Kadrmas, Bethany R.

From: Kadrmas, Bethany R.
Sent: Tuesday, November 30, 2021 2:33 PM
To: -Grp-NDLA House Energy & Natural Resources; -Grp-NDLA Senate Natural Resources
Subject: Rules pursuant to HB1055 and SB2065
Attachments: or31535.pdf; Proposed Rules pursuant to HB1055; Proposed Rules pursuant to SB2065

Representatives and Senators:

Our agency rules new and amended sections to NDAC Chapters 43-02-03, 43-02-14, and 43-05-01 as shown in the attached Order No. 31535 were approved by the North Dakota Industrial Commission yesterday. These new and amended rules will become effective April 1, 2022, but only upon the Attorney General determining their legality and after approval of the Administrative Rules Committee.

Please let me know if you have any questions.

Bethany Kadrmas
Legal Assistant, Oil and Gas Division

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Kadrmas, Bethany R.

From: Kadrmas, Bethany R.
Sent: Tuesday, November 30, 2021 2:33 PM
To: -Grp-NDLA House Appropriations; -Grp-NDLA Senate Appropriations
Subject: Rules pursuant to SB2014
Attachments: or31535.pdf; Proposed Rules pursuant to SB2014

Representatives and Senators:

Our agency rules new and amended sections to NDAC Chapters 43-02-03, 43-02-14, and 43-05-01 as shown in the attached Order No. 31535 were approved by the North Dakota Industrial Commission yesterday. These new and amended rules will become effective April 1, 2022, but only upon the Attorney General determining their legality and after approval of the Administrative Rules Committee.

Please let me know if you have any questions.

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BEFORE THE INDUSTRIAL COMMISSION

OF THE STATE OF NORTH DAKOTA

CASE NO. 28940
ORDER NO. 31535

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER AMENDMENTS TO THE "GENERAL RULES AND REGULATIONS FOR THE CONSERVATION OF CRUDE OIL AND NATURAL GAS" CODIFIED AS TITLE 43 NORTH DAKOTA ADMINISTRATIVE CODE.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

(1) This cause came on for hearing at 8:00 a.m. and 1:00 p.m. on the 11th day of October, 2021 and at 8:00 a.m. and 1:30 p.m. on the 12th day of October, 2021.

(2) The record of this case was open for ten (10) days after the hearing to receive written comments on the proposed additions and amendments to the rules. The record closed October 22, 2021.

(3) The Commission is authorized to adopt, and from time to time amend or repeal, reasonable rules in conformity with the provisions of any statute administered or enforced by the agency.

(4) It is necessary to adopt new rules and amend existing rules codified in North Dakota Administrative Code (NDAC) Chapters 43-02-03 (Oil and Gas), 43-02-14 (Geological Storage of Oil or Gas), and 43-05-01 (Geologic Storage of Carbon Dioxide) to implement, administer, and enforce the provisions of North Dakota Century Code (NDCC) Chapter 38-08.

(5) Pursuant to NDCC Sections 28-32-14 and 28-32-15, the new and amended rules shown in the appendix to this order will become effective April 1, 2022, but only upon the Attorney General determining their legality and after approval of the Administrative Rules Committee.

(6) The amendment of existing rules is in the public interest.

IT IS THEREFORE ORDERED:

(1) New and amended sections to NDAC Chapters 43-02-03, 43-02-14, and 43-05-01 as shown in the appendix to this order, are hereby approved and adopted.

(2) Pursuant to NDCC Sections 28-32-14 and 28-32-15, the new and amended rules in the appendix to this order will become effective April 1, 2022, but only upon the Attorney General determining their legality and after approval of the Administrative Rules Committee.

(3) Existing regulations not specifically amended by this order shall remain in full force and effect.

(4) This order shall be effective pursuant to the applicable statutes and laws of this state and shall remain in full force and effect until further order of the Commission.

Dated this 29th day of November, 2021.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

/s/ Doug Burgum, Governor

/s/ Wayne Stenehjem, Attorney General

/s/ Doug Goehring, Agriculture Commissioner

APPENDIX TO COMMISSION ORDER NO. 31535

NORTH DAKOTA INDUSTRIAL COMMISSION

RULES AND REGULATIONS — NORTH DAKOTA ADMINISTRATIVE CODE

2022 RULE CHANGES

RULES AND REGULATIONS
NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 43-02-03 (OIL AND GAS)
CHAPTER 43-02-14 (GEOLOGICAL STORAGE OF OIL OR GAS)
CHAPTER 43-05-01 (GEOLOGIC STORAGE OF CARBON DIOXIDE)

RULES AND REGULATIONS
CHAPTER 43-02-03

43-02-03-07. 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 (form 7) must be filed with the commission.~~

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1994; _____.

General Authority NDCC 38-08-04 — Law Implemented NDCC 38-08-04

43-02-03-09. 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.~~ The commission will provide electronic submission for most requests and reports.

History: Amended effective _____.

General Authority NDCC 38-08-04 — Law Implemented NDCC 38-08-04

43-02-03-14.2. OIL AND GAS METERING SYSTEMS.

1. Application of section. This section is applicable to all allocation and custody transfer metering stations measuring production from oil and gas wells within the state of North Dakota, including private, state, and federal wells. If these rules differ from federal requirements on measurement of production from federal oil and gas wells, the federal rules take precedence.

2. Definitions. As used in this section:

   a. "Allocation meter" means a meter used by the producer to determine the volume from an individual well before it is commingled with production from one or more other wells prior to the custody transfer point.

   b. "Calibration test" means the process or procedure of adjusting an instrument, such as a gas meter, so its indication or registration is in satisfactorily close agreement with a reference standard.

   c. "Custody transfer meter" means a meter used to transfer oil or gas from the producer to transporter or purchaser.

   d. "Gas gathering meter" means a meter used in the custody transfer of gas into a gathering system.

   e. "Meter factor" means a number obtained by dividing the net volume of fluid (liquid or gaseous) passed through the meter during proving by the net volume registered by the meter.

   f. "Metering proving" means the procedure required to determine the relationship between the true volume of a fluid (liquid or gaseous) measured by a meter and the volume indicated by the meter.

3. Inventory filing requirements. The owner of metering equipment shall file with the commission an inventory of all meters used for custody transfer and allocation of production from oil or gas wells, or both. Inventories must be updated on an annual basis, and filed with the commission on or before the first day of each year, or they may be updated as frequently as monthly, at the discretion of the operator. Inventories must include the following:

   a. Well name and legal description of location or meter location if different.

   b. North Dakota industrial commission well file number.

   c. Meter information:

(1) Gas meters:

(a) Make and model.

(b) Differential, static, and temperature range.

(c) Orifice tube size (diameter).

(d) Meter station number.

(e) Serial number.

(2) Oil meters:

(a) Make and model.

(b) Size.

(c) Meter station number.

(d) Serial number.

4. Installation and removal of meters. The commission must be notified of all custody transfer meters placed in service. The owner of the custody transfer equipment shall notify the commission of the date a meter is placed in service, the make and model of the meter, and the meter or station number. The commission must also be notified of all metering installations removed from service. The notice must include the date the meter is removed from service, the serial number, and the meter or station number. The required notices must be filed with the commission within thirty days of the installation or removal of a meter.

All allocation meters must be approved prior to installation and use. The application for approval must be on a sundry notice (form 4 or form provided by the commission) and shall include the make and model number of the meter, the meter or station number, the serial number, the well name, its location, and the date the meter will be placed in service.

Meter installations for measuring production from oil or gas wells, or both, must be constructed to American petroleum institute or American gas association standards or to meter manufacturer's recommended installation. Meter installations constructed in accordance with American petroleum institute or American gas association standards in effect at the time of installation shall not automatically be required to retrofit if standards are revised. The commission will review any revised standards, and when deemed necessary will amend the requirements accordingly.

5. Registration of persons proving or testing meters. All persons engaged in meter proving or testing of oil and gas meters must be registered with the commission. Those persons involved in oil meter testing, by flowing fluid through the meter into a test tank and then gauging the tank, are exempted from the registration process. However, such persons must notify the commission prior to commencement of the test to allow a representative of the commission to witness the testing process. A report of the results of such test shall be filed with the commission within thirty days after the test is completed. Registration must include the following:

   a. Name and address of company.

   b. Name and address of measurement personnel.

   c. Qualifications, listing experience, or specific training.

   Any meter tests performed by a person not registered with the commission will not be accepted as a valid test.

6. Calibration requirements. Oil and gas metering equipment must be proved or tested to American petroleum institute or American gas association standards or to the meter manufacturer's recommended procedure to establish a meter factor or to ensure measurement accuracy. The owner of a custody transfer meter or allocation meter shall notify the commission at least ten days prior to the testing of any meter.

   a. Oil allocation meter factors shall be maintained within two percent of original meter factor. If the factor change between provings or tests is greater than two percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   b. Oil custody transfer meter factors must be maintained within one-quarter of one percent of the previous meter factor. If the factor change between provings or tests is greater than one-quarter of one percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   c. Copies of all oil allocation meter test procedures are to be filed with and reviewed by the commission to ensure measurement accuracy.

   d. All gas meters must be tested with a minimum of a three point test for static and differential pressure elements and a two point test for temperature elements. The test reports must include an as-found and as-left test and a detailed report of changes.

   e. Test reports must include the following:

      (1) Producer name.

(2) Well or CTB name.

(3) Well file number or CTB number.

(4) Pipeline company or company name of test contractor.

(5) Test personnel's name.

(6) Station or meter number.

f. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:

(1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.

(2) Quarterly for oil meters used for allocation of production in a diverse ownership central production facility. Semiannually for oil meters used for allocation of production in a common ownership central production facility.

(3) Semiannually for gas meters used for allocation of production in a diverse ownership central production facility. Annually for gas meters used for allocation of production in a common ownership central production facility.

(4) Semiannually for gas meters in gas gathering systems.

(5) For meters measuring more than one hundred thousand cubic feet [2831.68 cubic meters] per day on a monthly basis, orifice plates shall be inspected semiannually, and meter tubes shall be inspected at least every five years to ensure continued conformance with the American gas association meter tube specifications.

(6) For meters measuring one hundred thousand cubic feet [2831.68 cubic meters] per day or less on a monthly basis, orifice plates shall be inspected annually.

g. All meter test reports, including failed meter test reports, must be filed within thirty days of completion of proving or calibration tests unless otherwise approved. Test reports are to be filed on, but not limited to, all meters used for allocation measurement of oil or gas and all meters used in crude oil custody transfer.

h. Accuracy of all equipment used to test oil or gas meters must be traceable to the standards of the national institute of standards and technology. The equipment

must be certified as accurate either by the manufacturer or an independent testing facility. The certificates of accuracy must be made available upon request. Certification of the equipment must be updated as follows:

(1) Annually for all equipment used to test the pressure and differential pressure elements.

(2) Annually for all equipment used to determine temperature.

(3) Biennially for all conventional pipe provers.

(4) Annually for all master meters.

(5) Five years for equipment used in orifice tube inspection.

7. Variances. Variances from all or part of this section may be granted by the commission provided the variance does not affect measurement accuracy. All requests for variances must be on a sundry notice (form 4).

A register of variances requested and approved must be maintained by the commission.

History: Effective May 1, 1994; amended effective July 1, 1996; September 1, 2000; July 1, 2002; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-15. BOND AND TRANSFER OF WELLS.

1. Bond requirements. Prior to commencing construction of a site or appurtenance or road access thereto, any person who proposes to drill a well for oil, gas, injection, or source well for use in enhanced recovery operations, shall submit to the commission, and obtain its approval, 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.

2. Bond amounts and limitations. The bond shall be in the amount of fifty thousand dollars when applicable to one well only. Wells drilled to a total depth of less than two thousand feet [609.6 meters] may be bonded in a lesser amount if approved by the director. When the principal on the bond is drilling or operating a number of wells within the state or proposes to do so, the principal may submit a bond conditioned as provided by law. Wells utilized for commercial injection operations must be bonded in

the amount of one hundred thousand dollars. A blanket bond covering more than one well shall be in the amount of one hundred thousand dollars, provided the bond shall be limited to no more than six of the following in aggregate:

a. A well that is a dry hole and is not properly plugged;

b. A well that is plugged and the site is not properly reclaimed;

c. A well that is abandoned pursuant to subsection 1 of North Dakota Century Code section 38-08-04 or section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed; and

d. A well that is temporarily abandoned under section 43-02-03-55 for more than seven years.

If this aggregate of wells is reached, all well permits, for which drilling has not commenced, held by the principal of such bond are suspended. No rights may be exercised under the permits until the aggregate of wells drops below the required limit, or the operator files the appropriate bond to cover the permits, at which time the rights given by the drilling permits are reinstated. A well with an approved temporary abandoned status for no more than seven years shall have the same status as an oil, gas, or injection well. The commission may, after notice and hearing, require higher bond amounts than those referred to in this section. Such additional amounts for bonds must be related to the economic value of the well or wells and the expected cost of plugging and well site reclamation, as determined by the commission. The commission may refuse to accept a bond or to add wells to a blanket 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.

3. Unit bond requirements. Prior to commencing unit operations, the operator of any area under unitized management shall submit to the commission, and obtain its approval, 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 the unit shall be the principal on the bond covering the unit. The amount of the bond shall be specified by the commission in the order approving the plan of unitization. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

   Prior to transfer of a unit to a new operator, the commission, after notice and hearing, may revise the bond amount for a unit, or in the case when the unit was not previously bonded, the commission may require a bond and set a bond amount for the unit.

4. Bond terms. Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-08, and all administrative rules and orders of the commission. It shall be a plugging bond, as well as a drilling bond, and is to endure up to and

including approved plugging of all oil, gas, and injection wells as well as dry holes. Approved plugging shall also include practical reclamation of the well site and appurtenances thereto. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.

5. Transfer of wells under bond. Transfer of property does not release the bond. In case of transfer of property or other interest in the well and the principal desires to be released from the bond covering the well, such as producers, not ready for plugging, the principal must proceed as follows:

   a. The principal must notify the director, in writing, of all proposed transfers of wells at least thirty days before the closing date of the transfer. The director may, for good cause, waive this requirement.

      (1) The principal shall submit a schematic drawing identifying all lines owned by the principal which leave the constructed pad or facility and shall provide any details the director deems necessary.

      (2) The principal shall submit to the commission a form 15 reciting that a certain well, or wells, describing each well by quarter-quarter, section, township, and range, is to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form signed by a party duly authorized to sign on behalf of the principal.

      (3) On said transfer form the transferee shall recite the following: "The transferee has read the foregoing statement and does accept such transfer and does accept the responsibility of such well under the transferee's one-well bond or, as the case may be, does accept the responsibility of such wells under the transferee's blanket bond, said bond being tendered to or on file with the commission." Such acceptance must likewise be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

   b. When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor shall be released from the responsibility of plugging the well and site reclamation. If such wells include all the wells within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any well from a bond if any well on the bond is in violation of a statute, rule, or order. No abandoned well may be transferred from a bond unless the transferee has obtained a single well bond in an amount equal to the cost of plugging the well and reclaiming the well site.

c. The transferee (new operator) of any oil, gas, or injection well, shall be responsible for the plugging and site reclamation of any such well. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such well. The original or prior bond shall not be released as to the plugging and reclamation responsibility of any such transferor until the transferee shall submit to the commission an acceptable bond to cover such well. All liability on bonds shall continue until the plugging and site reclamation of such wells is completed and approved.

6. Treating plant bond. Prior to commencing site or road access construction, any person proposing to operate a treating plant must 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 person responsible for the operation of the plant shall be the principal on the bond. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota. The amount of the bond must be as prescribed in section 43-02-03-51.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond. The director may refuse to transfer any treating plant from a bond if the treating plant is in violation of a statute, rule, or order.

7. Saltwater handling facility bond. Prior to commencing site or road access construction, any person proposing to operate a saltwater handling facility that is not already bonded as an appurtenance 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 person responsible for the operation of the saltwater handling facility must be the principal on the bond. Each surety bond must be executed by a responsible surety company authorized to transact business in North Dakota. The amount of the bond must be as prescribed in section 43-02-03-53.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, the surety shall satisfy the conditions or forfeit to the commission the face value of the bond. Transfer of property does not release the bond. The director may refuse to transfer any saltwater handling facility from a bond if the saltwater handling facility is in violation of a statute, rule, or order.

8. Crude oil and produced water underground gathering pipeline bond. The bonding requirements for crude oil and produced water underground gathering pipelines are not to be construed to be required on flow lines, injection pipelines, pipelines operated by

an enhanced recovery unit for enhanced recovery unit operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment on the production facility.

a. Any owner of an underground gathering pipeline transferring crude oil or produced water, after April 19, 2015, shall submit to the commission and obtain its approval of a surety bond or cash bond prior to July 1, 2017. Any owner of a proposed underground gathering pipeline to transfer crude oil or produced water shall submit to the commission and obtain its approval of a surety bond or cash bond prior to placing into service. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The person responsible for the operation of the crude oil or produced water underground gathering pipeline must be the principal on the bond. Each surety bond must be executed by a responsible surety company authorized to transact business in North Dakota. The bond must be in the amount of fifty thousand dollars when applicable to one crude oil or produced water underground gathering pipeline system only. Such underground gathering pipelines that are less than one mile [1609.34 meters] in length may be bonded in a lesser amount if approved by the director. When the principal on the bond is operating multiple gathering pipeline systems within the state or proposes to do so, the principal may submit a blanket bond conditioned as provided by law. A blanket bond covering one or more underground gathering pipeline systems must be in the amount of one hundred thousand dollars. The owner shall file with the director, as prescribed by the director, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point of all underground gathering pipelines on the bond. Each layer must include at least the following information:

   (1) The name of the pipeline gathering system and other separately named portions thereof;

   (2) The type of fluid transported;

   (3) The pipeline composition;

   (4) Burial depth; and

   (5) Approximate in-service date.

b. The blanket bond covering more than one underground gathering pipeline system is limited to no more than six of the following instances of noncompliance in aggregate:

(1) Any portion of an underground gathering pipeline system that has been removed from service for more than one year and is not properly abandoned pursuant to section 43-02-03-29.1; and

(2) An underground gathering pipeline right-of-way, including associated above ground equipment, which has not been properly reclaimed pursuant to section 43-02-03-29.1.

If this aggregate of underground gathering pipeline systems is reached, the commission may refuse to accept additional pipeline systems on the bond until the aggregate is brought back into compliance. The commission, after notice and hearing, may require higher bond amounts than those referred to in this section. Such additional amounts for bonds must be related to the economic value of the underground gathering pipeline system and the expected cost of pipeline abandonment and right-of-way reclamation, as determined by the commission. The commission may refuse to accept a bond or to add underground gathering pipeline systems to a blanket bond if the owner or surety company has failed in the past to comply with statutes, rules, or orders relating to the operation of underground gathering pipelines; if a civil or administrative action brought by the commission is pending against the owner or surety company; if an underground gathering pipeline system has exhibited multiple failures; or for other good cause.

c. The underground gathering pipeline bond is to remain in force until the pipeline has been abandoned, as provided in section 43-02-03-29.1, and the right-of-way, including all associated above ground equipment, has been reclaimed as provided in section 43-02-03-29.1, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.

d. Transfer of underground gathering pipelines under bond. Transfer of property does not release the bond. In case of transfer of property or other interest in the underground gathering pipeline and the principal desires to be released from the bond covering the underground gathering pipeline, the principal must proceed as follows:

(1) The principal shall notify the director, in writing, of all proposed transfers of underground gathering pipelines at least thirty days before the closing date of the transfer. The director, for good cause, may waive this requirement.

Notice of underground gathering pipeline transfer. The principal shall submit, as provided by the director, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point of all

underground gathering pipelines to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form 15pl signed by a party duly authorized to sign on behalf of the principal.

The notice of underground gathering pipeline transfer must recite the following: "The transferee has read the foregoing statement and does accept such transfer and does accept the responsibility of such underground gathering pipelines under the transferee's pipeline bond or, as the case may be, does accept the responsibility of such underground gathering pipelines under the transferee's pipeline systems blanket bond, said bond being tendered to or on file with the commission." Such acceptance must likewise be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

(2) When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor must be released from the responsibility of abandoning the underground gathering pipelines and right-of-way reclamation. If such underground gathering pipelines include all underground gathering pipeline systems within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any underground gathering pipeline from a bond if the underground gathering pipeline is in violation of a statute, rule, or order.

(3) The transferee (new owner) of any underground gathering pipeline is responsible for the abandonment and right-of-way reclamation of any such underground gathering pipeline. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such underground gathering pipeline. The original or prior bond may not be released as to the abandonment and right-of-way reclamation responsibility of any such transferor until the transferee submits to the commission an acceptable bond to cover such underground gathering pipeline. All liability on bonds continues until the abandonment and right-of-way reclamation of such underground gathering pipeline is completed and approved by the director.

