover project determination is denied, the director shall enter a written determination denying the application and specifying the basis for denial. If an application is granted, the director shall enter a written determination granting the application.
4. A copy of the determination either granting or denying the application must be forwarded by the director by mail to the applicant and all other persons submitting written comments. It is the obligation of the applicant to notify and advise all other

operators in the well and the purchaser of the crude oil of the determination of the director.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-06. NOTICE TO TAX DEPARTMENT. If the director determines a well is entitled to a tax exemption under this chapter, the director shall send a notice to the state tax commissioner stating:

1. That the workover project meets the requirements set forth in North Dakota Century Code section 57-51.1-03.
2. The name and number of the well.
3. The location of the well.
4. The name of the well operator applying for the tax exemption.
5. The date the notice of intention was filed.
6. The average daily production of the well during the latest six calendar months of continuous production prior to the commencement of the workover project.
7. The cost of the workover project.
8. The average daily production of the well as determined pursuant to subsection 7 of section 43-02-09-04
9. The dates during which the workover project was performed.

The notice required under this section must be signed by a representative of the commission.

History: Effective May 1, 1990; amended effective May 1, 1992; July 1, 1996.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-07. PETITION FOR HEARING. Any person adversely affected by a determination of the director pursuant to subsection 4 of North Dakota Century Code section 57-51.1-03 or this chapter, within thirty days after receiving notice of such determination, may

petition the commission for a hearing in accordance with the provisions of North Dakota Century Code chapter 38-08 and chapter 43-02-03.

In the event the North Dakota tax department, pursuant to its authority, determines an exemption was granted improperly pursuant to North Dakota Century Code section 57-51.1-03, the tax department may request a hearing on the exemption any time after the exemption was granted. If after the hearing the commission determines an exemption was improperly granted, it may revoke the exemption. The exemption may be revoked effective the date the exemption was originally granted.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-08. BOOKS AND RECORDS TO BE KEPT TO SUBSTANTIATE REPORTS. All operators shall make and keep appropriate books and records for a period of 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: Effective September 1, 2000.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

28-32-18.1. Administrative rules committee review of existing administrative rules.

1. Upon request by the administrative rules committee, an administrative agency shall brief the committee on its existing administrative rules and point out any provisions that appear to be obsolete and any areas in which statutory authority has changed or been repealed since the rules were adopted or amended.
2. An agency may amend or repeal a rule without complying with the other requirements of this chapter relating to adoption of administrative rules and may resubmit the change to the legislative council for publication provided:
 - a. The agency initiates the request to the administrative rules committee for consideration of the amendment or repeal;
 - b. The agency provides notice to the regulated community, in a manner reasonably calculated to provide notice to those persons interested in the rule, of the time and place the administrative rules committee will consider the request for amendment or repeal of the rule; and
 - c. The agency and the administrative rules committee agree the rule amendment or repeal eliminates a provision that is obsolete or no longer in compliance with law and that no detriment would result to the substantive rights of the regulated community from the amendment or repeal.