9. Geological storage facility bond requirements. Prior to commencing injection operations, the operator of any storage facility shall submit to the commission, and obtain its approval, a surety bond or cash bond in the amount specified by the commission in the order approving the storage facility. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of the storage facility shall be the principal on the bond covering the storage

facility. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

~~9~~10. 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.

~~10~~11. 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.

History: Amended effective April 30, 1981; March 1, 1982; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; December 1, 1996; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006; April 1, 2012; April 1, 2014; January 1, 2017; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-16.1. DESIGNATION AND RESPONSIBILITIES OF OPERATOR. The principal on the bond covering a well, ~~or a~~ treating plant, or facility is the operator. The operator is responsible for compliance with all applicable laws. A dispute over designation of the operator may be addressed by the commission. In doing so, the factors the commission may consider include those set forth in subsection 1 of section 43-02-03-16.2.

History: Effective December 1, 1996; amended effective April 1, 2014; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-21. CASING, TUBING, AND CEMENTING REQUIREMENTS. All wells drilled for oil, natural gas or injection shall be completed with strings of casing which shall be properly cemented at sufficient depths to adequately protect and isolate all formations containing water, oil or gas or any combination of these; protect the pipe through salt sections encountered; and isolate the uppermost sand of the Dakota group.

Drilling of the surface hole shall be with freshwater-based drilling mud or other method approved by the director which will protect all freshwater-bearing strata. This includes water used during the cementing of surface casing for displacement. The surface casing shall consist of new or reconditioned pipe that has been previously tested to one thousand pounds per square inch [6900 kilopascals]. The surface casing shall be set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. Sufficient cement shall be used on surface

casing to fill the annular space behind the casing to the bottom of the cellar, if any, or to the surface of the ground. If the annulus space is not adequately filled with cement, the director shall be notified immediately. The operator shall diligently perform remedial work after obtaining approval from the director. All strings of surface casing shall stand cemented under pressure for at least twelve hours before drilling the plug ~~or initiating tests~~. The term "under pressure" as used herein shall be complied with if one float valve is used or if pressure is otherwise held. Cementing shall be by the pump and plug method or other methods approved by the director. The director is authorized to require an accurate gauge be maintained on the surface casing of any well, not properly plugged and abandoned, to detect any buildup of pressure caused by the migration of fluids.

Surface casing strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least three hundred fifty pounds per square inch [2415 kilopascals] within seventy-two hours. All compressive strengths on surface casing cement shall be calculated at a temperature of eighty degrees Fahrenheit [26.67 degrees Celsius].

Production or intermediate casing strings shall consist of new or reconditioned pipe that has been previously tested to two thousand pounds per square inch [13800 kilopascals]. Such strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least five hundred pounds per square inch [3450 kilopascals] within seventy-two hours, although in any horizontal well performing a single stage cement job from a measured depth of greater than thirteen thousand feet [3962.4 meters], the filler cement utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within forty-eight hours and at least five hundred pounds per square inch [3450 kilopascals] within ninety-six hours. All compressive strengths on production or intermediate casing cement shall be calculated at a temperature found in the Mowry formation using a gradient of 1.2 degrees Fahrenheit per one hundred feet [30.48 meters] of depth plus eighty degrees Fahrenheit [26.67 degrees Celsius]. At a formation temperature at or in excess of two hundred thirty degrees Fahrenheit [110 degrees Celsius], cement blends must include additives to address compressive strength regression.

Each casing string shall be tested by application of pump pressure of at least one thousand five hundred pounds per square inch [10350 kilopascals] immediately after cementing, while the cement is in a liquid state, or the casing string must be pressure tested after all cement has reached five hundred pounds per square inch [3450 kilopascals] compressive strength. If, at the end of thirty minutes, this pressure has dropped more than ten percent, the casing shall be repaired after receiving approval from the director. Thereafter, the casing shall again be tested in the same manner. Further work shall not proceed until a satisfactory test has been obtained. The casing in a horizontal well may be tested by use of a mechanical tool set near the casing shoe after the horizontal section has been drilled.

All flowing wells must be equipped with tubing. A tubing packer must also be utilized unless a waiver is obtained after demonstrating the casing will not be subjected to excessive pressure or corrosion. The packer must be set as near the producing interval as practicable, but in all cases must be above the perforations.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 1997; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006; April 1, 2010; April 1, 2012; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-27.1 HYDRAULIC FRACTURE STIMULATION.

1. Prior to performing any hydraulic fracture stimulation, including refracs, through a frac string run inside the intermediate casing string:

   a. The frac string must be either stung into a liner with the hanger/packer located in cemented casing or run with a packer set at a minimum depth of one hundred feet [30.48 meters] below the top of cement or a minimum depth of one hundred feet [30.48 meters] below the top of the Inyan Kara formation, whichever is deeper.

   b. The intermediate casing-frac string annulus must be pressurized and monitored during frac operations. Prior to performing any refrac, a casing evaluation tool must be run to verify adequate wall thickness of the intermediate casing.

   c. An adequately sized, function tested pressure relief valve must be utilized on the treating lines from the pumps to the wellhead, with suitable check valves to limit the volume of flowback fluid should the relief valve open. The relief valve must be set to limit line pressure to no more than eighty-five percent of the internal yield pressure of the frac string.

   d. An adequately sized, function tested pressure relief valve and an adequately sized diversion line must be utilized to divert flow from the intermediate casing to a pit or containment vessel in case of frac string failure. The relief valve must be set to limit annular pressure to no more than eighty-five percent of the lowest internal yield pressure of the intermediate casing string or no greater than the pressure test on the intermediate casing, less one hundred pounds per square inch gauge, whichever is less.

   e. The surface casing must be fully open and connected to a diversion line rigged to a pit or containment vessel.

f. An adequately sized, function tested remote operated frac valve must be utilized at a location on the christmas tree that provides isolation of the well bore from the treating line and must be remotely operated from the edge of the location or other safe distance.

g. Notify the director within twenty-four hours after the commencement of hydraulic fracture stimulation operations, in an electronic format approved by the director, identifying the subject well and verifying a frac string was run in the well.

~~g~~h. Within sixty days after the hydraulic fracture stimulation is performed, the owner, operator, or service company shall post on the fracfocus chemical disclosure registry all elements made viewable by the fracfocus website.

2. Prior to performing any hydraulic fracture stimulation, including refracs, through an intermediate casing string:

a. The maximum treating pressure shall be no greater than eighty-five percent of the American petroleum institute rating of the affected intermediate casing string.

b. Casing evaluation tools to verify adequate wall thickness of ~~the~~ any affected intermediate casing string shall be run from the wellhead to a depth as close as practicable to one hundred feet [30.48 meters] above the completion formation and a visual inspection with photographs shall be made of the top joint of the intermediate casing and the wellhead flange. The visual inspection and photograph requirement can be waived by the director for good cause.

If the casing evaluation tool or visual inspection indicates wall thickness is below the American petroleum institute minimum or a lighter weight of intermediate casing than the well design called for, calculations must be made to determine the reduced pressure rating. If the reduced pressure rating is less than the anticipated treating pressure, a frac string shall be run inside the intermediate casing.

c. Cement evaluation tools to verify adequate cementing of ~~the~~ each intermediate casing string shall be run from the wellhead to a depth as close as practicable to one hundred feet [30.48 meters] above the completion formation.

(1) If the cement evaluation tool indicates defective casing or cementing, a frac string shall be run inside the intermediate casing.

(2) If the cement evaluation tool indicates the intermediate casing string cemented in the well fails to satisfy section 43-02-03-21, a frac string shall be run inside the intermediate casing.

d. ~~The~~ Each affected intermediate casing string and the wellhead must be pressure tested ~~to a minimum depth of one hundred feet [30.48 meters] below the top of the Tyler formation~~ for at least thirty minutes with less than five percent loss to a pressure equal to or in excess of the maximum frac design pressure.

e. If the pressure rating of the wellhead does not exceed the maximum frac design pressure, a wellhead and blowout preventer protection system must be utilized during the frac.

f. An adequately sized, function tested pressure relief valve must be utilized on the treating lines from the pumps to the wellhead, with suitable check valves to limit the volume of flowback fluid should the relief valve open. The relief valve must be set to limit line pressure to no greater than the test pressure of the intermediate casing, less one hundred pounds per square inch [689.48 kilopascals].

g. The surface casing valve must be fully open and connected to a diversion line rigged to a pit or containment vessel.

h. An adequately sized, function tested remote operated frac valve must be utilized between the treating line and the wellhead.

i. Notify the director within twenty-four hours after the commencement of hydraulic fracture stimulation operations, in an electronic format approved by the director, identifying the subject well and verifying all logs and pressure tests have been performed as required.

~~i~~j. Within sixty days after the hydraulic fracture stimulation is performed, the owner, operator, or service company shall post on the fracfocus chemical disclosure registry all elements made viewable by the fracfocus website.

3. If during the stimulation, the pressure in the intermediate casing-surface casing annulus exceeds three hundred fifty pounds per square inch [2413 kilopascals] gauge, the owner or operator shall verbally notify the director as soon as practicable but no later than twenty-four hours following the incident.

History: Effective April 1, 2012; amended effective April 1, 2014; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29. WELL AND LEASE EQUIPMENT, AND GAS GATHERING PIPELINES. Wellhead and lease equipment with a working pressure at least equivalent to the calculated or known pressure to which the equipment may be subjected shall be installed and maintained. Equipment on producing wells shall be installed to facilitate gas-oil ratio tests, and

static bottom hole or other pressure tests. Valves shall be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing.

All newly constructed underground gas gathering pipelines must be devoid of leaks and constructed of materials resistant to external corrosion and to the effects of transported fluids. All such pipelines installed in a trench must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, the possibility of damage to the pipe, and tracer wire shall be buried with any nonconductive pipe installed. When a trench for an underground gas gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material.

1. The operator of any underground gas gathering pipeline placed into service on August 1, 2011, to June 30, 2013, shall file with the director, by January 1, 2015, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline. The operator of any underground gas gathering pipeline placed into service after June 30, 2013, shall file with the director, within one hundred eighty days of placing into service, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of <u>all compressor sites, buried drip tanks, and</u> the pipeline centerline. An affidavit of completion shall accompany each layer containing the following information:

    a. A statement that the pipeline was constructed and installed in compliance with section 43-02-03-29.

    b. The outside diameter, minimum wall thickness, composition, internal yield pressure, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.

    c. The anticipated operating pressure of the pipeline.

    d. The type of fluid that will be transported in the pipeline and direction of flow.

    e. Pressure to which the pipeline was tested prior to placing into service.

    f. The minimum pipeline depth of burial.

    g. In-service date.

    h. Leak detection and monitoring methods that will be utilized after in-service date.

    i. Pipeline name.

j. Accuracy of the geographical information system layer.

2. When an underground gas gathering pipeline or any part of such pipeline is abandoned, the operator shall leave such pipeline in a safe condition by conducting the following:

   a. Disconnect and physically isolate the pipeline from any operating facility or other pipeline.

   b. Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.

   c. Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.

   d. Remove cathodic protection from the pipeline.

   e. Permanently plug or cap all open ends by mechanical means or welded means.

3. Within one hundred eighty days of completing the abandonment of an underground gas gathering pipeline the operator of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline and an affidavit of completion containing the following information:

   a. A statement that the pipeline was abandoned in compliance with section 43-02-03-29.

   b. The type of fluid used to purge the pipeline.

The requirement to submit a geographical information system layer is not to be construed to be required on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

History: Amended effective January 1, 1983; January 1, 2006; April 1, 2014; January 1, 2017; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29.1. CRUDE OIL AND PRODUCED WATER UNDERGROUND GATHERING PIPELINES.

1. Application of section. This section is applicable to all underground gathering pipelines designed for or capable of transporting crude oil~~, natural gas, carbon dioxide,~~ or produced water from an oil and gas production facility for the purpose of disposal, storage, or for sale purposes ~~or designed for or capable of transporting carbon dioxide from a carbon capture facility for the purpose of storage or enhanced oil recovery.~~ If these rules differ from the pipeline manufacturer's prescribed installation and operation practices, the pipeline manufacturer's prescribed installation and operation practices take precedence.

   The requirements in this section are not applicable to flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment located entirely within the boundary of a well site or production facility.

   If these rules differ from or are preempted by federal requirements on federally regulated pipelines, the federal rules take precedence. The pipeline owner shall provide sufficient documentation to the director confirming the pipeline is federally regulated.

2. Definitions. The terms used throughout this section apply to this section only.

   a. "Crude oil or produced water underground gathering pipeline" means an underground gathering pipeline designed or intended to transfer crude oil or produced water from a production facility for disposal, storage, or sale purposes.

   b. "New construction" means a new gathering pipeline installation project or an alteration or re-route of an existing gathering pipeline where the location, composition, size, design temperature, or design pressure changes.

   c. "Pipeline repair" is the work necessary to restore a pipeline system to a condition suitable for safe operations that does not change the design temperature or pressure.

   d. "Gathering system" is a group of connected pipelines ~~which are connected~~ which have been designated as a gathering system by the operator. A gathering system must have a unique name and must be interconnected.

   e. "In-service date" is the first date fluid was transported down the underground gathering pipeline for disposal, storage, or sale purposes after construction.

3. Notifications.

a. The underground gathering pipeline owner shall notify the commission, as provided by the director, at least seven days prior to commencing new construction of any underground gathering pipeline.

(1) The notice of intent to construct a crude oil or produced water underground gathering pipeline must include the following:

(a) The proposed date construction is scheduled to begin.

(b) A statement that the director will be verbally notified approximately forty-eight hours prior to commencing the construction.

(c) A geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the proposed route of the pipeline from the point of origin to the termination point.

(d) The proposed underground gathering pipeline design drawings, including all associated above ground equipment.

[1] The proposed pipeline composition, specifications (i.e. size, weight, grade, wall thickness, coating, and standard dimension ratio).

[2] The type of fluid to be transported.

[3] The method of testing pipeline integrity (e.g. hydrostatic or pneumatic test) prior to placing the pipeline into service.

[4] Proposed burial depth of the pipeline.

[5] The location and type of all road crossings (i.e. bored and cased or bored only).

[6] The location of all environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies that the pipeline may traverse, if applicable.

b. The underground gathering pipeline owner shall file a sundry notice (form 4 or form provided by the commission) with the director notifying the commission of any underground gathering pipeline system or portion thereof that has been removed from service for more than one year.

c. If damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas, during construction, operation, maintenance, repair, or abandonment of an underground gathering pipeline, the responsible party shall verbally notify the director immediately.

d. The pipeline owner shall file a sundry notice (form 4 or form provided by the commission) within thirty days of the in-service date reporting the date of first service.

4. Design and construction.

The following applies to newly constructed crude oil and produced water underground gathering pipelines, including tie-ins to existing systems:

a. Underground gathering pipelines must be devoid of leaks and constructed of materials resistant to external corrosion and to the effects of transported fluids.

b. Underground gathering pipelines must be designed in a manner that allows for line maintenance, periodic line cleaning, and integrity testing.

c. Installation crews must be trained in all installation practices for which they are tasked to perform.

d. Underground gathering pipelines must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, and the possibility of damage to the pipe. Tracer wire must be buried with any nonconductive pipe installed.

e. Unless the manufacturer's installation procedures and practices provide guidance, pipeline trenches must be constructed to allow for the pipeline to rest on undisturbed native soil and provide continuous support along the length of the pipe. Trench bottoms must be free of rocks greater than two inches in diameter, debris, trash, and other foreign material not required for pipeline installation. If a trench bottom is over excavated, the trench bottom must be backfilled with appropriate material and compacted prior to installation of the pipe to provide continuous support along the length of the pipe.

The width of the trench must provide adequate clearance on each side of the pipe. Trench walls must be excavated to ensure minimal sluffing of sidewall material into the trench. Subsoil from the excavated trench must be stockpiled separately from previously stripped topsoil.

f. Underground gathering pipelines that cross a township, county, or state graded road must be bored unless the responsible governing agency specifically permits the owner to open cut the road.

g. No pipe or other component may be installed unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

h. The pipe must be handled in a manner that minimizes stress and avoids physical damage to the pipe during stringing, joining, or lowering in. During the lowering in process the pipe string must be properly supported so as not to induce excess stresses on the pipe or the pipe joints or cause weakening or damage to the outer surface of the pipe.

i. When a trench for an underground gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material. Sufficient backfill material must be placed in the haunches of the pipe to provide long-term support for the pipe. Backfill material that will be within two feet of the pipe must be free of rocks greater than two inches in diameter and foreign debris. Backfilling material must be compacted as appropriate during placement in a manner that provides support for the pipe and reduces the potential for damage to the pipe and pipe joints.

j. Cover depths must be a minimum of four feet [1.22 meters] from the top of the pipe to the finished grade. The cover depth for an undeveloped governmental section line must be a minimum of six feet [1.83 meters] from the top of the pipe to the finished grade.

k. Underground gathering pipelines that traverse environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies, must be installed in a manner that minimizes impacts to these areas. Any horizontal directional drilling plan prepared by the owner or required by the director, must be filed with the commission, prior to the commencement of horizontal directional drilling.

l. Clamping or squeezing as a method of connecting any produced water underground gathering pipeline must be approved by the director. Prior to clamping or squeezing the pipeline, the owner shall file a sundry notice (form 4 or form provided by the commission) with the director and obtain approval of the clamping or squeezing plan. The notice must include documentation that the pipeline can be safely clamped or squeezed as prescribed by the manufacturer's specifications. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is placed into service.

5. Pipeline reclamation.

   a. When utilizing excavation for pipeline installation, repair, or abandonment, topsoil must be stripped, segregated from the subsoils, and stockpiled for use in reclamation. "Topsoil" means the suitable plant growth material on the surface; however, in no event shall this be deemed to be more than the top twelve inches [30.48 centimeters] of soil or deeper than the depth of cultivation, whichever is greater.

   b. The pipeline right-of-way must be reclaimed as closely as practicable to original condition. All stakes, temporary construction markers, cables, ropes, skids, and any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of.

   c. During right-of-way reclamation all subsoils and topsoils must be returned in proper order to as close to the original depths as practicable.

   d. The reclaimed right-of-way soils must be stabilized to prevent excessive settling, sluffing, cave-ins, or erosion.

   e. The crude oil and produced water underground gathering pipeline owner is responsible for their right-of-way reclamation and maintenance until such pipeline is released by the commission from the pipeline bond pursuant to section 43-02-03-15.

6. Inspection.

   All newly constructed crude oil and produced water underground gathering pipelines must be inspected by third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the requirements of this section. A list of all third-party independent inspectors and a description of each independent inspector's qualifications, certifications, experience, and specific training must be provided to the commission upon request. A person may not be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected. The third-party independent inspector may not be an employee of the gathering pipeline owner/operator or the contractor hired to construct and install the pipeline.

7. Associated pipeline facility.

   No associated above ground equipment may be installed less than five hundred feet [152.40 meters] from an occupied dwelling unless agreed to in writing by the owner of the dwelling or authorized by order of the commission.

   All associated above ground equipment used to store crude oil or produced water must be devoid of leaks and constructed of materials resistant to the effects of crude

oil, produced water, brines, or chemicals that may be contained therein. The above materials requirement may be waived by the director for tanks presently in service and in good condition. Unused tanks and associated above ground equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year.

Dikes must be erected around all produced water or crude oil tanks at any new facility prior to placing the associated underground gathering pipeline into service. Dikes must be erected and maintained around all crude oil or produced water tanks or above ground equipment, when deemed necessary by the director. Dikes as well as the base material under the dikes and within the diked area must be constructed of sufficiently impermeable material to provide emergency containment. Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid throughput. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction. Discharged crude oil or produced water must be properly removed and may not be allowed to remain standing within or outside of any diked areas.

The underground gathering pipeline owner shall take steps to minimize the amount of solids stored at the pipeline facility, although the remediation of such material may be allowed onsite, if approved by the director.

8. Underground gathering pipeline as built.

The owner of any underground gathering pipeline placed into service after July 31, 2011, shall file with the director, as prescribed by the director, within one hundred eighty days of placing into service, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point. An affidavit of completion must accompany each layer containing the following information:

a. A third-party inspector certificate that the pipeline was constructed and installed in compliance with section 43-02-03-29.1.

b. The outside diameter, minimum wall thickness, composition, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.

c. The maximum allowable operating pressure of the pipeline.

d. The specified minimum yield strength and internal yield pressure of the pipeline if applicable to the composition of pipe.

e. The type of fluid that will be transported in the pipeline.

f. Pressure and duration to which the pipeline was tested prior to placing into service.

g. The minimum pipeline depth of burial from the top of the pipe to the finished grade.

h. In-service date.

i. Leak protection and monitoring methods that will be utilized after in-service date.

j. Any leak detection methods that have been prepared by the owner.

k. The name of the pipeline gathering system and any other separately named portions thereof.

l. Accuracy of the geographical information system layer.

9. Operating requirements.

The maximum operating pressure for all crude oil and produced water underground gathering pipelines may not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The maximum operating pressure of any portion of an underground gathering system may not exceed the test pressure from the most recent integrity test demonstration following modification or repair for which it was tested.

The crude oil or produced water underground gathering pipeline must be equipped with adequate controls and protective equipment to prevent the pipeline from operating above the maximum operating pressure.

10. Leak protection, detection, and monitoring.

All crude oil and produced water underground gathering pipeline owners shall file with the commission any leak protection and monitoring plan prepared by the owner or required by the director, pursuant to North Dakota Century Code section 38-08-27.

If any leak detection plan has been prepared by the owner, it must be submitted to the director.

All crude oil or produced water underground gathering pipeline owners shall develop and maintain a data sharing plan. The plan must provide for real-time sharing of data between the operator of the production facility, the crude oil or produced water underground gathering pipeline owner, and the operator at the point or points of disposal, storage, or sale. If a discrepancy in the shared data is observed, the party

observing the data discrepancy shall notify all other parties and action must be taken to determine the cause. A record of all data discrepancies must be retained by the crude oil or produced water underground gathering pipeline owner. If requested, copies of such records must be filed with the commission.

11. Spill response.

All crude oil and produced water underground gathering pipeline owners shall maintain a spill response plan during the service life of any crude oil or produced water underground gathering pipeline. The plan should detail the necessary steps for an effective and timely response to a pipeline spill. The spill response plan should be tailored to the specific risks in the localized area. Response capabilities should address access to equipment and tools necessary to respond, as well as action steps to protect the health and property of impacted landowners, citizens, and the environment.

12. Corrosion control.

a. Underground gathering pipelines must be designed to withstand the effects of external corrosion and maintained in a manner that mitigates internal corrosion.

b. All metallic underground gathering pipelines installed must have sufficient corrosion control.

c. All coated pipe must be electronically inspected prior to placement using coating deficiency (i.e. holiday) detectors to check for any faults not observable by visual examination. The holiday detector must be operated in accordance with manufacturer's instructions and at a voltage level appropriate for the electrical characteristics of the pipeline system being tested. During installation all joints, fittings, and tie-ins must be coated with materials compatible with the coatings on the pipe. Coating materials must:

(1) Be designed to mitigate corrosion of the buried pipeline;

(2) Have sufficient adhesion to the metal surface to prevent under film migration of moisture;

(3) Be sufficiently ductile to resist cracking;

(4) Have enough strength to resist damage due to handling and soil stress;

(5) Support any supplemental cathodic protection; and

(6) If the coating is an insulating type, have low moisture absorption and provide high electrical resistance.

d. Cathodic protection systems must meet or exceed the minimum criteria set forth in the National Association of Corrosion Engineers standard practice Control of External Corrosion on Underground or Submerged Metallic Piping Systems.

e. If internal corrosion is anticipated or detected, the underground gathering pipeline owner shall take prompt remedial action to correct any deficiencies, such as increased pigging, use of corrosion inhibitors, internal coating of the pipeline (e.g. an epoxy paint or other plastic liner), or a combination of these methods. Corrosion inhibitors must be used in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect.

13. Pipeline integrity.

A crude oil or produced water underground gathering pipeline owner may not operate a pipeline unless it has been pressure tested and demonstrated integrity. In addition, an owner may not return to service a portion of pipeline which has been repaired, replaced, relocated, or otherwise changed until it has demonstrated integrity.

a. The crude oil and produced water underground gathering pipeline owner shall notify the commission at least forty-eight hours prior to commencement of any pipeline integrity test to allow a representative of the commission to witness the testing process and results. The notice must include the pipeline integrity test procedure.

b. The crude oil and produced water underground gathering pipeline owner shall submit within sixty days of the underground gathering pipeline being placed into service the integrity test results which must include the following:

(1) The name of the pipeline gathering system and any other separately named portions thereof;

(2) The date of the test;

(3) The duration of the test;

(4) The length of pipeline which was tested;

(5) The maximum and minimum test pressure;

(6) The starting and ending pressure;

(7) A copy of the chart recorder or digital log results;

(8) A geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems

research institute (Esri) shape file format showing the location of the centerline of the portion of the pipeline that was tested;

(9) A copy of the test procedure used; and

(10) A third-party inspector certificate summarizing the pipeline has been pressure tested and whether it demonstrated integrity, including the identification of any leaks, ruptures, or other integrity issues encountered, and an explanation for any substantial pressure gain or losses during the integrity test, if applicable.

c. All crude oil and produced water underground gathering pipeline owners shall maintain a pipeline integrity demonstration plan during the service life of any crude oil or produced water underground gathering pipeline. The director, for good cause, may require a pipeline integrity demonstration on any crude oil or produced water underground gathering pipeline.

14. Pipeline repair.

Each owner, in repairing an underground gathering pipeline or pipeline system, shall ensure that the repairs are made in a manner that prevents damage to persons or property.

An owner may not use any pipe, valve, or fitting, for replacement or repair of an underground gathering pipeline, unless it is designed to meet the maximum operating pressure.

a. At least forty-eight hours prior to any underground gathering pipeline repair or replacement, the underground gathering pipeline owner shall notify the commission, as provided by the director, except in an emergency.

b. Within one hundred eighty days of repairing or replacing any underground gathering pipeline the owner of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the centerline of the repaired or replaced pipeline and an affidavit of completion containing the following information:

(1) A statement that the pipeline was repaired in compliance with section 43-02-03-29.1.

(2) The reason for the repair or replacement.

(3) The length of pipeline which was repaired or replaced.

(4) Pressure and duration to which the pipeline was tested prior to returning to service.

c. Clamping or squeezing as a method of repair for any produced water underground gathering pipeline must be approved by the director. Prior to clamping or squeezing the pipeline, the owner shall file a sundry notice (form 4) with the director and obtain approval of the clamping or squeezing plan. The notice must include documentation that the pipeline can be safely clamped or squeezed as prescribed by the manufacturer's specifications. If an emergency requires clamping or squeezing, the owner or the owner's agent shall obtain verbal approval from the director and the notice shall be filed within seven days of completing the repair. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is returned to service.

15. Pipeline abandonment.

a. At least forty-eight hours prior to abandoning any underground gathering pipeline, the underground gathering pipeline owner shall notify the director verbally.

b. When an underground gathering pipeline or any part of such pipeline is abandoned as defined under subsection 1 of North Dakota Century Code section 38-08-02 after March 31, 2014, the owner shall leave such pipeline in a safe condition by conducting the following:

(1) Disconnect and physically isolate the pipeline from any operating facility, associated above ground equipment, or other pipeline.

(2) Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.

(3) Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.

(4) Remove cathodic protection from the pipeline.

(5) Permanently plug or cap all open ends by mechanical means or welded means.

(6) The site of all associated above ground equipment must be reclaimed pursuant to section 43-02-03-34.1.

(7) If the bury depth is not at least three feet below final grade, such portion of pipe must be removed.

c. Within one hundred eighty days of completing the abandonment of an underground gathering pipeline the owner of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline and an affidavit of completion containing the following information:

(1) A statement that the pipeline was abandoned in compliance with section 43-02-03-29.1.

(2) The type of fluid used to purge the pipeline.

(3) The date of pipeline abandonment.

(4) The length of pipeline abandoned.

History: Effective January 1, 2017; amended effective April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-30. NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS. All persons controlling or operating any well, pipeline and associated above ground equipment, receiving tank, storage tank, facility, treating plant, or any other receptacle or production facility associated with oil, gas, or water production, injection, processing, or well servicing, shall verbally notify the director immediately and follow up utilizing the online initial notification report within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. The initial report must include the name of the reporting party, including telephone number and address, date and time of the incident, location of the incident, type and cause of the incident, estimated volume of release, containment status, waterways involved, immediate potential threat, and action taken. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section do not apply to any leak or spill involving only freshwater or to any leak, spill, or release of crude oil, produced water, or natural gas liquid that is less than one barrel total volume and remains onsite of a site where any well thereon was spud before September 2, 2000, or on a facility that was constructed before September 2, 2000, and do not apply to any leak or spill or release of crude oil, produced water, or natural gas liquid that is less than ten barrels total volume cumulative over a fifteen-day time period, and remains onsite of a site where all wells thereon were spud after September 1, 2000, or on a facility that was constructed after September 1, 2000. The initial notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the

situation, root cause of the incident unless deemed unnecessary by the director, and action taken to prevent reoccurrence, and if applicable, any additional information pursuant to subdivision e of subsection 1 of North Dakota Century Code section 37-17.1-07.1. The ~~signature~~ name, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.

The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008; April 1, 2010; April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020:_____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-34.1. RECLAMATION OF SURFACE.

1. Within a reasonable time, but not more than one year, after a well is plugged, or if a permit expires, has been canceled or revoked, or a treating plant or saltwater handling facility is decommissioned, the site, access road, and other associated facilities constructed shall be reclaimed as closely as practicable to original condition pursuant to North Dakota Century Code section 38-08-04.12. Prior to site reclamation, the operator or the operator's agent shall file a sundry notice (form 4) with the director and obtain approval of a reclamation plan. The operator or operator's agent shall provide a copy of the proposed reclamation plan to the surface owner at least ten days prior to commencing the work unless waived by the surface owner. Verbal approval to reclaim the site may be given. The notice shall include:

   a. The name and address of the reclamation contractor;

   b. The name and address of the surface owner and the date when a copy of the proposed reclamation plan was provided to the surface owner;

   c. A description of the proposed work, including topsoil redistribution and reclamation plans for the access road and other associated facilities; and

   d. Reseeding plans, if applicable.

   The commission will mail a copy of the approved notice to the surface owner.

All equipment, waste, and debris shall be removed from the site. All pipelines shall be purged and abandoned pursuant to section 43-02-03-29.1. Flow lines shall be removed if buried less than three feet [91.44 centimeters] below final contour.

2. Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the site, access road, and other associated facilities constructed for the well, treating plant, or saltwater handling facility shall be reshaped as near as is practicable to original contour.

3. The stockpiled topsoil shall be evenly distributed over the disturbed area and, where applicable, the area revegetated with native species or according to the reasonable specifications of the appropriate government land manager or surface owner.

4. A site assessment may be required by the director, before and after reclamation of the site.

5. Within thirty days after completing any reclamation, the operator shall file a sundry notice with the director reporting the work performed.

6. The director, with the consent of the appropriate government land manager or surface owner, may waive the requirement of reclamation of the site and access road after a well is plugged or treating plant or saltwater handling facility is decommissioned. ~~and~~ The operator shall record documentation of the waiver with the recorder of the county in which the site or road is located.

History: Effective April 1, 2012; amended effective April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-38.1. PRESERVATION OF CORES AND SAMPLES. Unless waived by the director, operators shall have a well site geologist or mudlogger on location for at least the first well drilled on a multi-well pad to collect sample cuttings and to create a mudlog and geologic report. Sample cuttings of formations, taken at intervals prescribed by the state geologist, in all wells drilled for the production of oil or gas, injection, disposal, storage operations, or geologic information in North Dakota, shall be washed and packaged in standard sample envelopes which in turn shall be placed in proper order in a standard sample box; carefully identified as to operator, well name, well file number, American petroleum institute number, location, depth of sample; and shall be sent free of cost to the state core and sample library within thirty days after completion of drilling operations.

The operator of any well drilled for the production of oil or gas, injection, disposal, storage operations, or geologic information in North Dakota, during the drilling of or immediately following the completion of any well, shall inform the director of all intervals that are to be cored,

or have been cored. Unless specifically exempted by the director, all cores taken shall be preserved, placed in a standard core box and the entire core forwarded to the state core and sample library, free of cost, within one hundred eighty days after completion of drilling operations. The director may grant an extension of the one hundred eighty-day time period for good reason. If an exemption is granted, the operator shall advise the state geologist of the final disposition of the core.

This section does not prohibit the operator from taking such samples of the core as the operator may desire for identification and testing. The operator shall furnish the state geologist with the results of all identification and testing procedures within thirty days of the completion of such work. The state geologist may grant an extension of the thirty-day time period for good reason.

The size of the standard sample envelopes, sample boxes, and core boxes shall be determined by the director and indicated in the cores and samples letter.

History: Effective October 1, 1990; amended effective January 1, 2006; April 1, 2014; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-55. ABANDONMENT OF WELLS, TREATING PLANTS, UNDERGROUND GATHERING PIPELINES, OR SALTWATER HANDLING FACILITIES - SUSPENSION OF DRILLING.

1. The removal of production equipment or the failure to produce oil or gas for one year constitutes abandonment of the well.~~, or the~~ The removal of production equipment or the failure to produce water from a source well~~,~~ for one year constitutes abandonment of the well. The removal of injection equipment or the failure to use an injection well for one year constitutes abandonment of the well. The failure to plug a stratigraphic test hole within one year of reaching total depth constitutes abandonment of the well. The removal of treating plant equipment or the failure to use a treating plant for one year constitutes abandonment of the treating plant. The removal of saltwater handling facility equipment or the failure to use a saltwater handling facility for one year constitutes abandonment of the saltwater handling facility. An abandoned well must be plugged and its site must be reclaimed, an abandoned treating plant must be removed and its site must be reclaimed, and an abandoned saltwater handling facility must be removed and its site must be reclaimed, pursuant to sections 43-02-03-34 and 43-02-03-34.1. A well not producing oil or natural gas in paying quantities for one year may be placed in abandoned-well status pursuant to subsection 1 of North Dakota Century Code section 38-08-04. If an injection well is inactive for extended periods of time, the commission may, after notice and hearing, require the injection well to be plugged and abandoned. If an underground gathering pipeline is inactive for seven

years, the commission may, after notice and hearing, require the pipeline to be properly abandoned pursuant to sections 43-02-03-29 and 43-02-03-29.1.

2. The director may waive for one year the requirement to plug and reclaim an abandoned well by giving the well temporarily abandoned status for good cause. This status may only be given to wells that are to be used for purposes related to the production of oil and gas within the next seven years. If a well is given temporarily abandoned status, the well's perforations must be isolated, the integrity of its casing must be proven, and its casing must be sealed at the surface, all in a manner approved by the director. The director may extend a well's temporarily abandoned status and each extension may be approved for up to one year. A fee of one hundred dollars shall be submitted for each application to extend the temporary abandonment status of any well. A surface owner may request a review of a well temporarily abandoned for at least seven years pursuant to subsection 1 of North Dakota Century Code section 38-08-04.

3. In addition to the waiver in subsection 2, the director may also waive the duty to plug and reclaim an abandoned well for any other good cause found by the director. If the director exercises this discretion, the director shall set a date or circumstance upon which the waiver expires.

4. The director may approve suspension of the drilling of a well. If suspension is approved, a plug must be placed at the top of the casing to prevent any foreign matter from getting into the well. When drilling has been suspended for thirty days, the well, unless otherwise authorized by the director, must be plugged and its site reclaimed pursuant to sections 43-02-03-34 and 43-02-03-34.1.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; August 1, 1999; January 1, 2008; April 1, 2010; April 1, 2012; April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-88.1. SPECIAL PROCEDURES FOR INCREASED DENSITY WELLS, POOLING, FLARING EXEMPTION, UNDERGROUND INJECTION, COMMINGLING, CONVERTING MINERAL WELLS TO FRESHWATER WELLS, AND CENTRAL TANK BATTERY OR CENTRAL PRODUCTION FACILITIES APPLICATIONS.

1. Applications to amend field rules to allow additional wells on existing spacing units, for pooling under North Dakota Century Code section 38-08-08, for a flaring exemption under North Dakota Century Code section 38-08-06.4 and section 43-02-03-60.2, for underground injection under chapter 43-02-05, for commingling in one well bore the fluids from two or more pools under section 43-02-03-42, for converting a mineral well to a freshwater well under section 43-02-03-35, and for establishing central tank batteries or central production facilities under section

43-02-03-48.1, must be signed by the applicant or the applicant's representative. The application must contain or refer to attachments that contain all the information required by law as well as the information the applicant wants the commission to consider in deciding whether to grant the application. The application must designate an employee or representative of the applicant to whom the commission can direct inquiries regarding the application.

2. The commission shall give the county auditor notice at least fifteen days prior to the hearing of any application in which a request for a disposal under chapter 43-02-05 is received.

3. The applications referred to in subsection 1 will be advertised and scheduled for hearing as are all other applications received by the commission. The applicant, however, unless required by the director, need not appear at the hearing scheduled to consider the application, although additional evidence may be submitted prior to the hearing. Any interested party may appear at the hearing to oppose or comment on the application. Any interested party may also 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.

4. The director is authorized, on behalf of the commission, to grant or deny the applications referred to in subsection 1.

5. In any proceeding under this section, the applicant, at the hearing, may supplement the record by offering testimony and exhibits in support of the application.

6. In the event the applicant is not required by the director to appear at the hearing and an interested party does appear to oppose the application or submits a written objection to the application, the hearing ~~officer~~ examiner shall continue the hearing to a later date, keep the record open for the submission of additional evidence, or take any other action necessary to ensure that the applicant, who does not appear at the hearing as the result of subsection 3, is accorded due process.

History: Effective May 1, 1992; amended effective May 1, 1994; May 1, 2004; April 1, 2012; April 1, 2014; April 1, 2018; _____.

General Authority	Law Implemented
NDCC 38-08-04	NDCC 38-08-04
38-08-11	38-08-08

43-02-03-90.2. OFFICIAL RECORD. The evidence in each case heard by the commission, unless specifically excluded by the hearing ~~officer~~ examiner, includes the certified directional surveys, all oil, water, and gas 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~~ examiner may strike such testimony from the record for good cause.

History: Effective May 1, 1992; amended effective April 1, 2010; April 1, 2012; October 1, 2016; _____.

General Authority NDCC 28-32-06 — Law Implemented NDCC 28-32-06

43-02-03-90.4. NOTICE OF ORDER BY MAIL. The commission ~~may~~ shall 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~~ pursuant to North Dakota Century Code section 38-08-11.

History: Effective May 1, 1992; _____.

General Authority NDCC 28-32-13 — Law Implemented NDCC 28-32-13

Section 43-02-14 is hereby created:

GEOLOGICAL STORAGE OF OIL OR GAS
CHAPTER 43-02-14

43-02-14-01. DEFINITIONS. The terms used throughout this chapter have the same meaning as in chapters 43-02-02.1, 43-02-03, and 43-02-05, and North Dakota Century Code chapters 38-08, 38-12, 38-25, and 47-31 except:

1. "Facility area" means the areal extent of the storage reservoir or salt cavern.

2. "Storage reservoir" means the total pore space occupied by the injected produced oil or gas during all phases of the project plus any reasonable or necessary horizontal buffer zones.

History: Effective ____.

General Authority NDCC 38-08-04 | Law Implemented NDCC 38-25

43-02-14-02. SCOPE OF CHAPTER. This chapter pertains to the geological storage of hydrogen and produced oil or gas with little to no processing involved. If the rules differ from federal requirements on federally regulated storage facilities, the federal rules take precedence. The storage facility operator shall provide sufficient documentation to the director confirming the storage facility is federally operated. Applications filed with the commission proposing to inject gas for the purposes of enhanced oil or gas recovery will be processed under chapter 43-02-05. This chapter does not apply to Class III injection wells used to create a salt cavern. Applications for Class III wells are under the jurisdiction of the state geologist pursuant to chapter 43-02-02.1. 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: Effective ____.

General Authority NDCC 38-08-04 | Law Implemented NDCC 38-25

43-02-14-02.1. APPLICATION OF RULES FOR GEOLOGICAL STORAGE FACILITIES. All geological storage facilities, injection wells, and monitoring wells are also subject to the provisions of chapters 43-02-03, 43-02-05, and 43-05-01 where applicable.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.2. INJECTION INTO UNDERGROUND SOURCE OF DRINKING WATER PROHIBITED. Underground injection of oil or gas that causes or allows movement of fluid into an underground source of drinking water is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.3. TRANSITIONING FROM ENHANCED OIL OR GAS RECOVERY TO GEOLOGICAL STORAGE. A storage facility operator injecting oil or gas for the primary purpose of geological storage into an oil and gas reservoir shall apply for a geological storage facility and injection well permit. In determining if there is an increased risk to underground sources of drinking water, the commission shall consider the following factors:

1. Increase in reservoir pressure within the injection zone.
2. Oil or gas injection rates.
3. Decrease in reservoir production rates.
4. Distance between the injection zone and underground sources of drinking water.
5. Suitability of the enhanced oil or gas recovery area of review delineation.
6. Quality of abandoned well plugs within the area of review.
7. The storage facility operator's plan for recovery of oil or gas at the cessation of injection.
8. The source and properties of the injected oil or gas.

9. Any additional site-specific factors as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.4. PROHIBITION OF UNAUTHORIZED INJECTION. Any underground injection of oil or gas for the purpose of geological storage, except into a well authorized by permit issued under this chapter, is prohibited. The construction of any well or site or access road is prohibited until the permit authorizing construction of the well or site or access road has been issued.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.5. EXISTING WELL CONVERSION. Storage facility operators seeking to convert an existing well to an injection well for the purpose of geological storage of oil or gas must demonstrate to the commission that the well is constructed in a manner that will ensure the protection of underground sources of drinking water.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-03. BOOKS AND RECORDS TO BE KEPT TO SUBSTANTIATE REPORTS. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall make and keep appropriate books and records until dissolution of the storage facility, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-04. ACCESS TO RECORDS. The commission and the commission's authorized agents shall have access to all storage facility records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall permit the commission, or its authorized agents, to come upon any lease, property, well, or drilling rig operated or controlled by them, complying with state safety rules and to inspect the records and operation of wells and to conduct sampling and testing. Any information so obtained shall be public information. If requested, copies of storage facility records must be filed with the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05. GEOLOGICAL STORAGE FACILITY PERMIT HEARING.

1. At least thirty days prior to the scheduled hearing, the applicant shall give notice of the hearing to persons outlined in North Dakota Century Code 38-25-04.

2. Notice given by the applicant must contain the following:

   a. A legal description of the land within the oil or gas facility area.

   b. The date, time, and place the commission will hold a hearing on the permit application.

   c. A statement of purpose of the application.

   d. A statement that a digital copy (.pdf format) of the permit may be obtained from the commission.

   e. A statement that all comments regarding the geological storage facility permit application must be in writing and submitted to the commission by five p.m. on the last business day prior to the hearing date or presented at the hearing.

   f. Storage in an oil and gas reservoir must contain:

      (1) A statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of oil and gas minerals and oil and gas leases within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the oil and gas minerals and oil and gas leases, and a statement that the commission may require the oil and gas minerals and oil and gas leases owned by nonconsenting owners to be included in the geological storage facility.

g. Storage in a saline reservoir must contain a statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

h. Storage in a salt cavern must contain

(1) A statement that amalgamation of the pore space within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of salt minerals and salt leases within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent of the salt minerals and salt leases, and a statement that the commission may require the salt minerals and salt leases owned by nonconsenting owners to be included in the geological storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05.1. AREA OF REVIEW AND CORRECTIVE ACTION.

1. The storage facility operator shall prepare, maintain, and comply with a plan to delineate the area of review for a proposed storage facility, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this section and is acceptable to the commission. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the storage facility permit application, the storage facility operator shall submit an area of review and corrective

action plan that includes the following:

a. The method for delineating the area of review, results of the reservoir or geomechanical modeling and simulation, inputs that will be made, and the site characterization data on which the model will be based.

b. A description of:

(1) The reevaluation date, not to exceed five years, at which time the storage facility operator shall reevaluate the area of review.

(2) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation date.

(3) How monitoring and operational data will be used to inform an area of review reevaluation.

(4) How corrective action will be conducted to meet requirements of this section, and how corrective action will be adjusted if there are changes in the area of review.

2. The storage facility operator shall perform the following actions to delineate the area of review and identify all wells that require corrective action:

a. Applicable to oil and gas and saline reservoirs. Predict, using existing site characterization, monitoring and operational data, and reservoir modeling and simulation, the projected lateral and vertical migration of the injectate in the subsurface from the commencement of injection activities until the oil or gas movement ceases, or until the end of a fixed time as determined by the director:

(1) Be based on detailed geologic data collected to characterize the injection zone, confining zones, and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the storage project.

(2) Consider any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions.

(3) Consider potential migration through faults, fractures, and artificial penetrations.

b. Applicable to salt caverns. Using site specific geology, cavern construction data acquired during dissolution mining, and geomechanical modeling, determine necessary buffers as setbacks for the following:

(1) Future drilling in the proximity of the cavern.

(2) Additional caverns.

3. The storage facility operator shall perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones.

4. At the reevaluation date, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, the storage facility operator shall:

   a. Reevaluate the area of review in the same manner specified in subdivision a of subsection 2 or subdivision b of subsection 2, whichever is applicable.

   b. Identify all wells or caverns in the reevaluated area of review in the same manner specified in subsection 2.

   c. Perform corrective action on wells requiring action in the reevaluated area of review in the same manner specified in subsection 3.

   d. Submit an amended area of review and corrective action plan or demonstrate to the commission through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the plan are subject to the director's approval and must be incorporated into the permit.

5. All modeling inputs and data used to support area of review delineations and reevaluations must be retained until project completion. Upon project completion, the storage facility operator shall deliver the records to the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-06. PERMIT REQUIREMENTS – STORAGE IN OIL AND GAS RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile

adjacent have been notified of the proposed geological storage project.

b. An affidavit of mailing, including the name and address of each owner, certifying that all mineral lessees, mineral owners of record, pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of mineral lessees and mineral owners of record within the storage reservoir and one-half mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface

bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area and its delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1.

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the potential for unrecoverable injected oil or gas.

22. Address enrichment of the injected gas by hydrocarbons native to the oil and gas reservoir.

23. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

24. An emergency and remedial response plan pursuant to section 43-02-14-15.

25. A corrosion monitoring and prevention plan for all wells and surface facilities.

26. A leak detection and monitoring plan for all surface facilities.

27. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, and its delineated area of review.

28. A time frame for extraction of injected oil or gas and expected recovery percentages.

29. Address associated water recovery and a plan for disposal.

30. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-07. PERMIT REQUIREMENTS – STORAGE IN SALINE RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface and pore space ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all pore space owners and pore space lessees of record within the storage

reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the potential for migration of unrecoverable injected oil or gas.

22. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

23. An emergency and remedial response plan pursuant to section 43-02-14-15.

24. A corrosion monitoring and prevention plan for all wells and surface facilities.

25. A leak detection and monitoring plan for all surface facilities.

26. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, its delineated area of review.

27. A time frame for extraction of injected oil or gas and expected recovery percentages.

28. Address associated water recovery and a plan for disposal.

29. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-08. PERMIT REQUIREMENTS – STORAGE IN SALT CAVERN. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and salt mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all salt mineral lessees, salt mineral owners of record, pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   c. Legal descriptions of surface ownership of record within the salt cavern and one-half mile adjacent.

d. Legal descriptions of salt mineral lessees and salt mineral owners of record within the salt cavern and one half-mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing an application for permit to inject filed on a form provided by the director including at least the following:

a. The name and address of the operator of the injection well.

b. The estimated bottom hole fracture pressure of the upper confining zone.

c. Average maximum daily rate of oil or gas to be injected.

d. Average and maximum requested surface injection pressure.

e. Current capacity and geometry of the cavern.

f. Tools used to confirm capacity and geometry of cavern.

g. Current thickness of remaining salt at top and bottom of cavern.

h. Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

i. Existing or proposed casing, tubing, and packer data.

j. Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

k. A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

l. A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

m. Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

n. List identifying all source wells or sources of injectate.

o. All logging and testing data on the well which has not been previously submitted.

p. Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

q. A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

r. A detailed description of the proposed completion or conversion procedure.

s. Any other information required by the director to evaluate the proposed well.

4. Anticipated capacity and geometry of the cavern.

5. Minimum and maximum capacity of the cavern to be utilized.

6. Tools used to confirm capacity and geometry of the cavern.

7. Current thickness of remaining salt at the top and bottom of the cavern.

8. Description and schematics for brine management at the surface.

9. Description of measures in place to prevent unintended flow back.

10. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

11. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

12. Structural and stratigraphic cross sections that describe the geologic conditions of the salt cavern.

13. A structure map of the top and base of the salt formation being utilized.

14. An isopach map of the salt formation being utilized.

15. Geomechanical analysis of the cavern used to determine cavern stability, using, but not limited to the following:

    a. Geologic characteristics.

    b. Petrophysical properties.

    c. Rock mechanical properties.

    d. In situ stresses.

    e. Any other input data acquired and utilized.

16. Address the following cavern stability issues at minimum:

    a. Salt creep and mitigation measures.

    b. Minimum salt roof thickness.

    c. Roof collapse.

    d. Maximum cavern diameter.

    e. Spacing between offsetting caverns.

    f. Minimum setback for drilling in the vicinity.

    g. Salt thinning due to any stratigraphic change.

    h. Any dissolution zones in the salt.

    i. Minimum operating pressures and capacity volumes, roof geometry, and height/diameter ratios used to prevent any of the above or other pertinent stability issues.

17. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

18. A method for delineating the area of review, including the geomechanical model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

19. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface

structures within the oil or gas facility area and its delineated area of review.

20. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the salt cavern.

21. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

22. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the geological storage facility. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

23. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

24. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

25. Corrective action plan pursuant to section 43-02-14-05.1.

26. Identify whether the area of review extends across state jurisdiction boundary lines.

27. An emergency and remedial response plan pursuant to section 43-02-14-15.

28. A corrosion monitoring and prevention plan for all wells and surface facilities.

29. A leak detection and monitoring plan for all surface facilities.

30. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the salt cavern. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area and its delineated area of review.

31. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-09. SITING. All injection wells shall be sited in such a fashion that they inject into a formation which has confining zones that are free of known open faults or fractures within the facility area and its delineated area of review.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-10. CONSTRUCTION REQUIREMENTS.

1. All injection wells shall be cased and cemented to prevent movement of fluids into or between underground sources of drinking water or into an unauthorized zone. The casing and cement used in construction of each new injection well shall be designed for the life expectancy of the well. All wells used for injection into a storage reservoir or salt cavern must have surface casing set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. In determining and specifying casing and cementing requirements, all the following factors shall be considered:

   a. Depth to the injection zone and lower confining zone, or salt cavern specifics. Long string casing must be set at least to the top of the injection zone and cemented as approved by the director.

   b. Depth to the bottom of all underground sources of drinking water.

   c. Estimated minimum, maximum, and average injection pressures.

   d. Fluid pressure.

   e. Estimated fracture pressures.

   f. Physical and chemical characteristics of the injection zone.

2. Appropriate logs and other tests shall be conducted during the drilling and construction of injection wells. Any well drilled or converted to an injection well shall have a cement bond log from which a presence of channels and micro-annulus can be determined radially. Cement bond logs shall contain elements approved by the director.

3. After an injection well has been completed, approval must be obtained on a sundry notice filed on a form provided by the director prior to any subsequent perforating.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-11. MECHANICAL INTEGRITY.

1. An injection well has mechanical integrity if:

   a. There is no significant leak in the casing, tubing, or packer; and

   b. There is no significant fluid movement into an underground source of drinking water through channels adjacent to the well bore.

2. One of the following methods must be used to evaluate the absence of significant leaks:

   a. Pressure test with liquid or gas.

   b. Monitoring of positive annulus pressure following a valid pressure test.

   c. Radioactive tracer survey.

3. On a schedule determined by the commission, the storage facility operator shall use one or more of the following methods to determine the absence of significant fluid or gas movement:

   a. A cement bond log from which a presence of channels and micro-annulus can be determined radially.

   b. A temperature log.

   c. Any alternative testing method that provides equivalent or better information and that the director requires or approves.

4. The operator of an injection well immediately shall shut-in the well if mechanical failure indicates fluids are, or may be, migrating into an underground source of drinking water or an unauthorized zone, or if so directed by the director.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-12. PLUGGING OF INJECTION WELLS. The proper plugging of an injection well requires the well be plugged with cement or other types of plugs, or both, in a manner which will not allow movement of fluids into an underground source of drinking water. The operator shall file a notice of intention to plug on a form provided by the director and shall obtain the director's approval of the plugging method prior to the commencement of plugging operations.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-13. PRESSURE RESTRICTIONS.

1. The following applies to geological storage in an oil and gas reservoir or saline reservoir: Injection pressure at the wellhead shall not exceed a maximum authorized injection pressure which shall be calculated to assure that the pressure in the storage reservoir during injection does not initiate new fracture or propagate existing fractures in the confining zones. In no case shall injection pressure initiate fractures in the confining zones or cause the movement of injection or formation fluids into an unauthorized zone or underground source of drinking water.

2. The following applies to geological storage in a salt cavern:

   a. A minimum operating pressure protective of the cavern's integrity must be maintained.

   b. A maximum allowable operating pressure must be established based on the casing seat or the highest elevation of the cavern's roof, whichever is higher in elevation.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-13.1. SALT CAVERN INTEGRITY. The operator shall execute the emergency and remedial response plan pursuant to section 43-02-14-15 in the event of loss of integrity in the storage cavern for any reason.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-14. BONDING REQUIREMENTS. All storage facilities, injection wells, and monitoring wells must be bonded as provided in section 43-02-03-15.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-15. EMERGENCY AND REMEDIAL RESPONSE PLAN. The storage facility operator shall maintain a commission-approved emergency and remedial response plan. This plan must include emergency response and security procedures. The plan, including revision of the list of contractors and equipment vendors, must be updated as necessary or as the commission requires. Copies of the plans must be available at the storage facility and at the storage facility operator's nearest operational office.

1. The emergency and remedial response plan requires a description of the actions the storage facility operator shall take to address movement of the injection or formation fluids that may endanger an underground source of drinking water during any phase of the project. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The plan must also detail:

    a. The safety procedures concerning the facility and residential, commercial, and public land use within the facility area and its delineated area of review.

    b. Contingency plans for addressing oil or gas leaks from any well, flow lines, or other facility, and loss of containment from the storage reservoir or salt cavern and identify specific contractors and equipment vendors capable of providing necessary services and equipment to respond to such leaks or loss of containment.

2. If the storage facility operator obtains evidence that the injected oil or gas stream, or displaced fluids may endanger an underground source of drinking water, the storage facility operator shall:

a. Immediately cease injection.

b. Take all steps reasonably necessary to identify and characterize any release.

c. Notify the director immediately and submit a subsequent sundry notice filed on a form provided by the director within twenty-four hours.

d. Implement the emergency and remedial response plan approved by the director.

3. The commission may allow the operator to resume injection prior to remediation if the storage facility operator demonstrate that the injection operation will not endanger underground sources of drinking water.

4. The storage facility operator shall review annually the emergency and remedial response plan developed under subsection 1. Any amendments to the plan are subject to the commission's approval, must be incorporated into the storage facility permit, and are subject to the permit modification requirements. Amended plans or demonstrations that amendments are not needed shall be submitted to the commission as follows:

a. With the area of review reevaluation.

b. Following any significant changes to the facility, such as addition of injection or monitoring wells, or on a schedule determined by the commission.

c. When required by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-16. REPORTING, MONITORING, AND OPERATING REQUIREMENTS.

1. The operator of a storage facility shall meter or use an approved method to keep records and shall report monthly to the director, the volume and nature of the injected hydrocarbons, the average, minimum, and maximum injection pressures, the maximum injection rates, and such other information as the director may require. The operator of each storage facility shall, on or before the fifth day of the second month succeeding the month in which the well is capable of injection, file with the director the aforementioned information for the storage facility in a format provided by the director.

2. Immediately upon the commencement or recommencement of injection, the operator shall notify the director of the injection date verbally and in writing.

3. The operator shall place accurate gauges on the tubing and the tubing-casing annulus of all injection wells utilized in the storage facility. Accurate gauges shall also be placed on any other annuluses deemed necessary by the director.

4. The operator of a storage facility shall keep the wells, surface facilities, and injection system under continuing surveillance and conduct such monitoring, testing, and sampling as the director may require verifying the integrity of the surface facility, gathering system, and injection wells to protect surface and subsurface waters. Prior to commencing operations, the injection pipeline must be pressure tested. All existing injection pipelines where the pump and the wellhead are not located on the same site are required to be pressure tested annually.

5. The operator of a storage facility shall report any noncompliance with regulations or permit conditions to the director verbally within twenty-four hours followed by a written explanation within five days. The operator shall cease injection operations if so directed by the director.

6. Within ten days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reason therefor.

7. Upon the completion or recompletion of an injection well or the completion of any remedial work or attempted remedial work such as plugging back, deepening, acidizing, shooting, formation fracturing, squeezing operations, setting liner, perforating, reperforating, tubing repairs, packer repairs, casing repairs, or other similar operations not specifically covered herein, a report on the operation shall be filed with the director within thirty days. The report shall present a detailed account of all work done including the reason for the work, the date of such work, the shots per foot and size and depth of perforations, the quantity of sand, crude, chemical, or other materials employed in the operation, the size and type of tubing, the type and location of packer, the result of the packer pressure test, and any other pertinent information or operations which affect the status of the well and are not specifically covered herein.

8. Annular injection of fluids is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-17. LEAK DETECTION AND REPORTING.

1. Leak detection must be integrated, where applicable and must be inspected and tested on a semiannual basis and, if defective, shall be repaired or replaced within ten days. Any repaired or replaced detection equipment must be retested if required by the commission. An extension of time for repair or replacement of leak detection equipment may be granted upon a showing of good cause by the storage facility operator. A record of each inspection must include the inspection results and be maintained by the operator at least until project completion, and must be made available to the commission upon request.

2. Pursuant to section 43-02-03-30 the storage facility operator shall immediately report to the commission any leak detected at any well or surface facility.

3. The storage facility operator shall immediately report to the commission any pressure changes or other monitoring data from subsurface observation wells or injection wells that indicate the presence of leaks in the storage reservoir or salt cavern.

4. The storage facility operator shall immediately report to the commission any other indication that the storage facility is not containing oil, gas, or brine, whether the lack of containment concerns the storage reservoir or salt cavern, surface equipment, or any other aspect of the storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-18. STORAGE FACILITY PERMIT TRANSFER.

1. The storage operator and proposed transferee shall notify the commission in writing of any proposed permit transfer. The notice must contain the following:

   a. The name and address of the person to whom the permit is to be transferred.

   b. The name of the permit subject to transfer and location of the storage facility and a description of the land within the facility area.

   c. The date that the storage operator desires the proposed transfer to occur.

   d. Meet the bonding requirements of section 43-02-14-14.

2. A transfer may only take place after notice and hearing. The transferee must demonstrate that all requirements of chapter 43-02-14 are complied with. The transferee must outline necessary permit modifications based on operational changes, if

any.

3. Commission review. The commission shall review the proposed transfer to ensure that the purposes of North Dakota Century Code chapter 38-25 are not compromised but are promoted. For good cause, the commission may deny a transfer request, delay on acting on it, and place conditions on its approval.

4. Commission approval required. A permit transfer can occur only upon the commission's written order. The transferor of a permit shall receive notice from the commission that the approved new storage facility operator has met the bonding requirements of section 43-02-14-14.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19. MODIFICATION, REVOCATION, AND REISSUANCE OR TERMINATION OF PERMITS.

1. Permits are subject to review by the commission. Any interested person (i.e., the storage operator, local governments having jurisdiction over land within the area of review, and any person who has suffered or will suffer actual injury or economic damage) may request that the commission review permits issued under this chapter for one of the reasons set forth below. All requests must be in writing and must contain facts or reasons supporting the request. If the commission determines that the request may have merit or at the commission's initiative for one or more of the reasons set forth below, the commission may schedule a hearing to review the permit and thereafter issue an order modifying or revoking the permit. Permits, after notice and hearing, may be modified or revoked and reissued when the commission determines one of the following events has occurred:

   a. Changes to the facility area.

   b. Area of review or corrective action reevaluations pursuant to section 43-02-14-05.1.

   c. Operating outside of parameters of the permit of sections 43-02-14-06, 43-02-14-07, or 43-02-14-08, whichever is applicable.

   d. Amendment to the emergency and remedial response plan of section 43-02-14-15.

   e. Amendment to the leak detection plan of section 43-02-14-17.

   f. Review of monitoring and testing results conducted in accordance with injection well permit requirements.

g. The commission receives information that was not available at the time of permit issuance. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified application of different permit conditions at the time of the issuance.

h. The standards or regulations on which the storage facility permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued.

i. The commission determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the storage operator has little or no control and for which there is no reasonably available remedy.

j. There are material and substantial additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2. If the commission tentatively decides to modify or revoke and reissue a permit, the commission shall incorporate the proposed changes to the original permit. The commission may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit, the commission shall require the submission of a new permit application.

3. In a permit modification under this section, only those conditions to be modified shall be reopened when a revised permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the storage operator shall comply with all conditions of the existing permit until a new final permit is reissued.

4. Suitability of the storage facility location will not be considered at the time of a permit modification or revocation unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

5. The following are causes for terminating an injection well permit during its term:

a. Noncompliance by the storage operator with any permit condition.

b. Failure by the storage operator to fully disclose all relevant facts or misrepresentation of relevant facts to the commission.

c. A determination that the permitted activity endangers human health or the environment.

6. If the commission tentatively decides to terminate a permit, the commission shall issue notice of intent to terminate.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19.1. MINOR MODIFICATIONS OF PERMIT. Upon agreement between the storage facility operator and the commission, the commission may modify a permit to make the corrections or allowances without the storage operator filing an application to amend a permit. Any permit modification not processed as a minor modification under this section must be filed as an application to amend an existing permit under section 43-02-14-18. Minor modifications may include:

1. Correct typographical errors.

2. Require more frequent monitoring or reporting by the storage operator.

3. Change quantities or types of fluids or gases injected which are within the capacity of the facility as permitted and, in the judgement of the commission, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

4. Change construction requirements approved by the commission, provided that any such alteration shall comply with the requirements of this chapter and no such changes are physically incorporated into construction of the well prior to approval of the modification by the commission.

5. Amending any of the plans of this chapter where the modifications merely clarify or correct the plan, as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

CHAPTER 43-05-01
GEOLOGIC STORAGE OF CARBON DIOXIDE

43-05-01-11. INJECTION WELL CONSTRUCTION AND COMPLETION STANDARDS.

1. The storage operator shall ensure that all injection wells are constructed and completed to prevent movement of the carbon dioxide stream or fluids into underground sources of drinking water or outside the authorized storage reservoir. The injection wells must be constructed and completed in a way that allows the use of appropriate testing devices and workover tools. The casing and cement or other materials used in the construction of each new injection well must be designed for the well's life expectancy. In determining and specifying casing and cementing requirements, all of the following factors must be considered:

   a. Depth to the injection zone;

   b. Injection pressure, external pressure, internal pressure, and axial loading;

   c. Hole size;

   d. Size and grade of all casing strings (wall thickness, external diameter, nominal weight, length, joint specification, and construction material);

   e. Corrosiveness of the carbon dioxide stream and formation fluids;

   f. Down-hole temperatures;

   g. Lithology of injection and confining zone;

   h. Type or grade of cement and cement additives; and

   i. Quantity, chemical composition, and temperature of the carbon dioxide stream.

2. Surface casing in all newly drilled carbon dioxide injection and subsurface observation wells drilled below the underground source of drinking water must be set fifty feet [15.24 meters] below the base of the lowermost underground source of drinking water and cemented pursuant to section 43-02-03-21.

3. The long string casing in all injection and subsurface observation wells must be cemented pursuant to section 43-02-03-21. Sufficient cement must be used on the long string casing to fill the annular space behind the casing to the surface of the ground and a sufficient number of centralizers shall be used to assure a good cement job. The long string casing must extend to the injection zone.

4. Any liner set in the well bore must be cemented with a sufficient volume of cement to fill the annular space.

5 All cements used in the cementing of casings in injection and subsurface observation wells must be of sufficient quality to maintain well integrity in the carbon dioxide injection environment. Circulation of cement may be accomplished by staging. The commission may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the storage operator can demonstrate by using logs that the cement does not allow fluid movement behind the well bore.

6. All casings must meet the standards specified in any of the following documents, which are hereby adopted by reference:

   a. The most recent American petroleum institute bulletin on performance properties of casing, tubing, and drill pipe;

   b. Specification for casing and tubing (United States customary units), American petroleum institute specification 5CT, as published by the American petroleum institute;

   c. North Dakota Administrative Code Section 43-02-03-21; or

   d. Other equivalent casing as approved by the commission.

7. All casings used in new wells must be new casing or reconditioned casing of a quality equivalent to new casing and that has been pressure-tested in accordance with the requirements of subsection 6. For new casings, the pressure test conducted at the manufacturing mill or fabrication plant may be used to fulfill the requirements of subsection 6.

8. The location and amount of cement behind casings must be verified by an evaluation method approved by the commission. The evaluation method must be capable of evaluating cement quality radially and identifying the location of channels to ensure that underground sources of drinking water are not endangered.

9. All injection wells must be completed with and injection must be through tubing and packer. In order for the commission to determine and specify requirements for tubing and packer, the storage operator shall submit the following information:

   a. Depth of setting;

   b. Characteristics of the carbon dioxide stream (chemical content, corrosiveness, temperature, and density) and formation fluids;

   c. Maximum proposed injection pressure;

d. Maximum proposed annular pressure;

e. Proposed injection rate (intermittent or continuous) and volume and mass of the carbon dioxide stream;

f. Size of tubing and casing; and

g. Tubing tensile, burst, and collapse strengths.

10. All tubing strings must meet the standards contained in subsection 6. All tubing must be new tubing or reconditioned tubing of a quality equivalent to new tubing and that has been pressure-tested. For new tubing, the pressure test conducted at the manufacturing mill or fabrication plant may be used to fulfill this requirement.

11. All wellhead components, including the casinghead and tubing head, valves, and fittings, must be made of steel having operating pressure ratings sufficient to exceed the maximum injection pressures computed at the wellhead and to withstand the corrosive nature of carbon dioxide. Each flow line connected to the wellhead must be equipped with a manually operated positive shutoff valve located on or near the wellhead.

12. All packers, packer elements, or similar equipment critical to the containment of carbon dioxide must be of a quality to withstand exposure to carbon dioxide.

13. All injection wells must have at all times an accurate, operating pressure gauge or pressure recording device. Gauges must be calibrated as required by the commission and evidence of such calibration must be available to the commission upon request.

14. All newly drilled wells must establish internal and external mechanical integrity as specified by the commission and demonstrate continued mechanical integrity through periodic testing as determined by the commission. All other wells to be used as injection wells must demonstrate mechanical integrity as specified by the commission prior to use for injection and be tested on an ongoing basis as determined by the commission using these methods:

a. Pressure tests. Injection wells, equipped with tubing and packer as required, must be pressure-tested as required by the commission. A testing plan must be submitted to the commission for prior approval. At a minimum, the pressure must be applied to the tubing casing annulus at the surface for a period of thirty minutes and must have no decrease in pressure greater than ten percent of the required minimum test pressure. The packer must be set at a depth at which the packer will be opposite a cemented interval of the long string casing and must be set no more than fifty feet [15.24 meters] above the uppermost perforation or open hole for the storage reservoirs, or at the location approved by the director; and

b. The commission may require additional testing, such as a bottom hole temperature and pressure measurements, tracer survey, temperature survey, gamma ray log, neutron log, noise log, casing inspection log, or a combination of two or more of these surveys and logs, to demonstrate mechanical integrity.

15. The commission has the authority to witness all mechanical integrity tests conducted by the storage operator.

16. If an injection well fails to demonstrate mechanical integrity by an approved method, the storage operator shall immediately shut in the well, report the failure to the commission, and commence isolation and repair of the leak. The operator shall, within ninety days or as otherwise directed by the commission, perform one of the following:

    a. Repair and retest the well to demonstrate mechanical integrity; or

    b. Properly plug the well.

17. All injection wells must be equipped with shutoff systems designed to alert the operator and shut in wells when necessary.

18. Additional requirements may be required by the commission to address specific circumstances and types of projects.

History: Effective April 1, 2010; amended effective April 1, 2013; _____

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

43-05-01-17. STORAGE FACILITY FEES.

1. The storage operator shall pay the commission ~~a fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.~~ as follows:

    a. Carbon dioxide sources that contribute to the energy and agriculture production economy of North Dakota:

        (1) A fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.

~~2.~~ (2) The storage operator shall pay the commission a fee of seven cents on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility trust fund.

b. Carbon dioxide sources that do not fall under the definition of subdivision a of subsection 1:

(1) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility administrative fund and consider:

(a) The commission's expenses during regulation of the storage facility's construction, operational, and preclosure phases.

(2) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility trust fund and must consider:

(a) The cost of post closure emergency and remedial response associated with the storage facility.

(b) The cost of long-term monitoring post closure associated with the storage facility.

3. Moneys from the carbon dioxide storage facility trust fund, including accumulated interest, may be relied upon to satisfy the financial assurance requirements pursuant to section 43-05-01-09.1 for the postclosure period. If sufficient moneys are not available in the carbon dioxide storage facility trust fund at the end of the closure period, the storage operator shall make additional payments into the trust fund to ensure that sufficient funds are available to carry out the required activities on the date at which they may occur. The commission shall take into account project-specific risk assessments, projected timing of activities (e.g., postinjection site care), and interest accumulation in determining whether sufficient funds are available to carry out the required activities.

History: Effective April 1, 2010; amended effective April 1, 2013; _____.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

SFN 5729

STATE OF NORTH DAKOTA

AFFIDAVIT OF MAILING

COUNTY OF BURLEIGH

I, Jeanette Bean, being duly sworn upon oath, depose and say: That on the 30th day of November, 2021 enclosed in separate envelopes true and correct copies of the attached Order No. 31535 of the North Dakota Industrial Commission, and deposited the same with the United States Postal Service in Bismarck, North Dakota, with postage thereon fully paid, directed to the following persons by the Industrial Commission in Case No. 28940:

BRADY PELTON
NORTH DAKOTA PETROLEUM COUNCIL
PO BOX 1395
BISMARCK, ND 58501

BARRY KRAITER
MARATHON OIL COMPANY
3172 HIGHWAY 22 NORTH
DICKINSON, ND 58601

NISHANTH SAMUEL
MARATHON OIL COMPANY
3172 HIGHWAY 22 NORTH
DICKINSON, ND 58601

TRAVIS THOMPSON
10671 43RD ST
NEW TOWN, ND 58763

MATTHEW HITE
GPA MIDSTREAM ASSOCIATION
505 9TH ST, NW SUITE 700
WASHINGTON, DC 20004

VINCE MURCHISON
MURCHISON LAW FIRM, PLLC
325 NORTH ST. PAUL STREET
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DALLAS, TEXAS 75201

MIKE RUD
NORTH DAKOTA PETROLEUM GAS ASSOC.
1014 EAST CENTRAL AVENUE
BISMARCK, ND 58501

DARRELL NODLAND
3172 HIGHWAY 22 NORTH
DICKINSON, ND 58601

MARTIN STUART
MARATHON OIL COMPANY
3172 HIGHWAY 22 NORTH
DICKINSON, ND 58601

ANDY BLACK
ASSOCIATION OF OIL PIPE LINES
900 17TH ST, NW SUITE 600
WASHINGTON, D.C. 20006

DAVE MURK
AMERICAN PETROLEUM INSTITUTE
200 MASSACHUSETTS AVE, NW
SUITE 1100
WASHINGTON, DC 20001

DENNIS EDWARD JOHNSON
JOHNSON & SUNDEEN
PO BOX 1260
WATFORD CITY, ND 58854

Jeanette Bean
Oil & Gas Division

On this 30th day of November, 2021 before me personally appeared Jeanette Bean to me known as the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

TRUDY HOGUE
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES JUN. 19, 2024

Notary Public
State of North Dakota, County of Burleigh

Kadrmas, Bethany R.

From: Brady Pelton <bpelton@ndoil.org>
Sent: Friday, October 22, 2021 4:30 PM
To: Kadrmas, Bethany R.
Subject: NDPC Supplemental Comments to NDIC Rulemaking
Attachments: 2022 NDIC Rules Supplemental Comments by NDPC.pdf

Importance: High

Dear Ms. Kadrmas:

Please find attached supplemental comments offered by the North Dakota Petroleum Council related to amendments and additions to the North Dakota Administrative Code proposed by the North Dakota Industrial Commission. Please let me know of any questions.

Sincerely,
Brady

BRADY PELTON
General Counsel & Director of Government Affairs

North Dakota Petroleum Council
100 West Broadway, Suite 200
PO Box 1395
Bismarck, ND 58501
701.223.6380
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www.NDOil.org | www.NDOilFoundation.org

NORTH DAKOTA
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October 22, 2021

Bruce Hicks, Assistant Director
NDIC Department of Mineral Resources, Oil and Gas Division
600 E. Boulevard Ave., Dept. 405
Bismarck, ND 58505-0840

RE: Supplemental Comments on Proposed 2022 NDIC Administrative Rules Changes

Dear Mr. Hicks:

Thank you for the opportunity to provide supplemental comments on proposed 2022 North Dakota Industrial Commission (Commission) administrative rules changes. The North Dakota Petroleum Council (NDPC) offers these additional comments to supplement those submitted by NDPC on October 11, 2022. They are intended to provide additional information to the Commission, and it is respectfully requested that they do not be viewed as supplanting previously submitted comments unless stated within the supplemental comment itself.

43-02-03-14.2. Oil and Gas Metering Systems (page 1 of proposed rules)

43-02-03-14.2-6. Calibration requirements.

43-02-03-14.2 (6.f.). (page 5 of proposed rules)

Supplemental Comment: Upon additional review, NDPC continues to view the proposed amendment to oil and gas production allocation meter proving and testing requirements for those meters measuring production at common ownership central production facilities as a positive one. Reducing the required frequency of meter proving or calibration tests for this type of meter will similarly reduce unnecessary labor hours and costs associated with proving and testing operations. Because the production allocation meters affected by the proposed rule change are not measuring the oil or gas production transferred from a producer to a transporter or purchaser, working interest owners of a particular lease are not viewed to be impacted by this proposed rule change.

43-02-03-27.1. Hydraulic Fracture Stimulation (page 15 of proposed rules)

43-02-03-27.1. (1.g.). (page 16 of proposed rules)

Supplemental Comment: NDPC continues to have concerns with the proposed rule amendment requiring notification to the Director 48 hours prior to commencing hydraulic

fracture stimulation ("fracking") operations. Shifts to a well site completion schedule can and do occur as a result of fluctuating supply and personnel availability. These scheduling shifts often occur within the 48-hour time period prior to fracking operation commencement, creating issues with compliance if advanced notice to the Director is required.

NDPC contends that the Department, with its dedicated group of field inspection crew members, is currently equipped to conduct an accurate inventory of fracking crews operating in the state and provide that inventory in real time. Requiring operators to file yet another notice is burdensome and adds little value to the information already at the Department's disposal.

43-02-03-27.1. (2.b.). (page 16 of proposed rules)

Supplemental Comment: NDPC reiterates its support in eliminating the requirement for a visual inspection and photography of the top joint of an intermediate casing and a wellhead flange. The requirement, though useful when originally introduced, has little value to properly regulating fracking operations conducted through an intermediate casing string considering the more advanced and up-to-date methods currently available. NDPC therefore again suggests eliminating the photography requirement in its entirety.

43-02-03-29. Well and Lease Equipment, and Gas Gathering Pipelines
(page 17 of proposed rules)

Supplemental Comment: NDPC continues to hold significant concerns with the proposed rule amendment and its ambiguous requirement of "all associated above ground equipment" of an underground gas gathering pipeline to be documented within the geographical information system (GIS) shapefile required by this section.

In addition to the concerns related to ambiguity noted in its October 11, 2021 comments, NDPC has significant concerns related to the security of showcasing all gathering pipeline above ground equipment within a GIS shapefile. Questions remain as to how this type of information may be accessed by the public as a public record and the inherent risk of itemizing each piece of above ground equipment in a way that may present as an easy target for those wishing to damage gathering line systems. NDPC questions whether the benefits of having all above ground gathering pipeline-associated equipment within a GIS shapefile outweigh the substantial risks to pipeline operators in providing anything more than mainline facilities within those shapefiles.

NDPC again encourages the Commission to also carefully weigh the benefit of requiring "all" associated above ground gas gathering pipeline equipment against the substantial resource and financial costs to pipeline operators of rebuilding GIS decks, adding every piece of above ground equipment to a pipeline's GIS mapping system, and maintaining/updating that system in perpetuity. Such a literal and all-inclusive reading would include shapefile inclusion of every line

marker, every rectifier, every cathodic test station, and countless other above ground items, costing operators significantly. Additional information gathered by NDPC indicates the per-operator costs of rebuilding GIS decks and gathering data related to the proposed rule amendment would be as high as approximately $250,000. This does not include the ongoing maintenance costs of ensuring data is up to date. Pipeline operators would likely need to hire at least one additional analyst to ensure compliance, at estimated costs of approximately $120,000 per year. Because of these substantial compliance costs to the literal reading of this proposed rule amendment, NDPC respectfully requests the scope of the proposed rule be tightened to exclude minor above ground facilities/equipment as well as those pieces of equipment that will not add substantial value to the gathering pipeline inspection process.

43-02-03-29.1. Crude Oil and Produced Water Underground Gathering Pipelines (page 19 of proposed rules)

43-02-03-29.1-9. Operating requirements. (page 26 of proposed rules)

Supplemental Comment: NDPC continues to have significant concerns with the proposed rule amendment in this subsection that effectively limits a crude oil or produced water underground gathering pipeline portion's maximum operating pressure to that of the test pressure used in the pipeline's most recently completed integrity test demonstration. NDPC therefore reiterates its request for consideration of language applying test pressure from the most recent integrity test to the maximum operating pressure of an underground system only when such an integrity test is performed following a repair, replacement, relocation, or other modification to the system. Narrowing application of the proposed rule in this fashion would not penalize a pipeline operator conducting periodic precautionary integrity testing outside of the integrity test requirements of N.D.A.C. 43-02-03-29.1-13.

Thank you, again, for your time and consideration of these supplemental comments.

Sincerely,

Ron Ness
President, North Dakota Petroleum Council

Kadrmas, Bethany R.

From: Weis, Zachary A. (MRO) <zaweis@marathonoil.com>
Sent: Friday, October 22, 2021 1:29 PM
To: Hicks, Bruce E.
Cc: Stuart, Martin (MRO); Bradfute, Jennifer (MRO); Samuel, Nishanth (MRO); Kraiter, Barry J. (MRO); Nodland, Darrell W. (MRO)
Subject: Marathon Supplemental NDIC Rule Comments
Attachments: MRO Supplemental Comments NDIC Rules 2021.pdf; Attachment Meter Data.pdf

Mr. Hicks,
Please find attached Marathon Oil Company comments to the proposed 2021 NDIC rule changes.

Feel free to reach out if you have any questions.

Zac Weis
Government & Community Relations Manager
Marathon Oil Company
Mobile: 701-400-2989

October 22, 2021

Bruce Hicks, Assistant Director
North Dakota Industrial Commission
Dept. of Mineral Resources, Oil & Gas Division
600 E. Boulevard Ave., Dept. 405
Bismarck, ND 58505

Re: Comments on Proposed Rule Changes

Dear Mr. Hicks:

Thank you for the opportunity to provide comments on the proposed administrative rule revisions. Enclosed for filing, please find the written supplemental comments from Marathon Oil Company ("Marathon").

Marathon would like to extend its general support to the Comments on Proposed 2021 Rule Changes provided by the North Dakota Petroleum Council ("NDPC Comments"). In addition to the NDPC Comments and the comments provided by Marathon experts at the public hearing in Dickinson, ND on October 11th, 2021 included below, Marathon would like to provide the following supplemental information as follow up from the public hearing.

In regards to Section 43-02-03-14.2-6 (f.2-3) OIL AND GAS METERING SYSTEMS. Marathon was asked to provide scenarios for when an operator may know an allocation meter is not preforming correctly. In response, production allocation volumes or well tests on common ownership locations may indicate meter issues which would require measurement intervention and shall have the meter in question proved or calibrated. Although rare and do not take place often, the following are examples of the scenarios that may occur:

- Well test numbers are questionable based on previous well tests;
- Pad production does not match allocated numbers;
- There is high drive gain on Coriolis meters;
- There is Erratic Flow Rate; or
- There is Negative Flow Rate.

Additionally, attached are three sets of meter proving data. The data shows the sampling of proving/calibration for coriolis meters, turbine meters and orifice meters all fall within the prescribed meter proving and calibration requirements well over the proposed annual proving time period.

In regards to Section 43-02-03-27.1-2 (b) HYDRAULIC FRACTURE STIMULATION, Marathon was asked if a tieback string was ever installed as result of the photograph requirement. Marathon has not had an instance where the need for a tieback string was determined by the photograph taken of the wellhead.

For the record, attached are written comments, which match the comments provided by Marathon at the October 11th 2021 hearing:

Marathon would like to comment on the proposed changes to Section 43-02-03-14.2-6 (f.2-3) OIL AND GAS METERING SYSTEMS. We would first like to note that we believe the intention of the rule change was to adjust the meter proving frequency for common ownership central production facilities for both oil and gas to annual and no change to diverse ownership. Our comments will speak to the intended changes.

The proposed changes in Section 43-02-03-14.2-6 (f.2-3) decrease the meter frequency proving to annually for common ownership allocation meters for both oil and gas allowing operators to reduce the number of provings and calibrations while not having royalty implications for all interested parties. This change does not pertain to custody transfer meters or diverse centralized tank battery (CTB) allocation meters in order to alter any requirements related to sales.

API MPMS Chapter 20.2 Section 6.5 Proving of Hydrocarbon Liquid Allocation Meters states each operator shall have a plan for proving each allocation meter and Section 7.5 Gas Meter Calibration and Verification Techniques states that each operator shall have a documented calibration plan schedule for each allocation meter. There are no recommendations in API MPMS Chapter 20.2 regarding frequency for each meter type. Operators have the ability to increase the amount of meter cleanings, provings or calibration required as needed for completions design verification, based on production data that may indicate meter drift or as required by the Director.

Proving and calibration accuracy requirements call for oil allocation meter factor to be within 2% of the previous meter factor and orifice meters to fall within an error band of 0.5% for static pressure and differential pressure testing procedures. We have reviewed past meter proving and calibration data from a sampling of our operations here in the Bakken and it shows that for the three different meter types we use coriolis, turbine and orifice are all within the prescribed tolerance for the proposed annual proving and calibrating timeframe.

This change will also reduce the burden of filing and reviewing paperwork by the operators and the State of ND. Marathon has 228 oil allocation meters and 298 gas allocation meters. A change to annual meter proving for these meters would account for a savings of roughly 1,200 labor hours per year for Marathon. Additionally, the reduction in reporting and redundant review by NDIC would be roughly 1,000 less submitted reports and subsequent reviews benefitting both the State and the operator.

Marathon would like to comment on the proposed changes to Section 43-02-03-27.1-2 (b) HYDRAULIC FRACTURE STIMULATION. As currently proposed, Section 43-02-03-27.1-2 (b) would allow for the director to waive the requirement for visual inspection and photograph of the top joint of the intermediate casing and the wellhead flange.

The purpose of the current requirement of a visual inspection and photograph of the internal of the 7" casing and the casing hanger is to visually verify any wear or damage to the casing and

the casing hanger. A photograph of the wellhead does not accurately capture the full extent of wear or damage to the casing and is not measurable. Marathon has not had any instance where a photograph of the wellhead has revealed any casing damage that resulted in a change to our operations.

Marathon has seen the impact of operations with the use of a multi-finger caliper. When Marathon runs the Cement Bond Log (CBL), a caliper log is also run to get a "record" of the 7" Intermediate Casing condition. This is done on every well after drilling operations, prior to any completion / frac operation. This caliper log accurately provides measurements of the 7" wall thickness, casing wear, and ovality, these measurements provide the Marathon Completions Department with the required information to accurately determine pressure test limits.

The Caliper Log is run and analyzed from the top of the 4 ½" liner hanger to the surface. This review gives an accurate and measurable view for the entire intermediate string that a photograph at surface cannot provide. This review on the condition of the intermediate strings provide information to maintain wellbore integrity.

Additionally the casing hanger system used by Marathon renders the wellhead photograph unnecessary. Currently the wellhead system Marathon uses exclusively is a casing mandrel hanger system. With this system, the casing hanger lands out and hangs off in the wellhead and the 7" casing is made up to the bottom of the casing hanger. In a casing mandrel type system, external load will not be applied to the body of the pipe as it is hung off via the casing connection below the hanger. This is very different than the older, casing slips system, that set around the 7" casing and could cause damage to casing pipe body. Since the 7" casing is made up to the bottom of the casing hanger, the photograph taken mostly shows the internal of the casing hanger and does not fully capture details of the 7" casing.

Additionally, this rule change will reduces risk. Under the current rule the Back Pressure Valve (BPV) is required to be removed to take the photograph. Maintaining well control creates safer operations and maintain integrity of the wellbore.

Again, based on past experiences, visual reference of the hanger and the casing from surface has not altered operations.

Marathon can provide the NDIC with any supporting documents and information for this request.

Thank you for your time and consideration.

Best Regards,

Martin Stuart

MARATHON OIL COMPANY
Martin Stuart
Vice President, Operations

cc: Jennifer Bradfute
Nishanth Samuel
Barry Kraiter
Darrel Nodland
Zac Weis

NDIC Rule Change

Coriolis Meter Proving

Beck CTB	Previous MF	Proved MF	MF change	% Deviation
Jan-20	0.995264	0.995106	-0.000158	0.02%
Apr-20	0.995106	0.994702	-0.000398	0.04%
Jul-20	0.994702	0.993212	-0.001488	0.15%
Oct-20	0.993212	0.996608	0.003396	-0.34%
Jan-21	0.996608	0.993432	-0.003168	0.32%
Apr-21	0.993432	0.994052	0.000652	-0.06%
Jul-21	0.994052	0.99475	0.00065	-0.07%

July 2020 to July 2021 (12 Months)	-0.15%
Jan 2020 to July 2021 (18 Months)	0.05%

Chapman CTB	Previous MF	Proved MF	MF change	% Deviation
Jan-18	0.9991	1.001574	0.002474	-0.25%
Jan-20	1.001614	0.996638	-0.004976	0.50%
Apr-20	0.996638	0.996884	0.000284	-0.02%
Jul-20	0.996884	0.995332	0.001568	0.16%
Oct-20	0.995332	1.001842	0.00651	-0.65%
Jan-21	1.001842	1.00133	0.000512	0.05%
Apr-21	1.00133	1.002764	0.001434	-0.14%
Jul-21	1.002764	1.000748	0.002052	0.20%

July 2020 to July 2021 (12 Months)	-0.54%
Jan 2020 to July 2021 (18 Months)	-0.41%
Jan 2018 to Jan 2021(36 Months)	0.02%

Otto	Previous MF	Proved MF	MF change	% Deviation
Jan-18	1.0048	1.00833	0.00353	-0.35%
Jan-20	1.006712	1.002824	0.013888	0.39%
Apr-20	1.0028	1.00301	0.00021	-0.02%
Jul-20	1.003	1.006024	0.003024	-0.30%
Oct-20	1.006024	1.00473	0.001294	0.13%
Jan-21	1.00473	1.00422	0.00051	0.05%
Apr-21	1.00422	1.004444	0.000224	-0.02%
Jul-21	1.004444	1.00194	0.00266	0.25%

July 2020 to July 2021 (12 Months)	0.41%
Jan 2020 to July 2021 (18 Months)	0.09%
Jan 2018 to Jan 2021(36 Months)	0.41%

Bethol	Previous MF	Proved MF	MF change	% Deviation
Feb-18	1	0.99728	0.00272	0.27%
Feb-20	0.997794	0.99692	0.000874	0.09%
May-20	0.99692	0.993986	0.002914	0.30%
Aug-20	0.993986	0.99578	0.00188	-0.18%
Nov-20	0.99578	0.99762	0.00184	-0.18%
Feb-21	0.99762	0.996178	0.001442	0.14%
May-21	0.996178	0.997068	0.00089	-0.09%
Aug-21	0.997068	0.99776	0.000692	-0.07%

May 2020 to May 2021 (12 Months)	-0.31%
Feb 2020 to Aug 2021 (18 Months)	-0.08%
Feb 2018 to Feb 2021(36 Months)	0.11%

Kermit	Previous MF	Proved MF	MF change	% Deviation
Jan-18	1.00136	1.00554	0.003342	-0.42%
Jan-20	1.00554	1.01016	0.009132	-0.46%
Apr-20	1.01016	1.009306	0.000854	0.08%
Jul-20	1.009306	1.011116	0.00181	-0.18%
Oct-20	1.011116	1.00884	0.006276	0.23%
Jan-21	1.00884	1.00472	0.00388	0.41%
Apr-21	1.00472	1.000606	0.008114	0.41%
Jul-21	1.000706	1.001574	0.000968	-0.09%

July 2020 to July 2021 (12 Months)	0.95%
Jan 2020 to July 2021 (18 Months)	0.86%
Jan 2018 to Jan 2021(36 Months)	0.08%

Stark	Previous MF	Proved MF	MF change	% Deviation
Jan-18	0.995138	0.993402	0.001736	0.17%
Jan-20	0.9931	0.99042	0.00568	0.27%
Apr-20	0.99042	0.990934	0.000514	-0.05%
Jul-20	0.990934	0.99261	0.001676	-0.17%
Oct-20	0.99261	0.994176	0.004566	-0.16%
Jan-21	0.994176	0.989934	0.004242	0.43%
Apr-21	0.989934	0.985102	0.005062	0.49%
Jul-21	0.985102	0.980642	0.00723	0.45%

July 2020 to July 2021 (12 Months)	1.22%
Jan 2020 to July 2021 (18 Months)	1.00%
Jan 2018 to Jan 2021(36 Months)	0.35%

Marathon Oil

NDIC Rule Change

Turbine Meter Proving Data

Hunstad	Previous MF	Proved MF	MF change	% Deviation
Jan-18	1	1.0084	0.0084	-0.83%
Jan-20	1.00975	1.000277	0.009473	0.95%
Apr-20	1.000277	1.00019	-0.00009	0.01%
Jul-20	1.00019	0.996727	0.003463	0.35%
Oct-20	0.996727	1.01699	-0.020263	-1.99%
Jan-21	1.01699	1.000153	0.016837	1.68%
Apr-21	1.000153	1.004437	-0.004284	-0.43%
Jul-21	1.004437	0.98655	0.017887	1.81%

July 2020 to July 2021 (12 Months)	1.03%
Jan 2020 to July 2021 (18 Months)	1.39%
Jan 2018 to Jan 2021(36 Months)	2.21%

Wakelum 41	Previous MF	Proved MF	MF change	% Deviation
Jan-18	1.00336	0.998357	0.005003	0.50%
Jan-20	1.00517	1.006	-0.00083	-0.08%
Apr-20	1.006	0.992533	0.013467	1.36%
Jul-20	0.992533	1.0058	-0.013267	-1.32%
Oct-20	1.0058	0.996663	0.009137	0.92%
Feb-21	0.996663	0.98985	0.006813	0.69%
Apr-21	0.98985	1.001183	-0.011333	-1.13%
Jul-21	1.001183	0.9884	0.012783	1.29%

July 2020 to July 2021 (12 Months)	1.76%
Jan 2020 to July 2021 (18 Months)	1.78%
Jan 2018 to Jan 2021(36 Months)	1.01%

Darcy Dirkach	Previous MF	Proved MF	MF change	% Deviation
Jan-18	1.00214	0.99137	0.01077	1.09%
Jan-20	1.0162	1.003043	0.013157	1.31%
Apr-20	1.003043	1.00247	0.000573	0.06%
Jul-20	1.00247	0.993337	0.009133	0.92%
Oct-20	0.993337	1.002823	-0.009486	-0.95%
Jan-21	1.002823	0.997027	0.005796	0.58%
Apr-21	0.997027	1.002087	-0.00506	-0.50%
Jul-21	1.002087	1.000373	0.001714	0.17%

July 2020 to July 2021 (12 Months)	-0.70%
Jan 2020 to July 2021 (18 Months)	0.27%
Jan 2018 to Jan 2021(36 Months)	-0.57%

Gorey	Previous MF	Proved MF	MF change	% Deviation
Feb-18	1.0127	1.025587	-0.012887	-1.26%
Feb-20	Wells SI			
May-20	Wells SI			
Aug-20	1.0029	1.002947	0	0.00%
Nov-20	1.002947	1.001713	0.001234	0.12%
Feb-21	1.001713	1.00774	-0.006027	-0.60%
May-21	1.00774	1.01396	-0.00622	-0.61%
Aug-21	1.01396	0.99372	0.02024	2.04%

August 2020 to May 2021 (9 Months)	-1.09%
Aug 2020 to Aug 2021 (12 Months)	0.80%
Feb 2018 to Feb 2021(36 Months)	1.77%

Winston	Previous MF	Proved MF	MF change	% Deviation
Feb-18	0.9996	1.01545	-0.01585	-1.56%
Feb-20	1.011073	0.996773	0.0143	1.43%
May-20	0.996773	0.995783	0.00099	0.10%
Aug-20	0.995783	1.00685	-0.011067	-1.10%
Nov-20	1.00685	1.006303	0.000547	0.05%
Feb-21	1.006303	0.996553	0.00975	0.98%
May-21	0.996553	1.006753	-0.0102	-1.01%
Aug-21	1.006753	1.013987	-0.007234	-0.71%

May 2020 to May 2021 (12 Months)	-1.09%
Feb 2020 to Aug 2021 (18 Months)	-1.70%
Feb 2018 to Feb 2021(36 Months)	1.90%

Aisenbrey	Previous MF	Proved MF	MF change	% Deviation
Jan-18	0.991087	1.0027	-0.011613	-1.16%
Jan-20	1.01677	0.989083	0.027687	2.80%
Apr-20	0.98908	0.981797	0.007283	0.74%
Jul-20	0.981797	1.00565	-0.023853	-2.37%
Oct-20	1.00565	1.00428	0.00137	0.14%
Jan-21	1.00428	1.012467	-0.008187	-0.81%
Apr-21	1.012467	1.010697	0.00177	0.18%
Jul-21	1.010697	0.986613	0.024084	2.44%

July 2020 to July 2021 (12 Months)	1.93%
Jan 2020 to July 2021 (18 Months)	0.25%
Jan 2018 to Jan 2021(36 Months)	-0.96%

NDIC Rule Change

Orifice Meter Calibration Data

Chapman	DP as found AVG	SP as found AVG	
Sep-17	-0.0322	-0.0163	Calibrate
Dec-18	0.0374	0.1095	Calibrate
Jun-19	0.0047	0.0005	DNC
Dec-19	0.009	0.0105	DNC
Jun-20	0.0069	0.0098	DNC
Dec-20	0.007	0.0087	DNC
Jun-21	0.0048	0.0089	DNC

Goldberg	DP as found AVG	SP as found AVG	
Jun-17	0.0603	0.0011	Calibrate
Dec-17	0.0074	0.0002	DNC
Dec-18	0.0134	0.0089	Calibrate
Jun-19	0.0202	0.0105	Calibrate
May-20	0.0155	0.0003	DNC
Nov-21	0.0102	0.0007	DNC

Delia	DP as found AVG	SP as found AVG	
Jun-18	0.0088	0.0071	DNC
Dec-18	0.0321	0.0109	Calibrate
Jun-19	0.0052	0.0033	DNC
Dec-19	0.0106	0.0101	DNC
Jun-20	0.0036	0.0066	DNC
Dec-20	0.0062	0.0105	DNC
Jun-21	0.0106	0.0121	DNC

Martinez	DP as found AVG	SP as found AVG	
Sep-17	0.0072	0.0059	DNC
Mar-18	0.0317	0.0041	DNC
Sep-18	0.0013	0.014	DNC
Mar-19	0.0057	0.0087	DNC
Sep-19	0.0086	0.0114	DNC
Mar-20	0.0066	0.0133	DNC
Sep-20	0.0092	0.0099	DNC
Mar-21	0.0089	0.0075	DNC

Bethol	DP as found AVG	SP as found AVG	
Dec-17	0.1889	0.0263	Calibrate
Jun-18	0.0026	0.0109	DNC
Dec-18	0.0226	0.1611	Calibrate
Jun-19	0.0093	0.0032	DNC
Dec-19	0.0075	0.0095	DNC
Jun-20	0.0027	0.0073	DNC
Dec-20	0.0065	0.0094	DNC
Jun-21	0.0026	0.0057	DNC

Marlin CT	DP as found AVG	SP as found AVG	
Oct-17	0.0277	0.0097	Calibrate
Apr-18	0.0093	0.0108	Calibrate
Oct-18	0.0088	0.0103	Calibrate
Apr-19	0.0055	0.0037	DNC
Oct-19	0.0111	0.0079	DNC
Apr-20	0.0056	0.0146	DNC
Oct-20	0.0058	0.0204	DNC
Apr-21	0.0033	0.0181	DNC

Kadrmas, Bethany R.

From: Merritt Allaun <MAllaun@aopl.org>
Sent: Friday, October 22, 2021 1:02 PM
To: Kadrmas, Bethany R.
Subject: Comments in response to the Full Notice of Intent to Adopt and Amend Administrative Rules
Attachments: 2021 10 22 North Dakota-comment-letter-on-ndac.pdf

Good Afternoon:

Please find attached comments from the Association of Oil Pipe Lines, American Petroleum Institute, and GPA Midstream Association regarding the Oil and Gas Division of the North Dakota Industrial Commission Full Notice of Intent to Adopt and Amend Administrative Rules. Please reach out if you have any trouble opening the attached pdf document.

Sincerely,

Merritt Wise Allaun
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www.aopl.org

VIA ELECTRONIC FILING

October 22, 2021

Oil and Gas Division
Department of Mineral Resources
North Dakota Industrial Commission
600 E. Boulevard Avenue,
Dept 405
Bismarck, North Dakota 58505-0840

Re: Comments in response to the Full Notice of Intent to Adopt and Amend Administrative Rules

Dear _____:

On August 31, 2021, the Oil and Gas Division of the North Dakota Industrial Commission (Division) published a Full Notice of Intent to Adopt and Amend Administrative Rules (Notice).[1] In the Notice, the Division asked interested parties to submit comments on its proposed amendments[2] to the North Dakota Administrative Code (NDAC).[3] The Association of Oil Pipe Lines[4] (AOPL), the American Petroleum Institute[5] (API), and GPA Midstream Assocation[6] (GPA) (collectively, the Associations) submit the following joint comments in response to the Notice.

[1] North Dakota Industrial Comm'n, Full Notice of Intent to Adopt and Amend Administrative Rules (Aug. 31, 2021).
[2] NDAC Chapter 43-02-03 (Oil and Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide).
[3] North Dakota Industrial Comm'n, Full Notice of Intent to Adopt and Amend Administrative Rules (Aug. 31, 2021).
[4] AOPL promotes responsible policies, safety excellence, and public support for liquids pipelines. AOPL represents pipelines transporting 97 percent of all hazardous liquids barrel miles reported to the Federal Energy Regulatory Commission. AOPL's diverse membership includes large and small pipelines carrying crude oil, refined petroleum products, NGLs, and other liquids.
[5] API is the national trade association representing all facets of the oil and natural gas industry, which supports 10.3 million U.S. jobs and 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. API's members provide most of the nation's energy and are backed by a growing grassroots movement of more than 25 million Americans.
[6] GPA Midstream has served the U.S. energy industry since 1921 and has approximately 70 corporate members that directly employ more than 75,000 employees that are engaged in a wide variety of services that gather, move, and process vital energy products such as natural gas, natural gas liquids ("NGLs"), refined products, and crude oil from production areas to markets, commonly referred to as "midstream activities," across the U.S. GPA Midstream

The Associations appreciate the Division's willingness to review and amend its regulations. However, AOPL and API are particularly concerned with the proposed amendments to NDAC §§ 43-02-03-29.1 and 43-02-03-55. The Division proposes to amend NDAC § 43-02-03-29.1, covering crude oil and produced water underground gathering pipelines, to clarify that "[i]f these rules differ from federal requirements on federally regulated pipelines, the federal rules take precedence."[7] The Division references "federally regulated pipelines," which arguably includes interstate hazardous liquid pipelines.[8] Although the Division styles the amendment to NDAC § 43-02-03-29.1 as intended to address potential conflicts between state and federal law, the state of North Dakota cannot regulate interstate pipelines. The Division also proposes to amend NDAC § 43-02-03-55 to establish requirements for the abandonment of inactive gathering pipelines. As with the proposed amendment to NDAC § 43-02-03-29.1, the Division cannot prescribe or enforce requirements for the abandonment of interstate hazardous liquid pipelines. Accordingly, the Associations respectfully request that the Division make appropriate clarifications to limit the applicability of both regulations.

The Pipeline Safety Act expressly preempts states from regulating interstate hazardous liquid pipelines.

Federal law expressly[9] preempts the Division from regulating the safety of interstate pipelines.[10] Specifically, the Pipeline Safety Act[11] provides that, with the exception of one-call notification and damage prevention laws, "[a] State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation."[12] An "interstate hazardous liquid pipeline facility" is defined for these purposes as "a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce[,]"[13] which includes "commerce between (i) a place in a State and a place outside that State; or (ii) places in

members account for more than 90% of the NGLs—such as ethane, propane, butane, and natural gasoline—produced or recovered in the U.S. from more than 400 natural gas processing facilities. The work of our members indirectly creates or impacts an additional 450,000 jobs across the U.S. economy.

[7] Proposed Amendments to NDAC § 43-02-03-29.1(1).

[8] The scope of the existing regulations includes "all underground gathering pipelines designed for or capable of transporting crude oil, natural gas, carbon dioxide, or produced water from an oil and gas production facility for the purpose of disposal, storage, or for sale purposes or designed for or capable of transporting carbon dioxide from a carbon capture facility for the purpose of storage or enhanced oil recovery." NDAC § 43-02-03-29.1(1).

[9] Federal preemption is derived from the Supremacy Clause of the U.S. Constitution, which states, in relevant part, that "the Laws of the United States . . . shall be the supreme Law of the land . . . any Thing in the Constitution or Laws of any State to the contrary notwithstanding." U.S. Const., art. VI. The federal courts have recognized two general kinds of preemption under the Supremacy Clause: (1) express preemption and (2) implied preemption. *Washington Gas Light Co. v. Prince George's County Council*, 711 F.3d 412, 419-420 (4th Cir. 2013); *Tex. Midstream Gas Servs. LLC v. City of Grand Prairie*, 608 F.3d 200 (5th Cir. 2010). Express preemption exists if a federal law explicitly prohibits a state authority from regulating a particular activity. Implied preemption exists if a federal law creates a regulatory regime that is so comprehensive that there is no room left for state regulation (a principle commonly referred to as field preemption), or if compliance with a federal and state law would be impossible or frustrate congressional objectives (a principle commonly referred to as conflict preemption).

[10] 49 U.S.C. § 60104(c).

[11] *Id.* §§ 60101-60143.

[12] *Id.* § 60104(c).

[13] *Id.* § 60101(a)(7).

the same State through a place outside the State."[14] The Pipeline and Hazardous Materials Safety Administration (PHMSA), the federal agency responsible for administering the Pipeline Safety Act, is the only authority that can prescribe and enforce safety standards for interstate hazardous liquid pipeline facilities. This statutory regime is important because it "provides for a national hazardous liquid pipeline safety program with nationally uniform minimal standards and with enforcement administered through a Federal-State partnership."[15]

The federal courts have reviewed the Pipeline Safety Act and the text of the preceding statutes[16] and have repeatedly held that states are expressly preempted from regulating the safety of interstate pipelines. As the U.S. Court of Appeals for the Eighth Circuit explained in *Kinley Corp. v. Iowa Utilities Board*, "Congress has expressly stated its intent to preempt the states from regulating the safety of interstate hazardous liquid pipelines."[17] There have been a number of cases invaliding state efforts to prescribe or enforce safety standards for interstate hazardous liquid or natural gas pipeline facilities under the Pipeline Safety Act.[18] In particular, in *ANR Pipeline Co. v. Iowa State Commerce Comm'n,* the state of Iowa argued that it was permissible to adopt state regulations governing interstate pipelines as long as those standards were identical to the federal requirements.[19] The court disagreed, finding that "Congress intended to preclude states from regulating in any manner whatsoever…"[20] These cases affirm the fundamental principle that the Pipeline Safety Act "leaves nothing to the states in terms of substantive safety regulation of interstate pipelines, regardless of whether the local regulation is more restrictive, less restrictive, or identical to the federal standards."[21]

North Dakota's NDAC § 43-02-03-29.1 regulations contain requirements that clearly qualify as safety standards, including provisions for design, construction, leak detection, spill

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[14] *Id.* § 60101(a)(8)(B). Hazardous liquid pipeline facilities that are subject to the jurisdiction of the Federal Energy Regulatory Commission are generally treated as interstate hazardous liquid pipeline facilities under the Pipeline Safety Act. 49 C.F.R. Part 195, Appendix A.

[15] 49 C.F.R. Part 195, Appendix A.

[16] The Natural Gas Pipeline Safety Act (NGPSA) and the Hazardous Liquid Pipeline Safety Act of 1979 (the HLPSA) preceded the Pipeline Safety Act. In 1992, Congress recodified these statutes as the Pipeline Safety Act. The preemption provision in the current statute mirrored the preemption provision from those prior statutes. The current federal law provides that "a State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." 49 U.S.C. § 60104(c). Congress stated in the NGPSA that "No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities." 49 U.S.C. App. § 1672(a)(1). Likewise, the preemption provision in the HLPSA provided that "No State agency may adopt or continue in force any safety standards applicable to interstate pipeline facilities or the transportation of hazardous liquids associated with such facilities." 49 U.S.C. App. § 2002(d).

[17] *Kinley Corp. v. Iowa Utilities Bd.,* 999 F. 2d 354, 358 (8th Cir. 1993).

[18] *ANR Pipeline Co. v. Iowa State Commerce Comm'n*, 828 F.2d 465 (8th Cir. 1987) (ruling that state authority could not adopt and apply PHMSA's pipeline safety standards to an interstate gas pipeline facility); *Natural Gas Pipeline Co. of America v. R.R. Comm'n of Tex.*, 679 F.2d 51 (5th Cir. 1982) (ruling that state authority's safety rules for pipelines containing hydrogen sulfide could not be applied to an interstate gas pipeline facility); *Colo. Interstate Gas Co. v. Wright*, 707 F.Supp.2d 1169 (D. Kan. 2010) (ruling that state authority could not apply its safety standards for underground natural gas storage fields to an interstate gas pipeline facility).

[19] This case involved interstate natural gas pipelines and the text of the NGPSA. However, in the subsequent *Kinley* case, the court determined that because the text of the preemption clauses in the NGPSA and the HLPSA are virtually identical, the analysis from the *ANR* case is relevant to hazardous liquid pipeline preemption questions. *Kinley Corp. v. Iowa Utilities Bd.,* 999 F. 2d 354, 358 (8th Cir. 1993).

[20] *ANR Pipeline Co.*, 828 F.2d at 470.

[21] *Id.*

response, corrosion control, pipeline integrity, maintenance, repair, and abandonment. The Division cannot prescribe or enforce any safety standards for interstate hazardous liquid pipeline facilities, regardless of whether those standards differ from PHMSA's regulations or not. Similarly, North Dakota's NDAC § 43-02-03-55 would impose requirements for the abandonment of inactive gathering pipelines. These requirements also qualify as safety standards that the Division cannot apply to interstate hazardous liquid pipeline facilities.

States can assist PHMSA with inspections of interstate operators but are prohibited from promulgating their own regulations.

While a state authority can enter into an agreement with PHMSA to participate in the oversight of interstate pipeline facilities as an interstate agent, that state must first submit a certification to PHMSA under 49 U.S.C. § 60105.[22] An interstate agent can only conduct inspections. It cannot promulgate its own regulations or independently pursue enforcement of the federal pipeline safety regulations.[23]

Since NDAC §§ 43-02-03-29.1 and 43-02-03-55 are preempted by the federal Pipeline Safety Act insofar as these regulations are applied to interstate pipelines, the Associations respectfully request that the Division revise these regulations and the proposed amendments to clearly exclude interstate pipelines from the scope of the regulations. AOPL and API appreciate the opportunity to submit comments in response to the Notice. If you have any questions, please feel free to contact either of the undersigned.

Sincerely,

Andy Black, President and CEO
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[22] 49 U.S.C. § 60106(b)(1).
[23] 49 U.S.C. § 60104(c). *See also,* 49 U.S.C. § 60106(b)(1) ("Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.")

Kadrmas, Bethany R.

From: Roina Baker <Roina.Baker@pipelinelegal.com>
Sent: Wednesday, October 20, 2021 3:10 PM
To: Kadrmas, Bethany R.
Cc: Vince Murchison
Subject: Comments to Proposed Amendments to NDAC Chapter 43-02-03
Attachments: Comments to Proposed Amendments to NDAC Chapter 43-02-03.pdf

Ms. Kadrmas,

Attached please find Comments to Proposed Amendments to North Dakota Administrative Code Chapter 43-02-03.

Please contact me with any questions you may have regarding the attached.

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October 20, 2021

North Dakota Industrial Commission
Department of Mineral Resources
Oil and Gas Division
600 E Boulevard Ave, Dept 405
Bismarck, North Dakota 58505-0840

Re: Comments to Proposed Amendments to North Dakota Administrative Code Chapter 43-02-03

Ladies and Gentlemen:

This firm submits the comments presented herein on behalf of Enable Midstream Partners (Enable).

Introduction

Enable operates two rural crude oil gathering pipeline systems in North Dakota. The gathering systems provide transportation services on behalf of shippers engaged in interstate commerce, in that the gathering systems move crude oil to larger interstate transmission pipelines which, in turn, move the crude oil to markets located outside the State of North Dakota. A Federal Energy Regulatory Commission (FERC) tariff is in place for each such gathering system. As such, the gathering lines are interstate in character.

The comments presented herein relate to a proposed addition to North Dakota Administrative Code (NDAC) § 43-02-03-29.1.[1] The provisions of NDAC § 43-02-03-29.1 on the whole are directed to crude oil gathering pipelines and produced water gathering pipelines. These comments are directed solely to crude oil gathering pipelines and *not* to produced water gathering pipelines.

Crude oil gathering pipelines move produced crude oil from production facilities (generally speaking, well sites) to central collection points for continuous movement onto transmission pipelines such as those operated in North Dakota by Enbridge, Targa, and Dakota Access. NDAC § 43-02-03-29.1, given full effect, would authorize the Department of Mineral Resources, Oil and Gas Division (DMR) to regulate virtually all aspects of crude oil gathering lines, including design, construction, operations, leak detection, spill response planning, corrosion control, pipeline integrity, pipeline repair, and pipeline abandonment, as well as facility siting.

The proposed addition to NDAC § 43-02-03-29.1 reads as follows:

> If these rules differ from federal requirements on federally regulated pipelines, the federal rules take precedence. The pipeline owner shall provide sufficient documentation to the director confirming the pipeline is federally regulated.

[1] https://www.dmr.nd.gov/oilgas/Z.Rule_Changes.2022.2021-08-31.FullNotice.Filed_with_LC.pdf; https://www.dmr.nd.gov/oilgas/.

The proposed addition should be revised to reflect more precisely the Congressionally intended scope – and applicability – of the Pipeline Safety Act (PSA) as related to interstate pipelines.[2] Set out below is a discussion of that intended scope and applicability which is followed by a proposed restatement of the proposed addition to NDAC § 43-02-03-29.1.

The Pipeline Safety Act and Interstate Pipelines

The PSA in its current form is the result of the recodification of two related and structurally similar statutes, the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA).[3] The PSA governs all pipeline transportation of hazardous liquids in the United States. The scope of the PSA is established by the PSA statement of purpose, which is to "provide adequate protection against risks to life and property posed by *pipeline transportation*."[4] The PSA directs the Secretary of Transportation to "prescribe minimum safety standards for *pipeline transportation* and for *pipeline facilities*."[5]

The following definitions from the PSA are relevant to these comments:

- "'[P]ipeline transportation' means ... transporting hazardous liquid"[6]
- "'[P]ipeline facility' means ... a hazardous liquid pipeline facility"[7]
- "'[H]azardous liquid pipeline facility' includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid"[8]
- "'[H]azardous liquid' means – (A) petroleum or a petroleum product" * * *[9]
- "'[T]ransporting hazardous liquid'
    - (A) means (i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and (ii) the movement of hazardous liquid through regulated gathering lines; but
    - (B) does not include moving hazardous liquid through – (i) gathering lines (except regulated gathering lines) in a rural area" * * *[10]

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[2] 49 U.S.C. § 60101 et seq.
[3] Natural Gas Pipeline Safety Act of 1968, Pub. L. No. 90-481 (1968); Hazardous Liquid Pipeline Safety Act of 1979, Pub. L. No. 96-129 (1979); Pub. L. No. 103-272 (1994).
[4] 49 U.S.C. § 60102(a) (emphasis supplied).
[5] 49 U.S.C. § 60102(a)(2) (emphasis supplied).
[6] 49 U.S.C. § 60101(a)(19).
[7] 49 U.S.C. § 60101(a)(18).
[8] 49 U.S.C. § 60101(a)(5).
[9] 49 U.S.C. § 60101(a)(4).
[10] 49 U.S.C. § 60101(a)(22).

- "'[I]nterstate hazardous liquid pipeline facility' means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce"[11]
- "'[I]nterstate or foreign commerce' – ... (B) related to hazardous liquid, means commerce between – (i) a place in a State and a place outside that State; or (ii) places in the same State through a place outside the State"[12]
- "'[I]ntrastate hazardous liquid pipeline facility' means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility"[13]
- "'State' means a State of the United States..."[14]

Among the more significant PSA provisions in this context is the Federal preemption clause: "A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation."[15]

The Federal Pipeline Safety Regulations

The Secretary of Transportation has delegated authority over pipelines to the Pipeline and Hazardous Materials Safety Administration (PHMSA).[16]

The scope of the pipeline safety regulations for hazardous liquid pipeline facilities echoes the PSA: "This part [195] prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids or carbon dioxide."[17] The scope of 49 C.F.R. Part 195 (Part 195) is broader than its applicability which encompasses "pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce."[18] Pipelines to which Part 195 applies are identified in 49 C.F.R. § 195.1(a), and pipelines to which Part 195 does not apply are identified in 49 C.F.R. § 195.1(b).

Part 195 defines "interstate pipeline" to mean "a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce."[19] "Intrastate pipeline" is defined as "a pipeline or that part of a pipeline to which this part applies that is not an interstate pipeline."[20]

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[11] 49 U.S.C. § 60101(a)(7).
[12] 49 U.S.C. § 60101(a)(8).
[13] 49 U.S.C. § 60101(a)(10).
[14] 49 U.S.C. § 60101(a)(20).
[15] 49 U.S.C. § 60104(c).
[16] 49 C.F.R. § 1.97(a) (2020).
[17] 49 C.F.R. § 195.0 (2020).
[18] 49 C.F.R. § 195.1(a) (2020).
[19] 49 C.F.R. § 195.2 (2020).
[20] *Id.*

Specifically in the context of gathering lines, operators of all gathering lines are required to submit to PHMSA certain information about those gathering lines, such as Annual Reports and reports of accidents.[21] Part 195 in large part does not apply safety standards to rural gathering lines; however, Part 195 applies specific safety standards to "regulated rural gathering lines."[22] The term "gathering line" is defined as "a pipeline 219.1 mm (8 5/8 inches) or less nominal outside diameter that transports petroleum from a production facility."[23] "Regulated rural gathering lines" are gathering lines which are located in a rural area and are (a) between six and eight inches nominal diameter, (b) located in or within one-quarter mile of an unusually sensitive area, and (c) operate at a stress level of either (i) 20% or more of specified minimum yield strength or (ii) greater than 125 psi if the stress level is unknown or the pipe is not of steel construction.[24]

Part 195 defines "hazardous liquid" to include "petroleum," and petroleum in turn is defined to include "crude oil" and "condensate."[25] A "production facility" "means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum ..., or associated storage or measurement."[26]

Agency rulemaking has provided the means for distinguishing between interstate and intrastate pipeline facilities. In 1985, Part 195 was amended in two relevant respects. First, Part 195 was amended for the express purpose of extending the Part 195 safety standards to "pipelines transporting hazardous liquids that *affect* interstate or foreign commerce, sometimes called intrastate pipelines."[27]

Second, the same rulemaking promulgated Appendix A to Part 195, two elements of which are relevant. Appendix A first explains the intended scope of the HLPSA: "[T]he HLPSA provides for a national hazardous liquid pipeline safety program with nationally uniform minimal standards and with enforcement administered through a Federal-State partnership."[28] In addition, Appendix A presents an "administratively practical" means for distinguishing between interstate and intrastate liquid pipeline facilities and thereby "provide[s] the requisite degree of certainty to Federal and State enforcement personnel and to the regulated entities."[29] Appendix A instructs that [DOT] will generally rely on the existence of a FERC tariff (or exemption) to conclude that a given facility is "an interstate pipeline facility within the meaning of the HLPSA."[30] [DOT] will ignore such a FERC filing only in two situations: (1) "it

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[21] 49 C.F.R. § 195.1(a)(4); 49 C.F.R. § 195.15; *see also* 49 C.F.R. Subpart B (2020).
[22] 49 C.F.R. § 195.1(b)(4), (a)(3), (a)(4)(ii) (2020).
[23] 49 C.F.R. § 195.2 (2020).
[24] 49 C.F.R. § 195.11, 195.6 (2020).
[25] *Id.*
[26] *Id.*
[27] Transportation of Hazardous Liquids; Regulation of Intrastate Pipelines, 50 Fed. Reg. 15895, 15899 (Apr. 23, 1985) (emphasis supplied).
[28] 49 C.F.R. § 195, App. A (2020).
[29] *Id.*
[30] *Id.*

appears obvious that a complaint filed with FERC would be successful," or (2) "blind reliance on a FERC filing would result in ... a pipeline facility *not* being subject to *either* State or Federal safety regulation."[31]

Analysis

Crude oil, which is within the Part 195 definition of "petroleum" ("petroleum" being the term applied by the PSA), is a hazardous liquid. As such, the movement of crude oil by pipeline, including crude oil gathering lines, fits squarely within the scope of the PSA and Part 195.[32] Safety standards apply to all *nonrural* gathering lines. The applicability of safety standards to *rural* crude oil gathering lines is limited to regulated rural gathering lines, which means that safety standards are only not applied to certain lengths of rural gathering lines. Congress directed that construct in the PSA.[33]

Pursuant to the PSA, an interstate hazardous liquid pipeline facility is one that is "used to transport hazardous liquid in interstate commerce."[34] "Interstate commerce" for hazardous liquids means, in relevant part, "commerce between [] a place in a State and a place outside that State."[35] An intrastate hazardous liquid pipeline facility is one that "is not an interstate hazardous liquid pipeline facility."[36] Thus, a crude oil gathering system that moves crude oil (petroleum), a hazardous liquid, in commerce from various production facilities within a State for interstate distribution (*e.g.*, to interstate pipeline systems for further distribution to refining and terminal destinations in downstream interstate markets), is an "interstate hazardous liquid pipeline facility."

Pursuant to Part 195, an interstate pipeline is "a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids ... in interstate or foreign commerce."[37] An intrastate pipeline is "a pipeline or that part of a pipeline to which this [Part 195] applies that is not an interstate pipeline."[38] In addition, Appendix A to Part 195 provides guidance for distinguishing between interstate and intrastate pipeline facilities. Appendix A instructs that, with certain exception[s], the existence of a FERC tariff will result in [PHMSA] considering the facility to be interstate in character.[39] The only times [PHMSA] would ignore the foregoing are (1) "it appears obvious that a complaint filed with FERC would be successful" or "a situation clearly not intended by the HLPSA" is presented, "such as a pipeline facility *not* being subject to *either* State or Federal safety regulation."[40]

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[31] *Id.* (emphasis supplied).
[32] 49 U.S.C. § 60102(a); 49 C.F.R. § 195.0 (2020).
[33] 49 U.S.C. § 60101(b).
[34] 49 U.S.C. § 60101(a)(7).
[35] 49 U.S.C. § 60101(a)(8)(B).
[36] 49 U.S.C. § 60101(a)(10).
[37] 49 C.F.R. § 195.2 (2020).
[38] 49 C.F.R. § 195.2 (2020).
[39] 49 C.F.R. § 195, App. A (2020).
[40] *Id.* (emphasis supplied).

The scope of the PSA and Part 195 are broader than their applicability to crude oil gathering lines. The PSA excepts rural gathering lines from the application of safety standards, with the exception of "regulated rural gathering lines" which are addressed by 49 C.F.R. § 195.11.[41] Regulated rural gathering lines with diameter between 6 and 8-inches and which are located in or near unusually sensitive areas, as defined at 49 C.F.R. § 195.6, are within the applicability of the PSA and Part 195, in that they are subject to the safety standards provided by 49 C.F.R. § 195.11. Moreover, all gathering lines, rural, nonrural, regulated, or otherwise, must submit certain reports to PHMSA.[42]

As with any other State, North Dakota is unable to impose incremental safety requirements upon any interstate pipeline, including any interstate crude oil gathering line (or the operator) in light of the Federal supremacy established by Congress within the PSA. The PSA preemption clause reads as follows: "A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation."[43] The only circumstance in which a State may "adopt additional or more stringent safety standards" is when the State has a certified State program pursuant to PSA Section 60105(a) and such additional or more stringent safety standards are applied to intrastate pipeline facilities and pipeline transportation.[44]

"Congressional intent is the critical question in any preemption analysis."[45] The legislative history of the HLPSA contains clear statements of Congress's intent that the Federal scheme in the PSA would prevail: "The phrase, 'movement ... by pipeline,' in Section 203, is intended to mean *all aspects of any pipeline transportation in or affecting interstate commerce*."[46] Judicial opinions construing the express preemption clause of the PSA also are instructive.

The case of *Kinley Corp. v. Iowa Utilities Board* presents the situation of a State attempting to apply incremental State-level safety regulations to interstate pipelines within Iowa. The Court there went no further than PSA Section 60104(c) to reach its conclusion: "[T]his is a case involving express preemption and ... Congress has expressly stated its intent to preempt the states from regulating in the area of safety in connection with interstate hazardous liquid pipelines. For this reason, the state cannot regulate in this area and [the state statute] is invalid to the extent it purports to do so."[47] Iowa also argued that the State statute was a permissible "gap-filling" measure in light of a Part 195 exception from regulation of certain pipelines.[48] The Court disagreed. "The decision of the Department of Transportation to exempt certain pipelines from federal regulation does not necessarily mean that the

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[41] 49 U.S.C. § 60101(a)(22)(B)(i).
[42] 49 C.F.R. § 195.15 (2020).
[43] 49 U.S.C. § 60104(c).
[44] 49 U.S.C. § 60105(a).
[45] *Kinley Corp. v. Iowa Utilities Board,* 999 F.2d 354, 357 (1993) [citations omitted].
[46] S. Rep. 96-182, at 18 (1979) (emphasis supplied).
[47] *Kinley Corp.*, 999 F.2d. at 358.
[48] *Id.* at 359.

state can step in and impose its own regulations. '[A] federal decision to forego regulation in a given area may imply an authoritative federal determination that the area is best left *unregulated*, and in that event would have as much pre-emptive force as a decision *to* regulate.'"[49]

Based upon the foregoing, not only may a State not regulate in any manner an interstate pipeline, neither may a State regulate any portion of an interstate pipeline as to which Congress has directed, or PHMSA in its discretion has decided, shall not have safety standards applied.

States may, however, regulate interstate pipelines in limited ways. For example, the siting of hazardous liquid pipeline facilities is expressly excluded from the Secretary of Transportation's authority: "This chapter does not authorize the Secretary of Transportation to prescribe the location and routing of a pipeline facility."[50]

Comments

In light of the scope of the PSA and Part 195, and despite limited applicability of safety standards to rural crude oil gathering lines, any State and all States are wholly precluded from regulating, or otherwise applying any pipeline safety standards to, an interstate crude oil gathering line. That preclusion applies whether or not a State regulation conflicts with a Federal safety regulation. Further, a State cannot "gap-fill" to apply State-level safety standards to any portion of an interstate pipeline as to which Congress has directed that safety standards not apply or as to which PHMSA has decided in its discretion that safety standards shall not apply. As such, set out below is a restatement of the proposed addition to NDAC § 43-02-03-29.1 that accounts for the Federal-State relationship within the context of interstate pipelines.

> These rules do not apply to any portion of any interstate pipeline or interstate pipeline system without regard to whether, and without regard to the extent to which, the Pipeline and Hazardous Materials Safety Administration applies safety standards to all or a portion of such interstate pipeline or interstate pipeline system. The director may request that the operator of an interstate pipeline or interstate pipeline system provide a copy of a FERC tariff which shall serve as sufficient evidence that the pipeline or pipeline system moves petroleum in interstate or foreign commerce. In the event a FERC tariff is not in place for a given pipeline or pipeline system, the operator nonetheless may submit documentation which demonstrates that the pipeline or pipeline system moves petroleum in interstate or foreign commerce.

[49] *Id.*, quoting *Arkansas Electric Cooperative Corp. v. Arkansas Public Service Comm'n.*, 461 U.S. 375, 384, 103 S.Ct. 1905, 1912, 76 L.Ed.2d 1 (1983) (emphases in original).
[50] 49 U.S.C. § 60104(e).

The restatement set out above accords appropriate deference to the Federal supremacy instilled by Congress into the PSA.

Conclusion

We appreciate the opportunity to comment on the DMR proposed rule amendments. Please do not hesitate to contact this office for any clarification of these comments.

Sincerely,

Vince Murchison

October 11, 2021

Bruce Hicks, Assistant Director
North Dakota Industrial Commission
Dept. of Mineral Resources, Oil & Gas Division
600 E. Boulevard Ave., Dept. 405
Bismarck, ND 58505

Re: Comments on Proposed Rule Changes

Thank you for the opportunity to provide comments on the proposed administrative rule revisions. My name is Nishanth Samuel and I serve as the Bakken Drilling Manager for Marathon Oil Company ("Marathon").

I would like to comment on the proposed changes to Section 43-02-03-27.1-2 (b) HYDRAULIC FRACTURE STIMULATION. As currently proposed, Section 43-02-03-27.1-2 (b) would allow for the director to waive the requirement for visual inspection and photograph of the top joint of the intermediate casing and the wellhead flange.

The purpose of the current requirement of a visual inspection and photograph of the internal of the 7" casing and the casing hanger is to visually verify any wear or damage to the casing and the casing hanger. A photograph of the wellhead does not accurately capture the full extent of wear or damage to the casing and is not measurable. Marathon has not had any instance where a photograph of the wellhead has revealed any casing damage that resulted in a change to our operations.

Marathon has seen the impact of operations with the use of a multi-finger caliper. When Marathon runs the Cement Bond Log (CBL), a caliper log is also run to get a "record" of the 7" Intermediate Casing condition. This is done on every well after drilling operations, prior to any completion / frac operation. This caliper log accurately provides measurements of the 7" wall thickness, casing wear, and ovality, these measurements provide the Marathon Completions Department with the required information to accurately determine pressure test limits.

The Caliper Log is run and analyzed from the top of the 4 ½" liner hanger to the surface. This review gives an accurate and measurable view for the entire intermediate string that a photograph at surface cannot provide. This review on the condition of the intermediate strings provide information to maintain wellbore integrity.

Additionally the casing hanger system used by Marathon renders the wellhead photograph unnecessary. Currently the wellhead system Marathon uses exclusively is a casing mandrel hanger system. With this system, the casing hanger lands out and hangs off in the wellhead and the 7" casing is made up to the bottom of the casing hanger. In a casing mandrel

type system, external load will not be applied to the body of the pipe as it is hung off via the casing connection below the hanger. This is very different than the older, casing slips system, that set around the 7" casing and could cause damage to casing pipe body. Since the 7" casing is made up to the bottom of the casing hanger, the photograph taken mostly shows the internal of the casing hanger and does not fully capture details of the 7" casing.

Additionally, this rule change will reduces risk. Under the current rule the Back Pressure Valve (BPV) is required to be removed to take the photograph. Maintaining well control creates safer operations and maintain integrity of the wellbore.

Again, based on past experiences, visual reference of the hanger and the casing from surface has not altered operations.

Marathon can provide the NDIC with any supporting documents and information for this request.

Thank you for your time and consideration.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA
DATE 10-11-21 CASE NO. 28940
Introduced By Marathon Oil Co.
Exhibit 1
Identified By Barry Kraiter

October 11, 2021

Bruce Hicks, Assistant Director
North Dakota Industrial Commission
Dept. of Mineral Resources, Oil & Gas Division
600 E. Boulevard Ave., Dept. 405
Bismarck, ND 58505

Re: Comments on Proposed Rule Changes

Thank you for the opportunity to provide comments on the proposed administrative rule revisions. My Name is Barry Kraiter and I serve as the Maintenance and Construction Supervisor for Marathon Oil Company ("Marathon") here in the Bakken.

I would like to comment on the proposed changes to Section 43-02-03-14.2-6 (f.2-3) OIL AND GAS METERING SYSTEMS. We would first like to note that we believe the intention of the rule change was to adjust the meter proving frequency for common ownership central production facilities for both oil and gas to annual and no change to diverse ownership. Our comments will speak to the intended changes.

The proposed changes in Section 43-02-03-14.2-6 (f.2-3) decrease the meter frequency proving to annually for common ownership allocation meters for both oil and gas allowing operators to reduce the number of provings and calibrations while not having royalty implications for all interested parties. This change does not pertain to custody transfer meters or diverse centralized tank battery (CTB) allocation meters in order to alter any requirements related to sales.

API MPMS Chapter 20.2 Section 6.5 Proving of Hydrocarbon Liquid Allocation Meters states each operator shall have a plan for proving each allocation meter and Section 7.5 Gas Meter Calibration and Verification Techniques states that each operator shall have a documented calibration plan schedule for each allocation meter. There are no recommendations in API MPMS Chapter 20.2 regarding frequency for each meter type. Operators have the ability to increase the amount of meter cleanings, provings or calibration required as needed for completions design verification, based on production data that may indicate meter drift or as required by the Director.

Proving and calibration accuracy requirements call for oil allocation meter factor to be within 2% of the previous meter factor and orifice meters to fall within an error band of 0.5% for static pressure and differential pressure testing procedures. We have reviewed past meter proving and calibration data from a sampling of our operations here in the Bakken and it shows that for the three different meter types we use coriolis, turbine and orifice are all within the prescribed tolerance for the proposed annual proving and calibrating timeframe.

This change will also reduce the burden of filing and reviewing paperwork by the operators and the State of ND. Marathon has 228 oil allocation meters and 298 gas allocation meters. A change to annual meter proving for these meters would account for a savings of roughly 1,200 labor hours per year for Marathon. Additionally, the reduction in reporting and redundant review by NDIC would be roughly 1,000 less submitted reports and subsequent reviews benefitting both the State and the operator.

Marathon can provide the NDIC with any supporting documents and information for this request.

Thank you for your time and consideration.

NORTH DAKOTA
PETROLEUM
COUNCIL
100 West Broadway, Ste. 200 | P.O. Box 1395 | Bismarck, ND 58501-1395
701.223.6380 | ndpc@ndoil.org | www.NDOil.org

October 11, 2021

Bruce Hicks, Assistant Director
ND Department of Mineral Resources, Oil and Gas Division
600 E. Boulevard Ave., Dept. 405
Bismarck, ND 58505-0840

RE: Comments on Proposed 2022 Rules Changes

Dear Mr. Hicks:

Thank you for the opportunity to provide comments on proposed 2022 North Dakota Industrial Commission Administrative Rules changes. The North Dakota Petroleum Council (NDPC) is a trade association that represents more than 575 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region.

We appreciate the time and effort these rules have required. With our recommended clarifications and suggested language, industry supports many of them. Out of the proposed rules and rule changes, we support four, have no comment on 32, are seeking or suggesting revisions to clarify on eleven, oppose and offer significant revisions on three, and we adamantly oppose and urge the agency to reject two. The oil and gas industry is heavily regulated, and we recognize the need to adapt regulations to address issues as they arise. However, we must keep in mind that today's economics cannot absorb the great costs of increasing regulation without realizing substantial increases in health, safety, and environmental protection.

Governor Doug Burgum has repeatedly shared his vision for North Dakota to lead "with innovation, not regulation" in his efforts to jump-start the North Dakota economy and retain our state's status as a leader in energy development. Several of the proposed rules will require duplicative and unnecessary data submission, resulting in significant inefficiencies for operators as well as the regulating agency. Though additional data to a regulating agency may be useful in certain scenarios, it is imperative that the value of such data be weighed against the time and monetary expense required of the regulated industry to provide it.

On a positive note, NDPC commends the ND Department of Mineral Resources for its leadership in crafting a regulatory structure for the underground storage of oil and natural gas. The protections legislatively afforded all parties potentially involved in underground oil or gas storage projects, including landowners, within recently enacted N.D.C.C. Section 38-25-02 are clearly reflected in the proposed N.D.A.C. Chapter 43-02-14. The regulatory framework set forth in the proposed

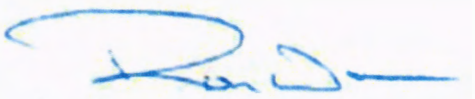
chapter supports Governor Burgum's vision and mission by allowing the critical research and field-testing projects necessary for clean, sustainable, and value-added opportunities to move forward.

Many of the other proposed changes, including those to the meter proving, pre-frack requirement, and form provision are reasonable and logical clarifications of administrative code language, and NDPC appreciates their inclusion within the 2022 NDIC rulemaking.

To formulate comments on behalf of the industry, the NDPC solicited input from its member companies and formed a technical committee to develop the attached comprehensive comments on behalf of our membership. The committee has met to study, review, and adopt these initial comments that reflect the opinions of our 575 member companies, and they should be viewed as comment from the regulated community and not as from one single entity.

Please note that, given the compressed schedule and the breadth and importance of the topics covered in this proposed rulemaking, NDPC is still digesting portions of the proposed amendments and will offer further clarification and comments as necessary before the official October 22, 2021 comment deadline.

Sincerely,



Ron Ness

enclosure

Chapter 43-02-03. General Rules and Regulations

43-02-03-07. United States Government Leases (page 1 of proposed rules)

Comment: NDPC generally supports the efficiencies associated with Commission implementation of the NorthSTAR system and the intent to streamline the data submission and regulatory compliance processes. The proposed rule appears to further enhance these efficiencies by eliminating the option to file notices and reports pertaining to wells on United States government land via federal forms and instead requires those filings to be completed through the NorthSTAR system.

43-02-03-09. Forms ~~Upon Request~~ (page 1 of proposed rules)

Comment: NDPC appreciates the willingness of the Commission to innovate its regulatory obligations by implementing tools like the NorthSTAR system that provide a more efficient way for the regulated community to meet compliance standards. Moving to an electronic submission system for submitting forms to the Commission, as proposed in this rule amendment, is a stride further down the path of innovation and greater efficiencies.

43-02-03-14.2. Oil and Gas Metering Systems (page 5 of proposed rules)

43-02-03-14.2-6. Calibration requirements.

43-02-03-14.2 (6.f.).

Comment: NDPC recognizes and appreciates the importance of accurately measuring crude oil volumes through properly calibrated and proven metering systems. Due to the nature of how oil and gas production is quantified within a common ownership central production facility, NDPC believes the oil and gas meters used for the allocation of production in such production facilities need only be proven or calibrated annually. Lessening the required frequency of meter proving or calibration tests for those meters used within common ownership central production facilities has the potential to save a large number of both unnecessary labor hours and associated costs for North Dakota oil and gas operators. Benefits of such a rule amendment would also extend to the Commission, which would likely realize a significant time savings by eliminating the need to review unnecessary and low-value meter proving or calibration test results.

NDPC believes reducing the burden of unnecessary proving and testing to be the intent of the Commission in the proposed rule amendment, as evidenced in the proposal summary of this rulemaking's Full Notice of Intent to Adopt and Amend Administrative Rules document published by the ND Department of Mineral Resources Oil and Gas Division and dated August 31, 2021.

The language of the proposed rule does not appear to align with its stated purpose. As currently written, the proposed rule amendments to Paragraph f., Subparagraphs (2) and (3) of Subsection 6. instead do the opposite, requiring less frequent meter proving or calibration tests for oil and gas meters used for allocation of production in diverse ownership central production facilities. To remedy this likely error, NDPC respectfully requests consideration of the suggested language below.

Suggested language:

6.

f. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:

(1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.

(2) Quarterly for oil meters used for allocation of production in a ~~common~~ diverse ownership central production facility. Annually for oil meters used for allocation of production in a ~~diverse~~ common ownership central production facility.

(3) Semiannually for gas meters used for allocation of production in a ~~common~~ diverse ownership central production facility. Annually for gas meters used for allocation of production in a ~~diverse~~ common ownership central production facility.

(4) Semiannually for gas meters in gas gathering systems.

(5) For meters measuring more than one hundred thousand cubic feet [2831.68 cubic meters] per day on a monthly basis, orifice plates shall be inspected semiannually, and meter tubes shall be inspected at least every five years to ensure continued conformance with the American gas association meter tube specifications.

(6) For meters measuring one hundred thousand cubic feet [2831.68 cubic meters] per day or less on a monthly basis, orifice plates shall be inspected annually.

43-02-03-15. Bond and Transfer of Wells (page 9 of proposed rules)

43-02-03-15-8. Geological storage facility bond requirements.

Comment: NDPC understands the importance of ensuring certain appropriate financial assurance, including bonds, are in place and available to fulfill a geological storage facility operator's duties. The 67th Legislative Assembly granted the Commission the authority to require such items of financial assurance when it enacted Senate Bill 2065 in 2021. Despite this clear authority and the necessity of having appropriate bonds in place for oil and gas storage facilities, NDPC seeks clarity on what the Commission may in fact deem an appropriate bond amount for such facilities. Parameters or limits to the bond amount required of an oil or gas geological storage facility operator would ensure consistency with how bonds are required across storage facility operations and promote transparency in how bond amounts are determined.

43-02-03-16.1. Designation and Responsibilities of Operator (page 13 of proposed rules)

Comment: No comments.

43-02-03-21. Casing, Tubing, and Cementing Requirements (page 13 of proposed rules)

Comment: No comments.

43-02-03-27.1. Hydraulic Fracture Stimulation (page 15 of proposed rules)

43-02-03-27.1. (1.g.). (page 16 of proposed rules)

Comment: NDPC understands the proposed rule amendment pertaining to notifying the Director 48 hours prior to commencing hydraulic fracture stimulation ("fracking") operations is intended to provide the ND Department of Mineral Resources a better ability to track fracking crews operating within the state. Despite the perceived value of this notification to the Department, however, NDPC believes such a notice to be unnecessary and duplicative. The burden of providing notification "approximately forty-eight hours prior" to fracking operations is compounded when considering the likelihood of variable frac schedules in which conditions may change a target well quickly. NDPC strongly believes that the objective of having an accurate inventory of fracking crews operating in ND can be better and more seamlessly achieved by surveying the Department's field inspection crew members. Because these dedicated public servants are continuously "on the ground" throughout the oil and gas-producing areas of the state, they are much more likely to provide an accurate depiction of real-time fracking operations.

However, if the Commission concludes this requirement is justifiable for inclusion in this rulemaking, NDPC suggests the Department provide a simple, remotely accessible, online-based form that includes data entry areas for a subject well and check boxes for the verification of running a frac string in the well to simplify the proposed notification requirement.

43-02-03-27.1. (2.b.). (page 16 of proposed rules)

Comment: NDPC believes requiring a visual inspection and photography of the top joint of an intermediate casing and a wellhead flange to be of little value to properly regulating fracking operations conducted through an intermediate casing string. NDPC therefore suggests eliminating the photography requirement in its entirety. If the Commission deems the photography requirement critical to safe fracking operations, NDPC supports the proposed amendment allowing the Director to waive for good cause.

43-02-03-27.1. (2.d.). (page 16 of proposed rules)

Comment: No comments.

43-02-03-27.1. (2.i.). (page 17 of proposed rules)

Comment: As with the proposed rule addition of N.D.A.C. 43-02-03-27.1, subsection 1., paragraph g., NDPC opposes the burdensome obligation of notifying the Director 48 hours prior to fracking operations. NDPC reiterates its belief that an accurate inventory of active fracking crews is better taken by field inspection crew members of the Department.

Again, should the Commission conclude the requirements of this proposed rule addition be appropriately included, NDPC suggests the Department provide a simple online-based form for industry to input subject well identification information and check boxes for the verification of required log and pressure test performance.

43-02-03-29. Well and Lease Equipment, and Gas Gathering Pipelines
(page 17 of proposed rules)

Comment: NDPC has significant concerns with the proposed rule amendment, particularly with the ambiguity of requiring "all associated above ground equipment" of an underground gas gathering pipeline to be documented within the geographical information system (GIS) mapping system required by this section. Clarification is requested as to what "all associated above ground equipment" refers and whether the literal reading of "all" accomplishes the Commission's goal of aiding in field inspections. NDPC encourages the Commission to carefully weigh the benefit of requiring "all" associated above ground gas gathering pipeline equipment against the expected substantial resource and financial costs to pipeline operators of adding every piece of equipment to a pipeline's GIS mapping system. NDPC opposes such a literal and all-inclusive reading. NDPC

also questions the necessity of this rule proposal. The ND Department of Mineral Resources already has detailed shapefiles of underground gathering pipelines within its system, and pipeline operators are obligated to update these shapefiles periodically. Further, Department field inspectors either know or should know where operators' assets and facilities are located without an unnecessarily complicated and costly GIS map.

In the alternative, NDPC requests clear and narrow parameters be placed on the types of above ground equipment necessary for inclusion within the GIS mapping system in a manner that aids field inspections without unduly straining pipeline operators' resources. The equipment included within the scope of this proposed rule amendment should be limited only to those facilities of which the Commission justifies an absolute need to access detailed equipment location information. The scope of this proposed rule amendment should not include myriad facilities; the cataloguing and submission thereof would create a sizable and unjustified burden on pipeline operators. A survey conducted by NDPC on the potential costs to comply with the proposed rule amendment as currently worded found those costs to be in abundant excess of the $50,000 cost threshold indicated within the rule proposal summary. For several pipeline operators, these costs will likely be as high, or higher than, $150,000. NDPC therefore requests that the scope of the proposed rule be tightened to exclude minor facilities and those that will not substantially increase data value to the Department.

Clarification is also requested regarding the application of the proposed rule amendment, particularly as it may be applied to existing above ground equipment. Generally, the law disfavors retroactive application of regulations. Applying this proposed rule amendment retroactively to existing above ground equipment, regardless of what equipment that includes, represents an undue burden to industry that would likely not help realize the perceived benefit of the proposed rule. Therefore, NDPC strongly opposes retroactive application of this proposed rule amendment to existing equipment.

43-02-03-29.1. Crude Oil and Produced Water Underground Gathering Pipelines (page 19 of proposed rules)

43-02-03-29.1-1. Application of Section. (page 19 of proposed rules)

Comment: NDPC supports the clarification intended by eliminating natural gas and carbon dioxide pipelines from the application of this section.

Regarding the proposed addition of this subsection's final paragraph, NDPC questions what "sufficient documentation" confirming a pipeline is federally regulated would entail. To provide greater clarity on this item, NDPC suggests requiring such documentation at the request of the Director. A request for documentation from the Director would ideally include the type of documentation sought and assist industry in avoiding misinterpretations of this proposed rule.

43-02-03-29.1-2. Definitions. (page 20 of proposed rules)

43-02-03-29.1. (2.d.). (page 20 of proposed rules)

Comment: No comments.

43-02-03-29.1-3. Notifications. (page 20 of proposed rules)

43-02-03-29.1. (3.b.). (page 21 of proposed rules)

Comment: NDPC opposes requiring verbal notification to a landowner prior to commencing the construction of a crude oil or produced water underground gathering pipeline and believes such a requirement to be unnecessary and redundant. Prior to construction of any gathering pipeline, legal agreements are signed between a pipeline operator and surface owners for the right to access an area of land, construct a pipeline within a specific corridor, and properly reclaim the surface of the land when pipeline construction is complete. Signed right-of-way agreements provide adequate notice to all landowners within a gathering pipeline corridor and additional notification to every landowner 48 hours prior to pipeline construction is unnecessarily burdensome and duplicative. Further, a landowner has every right and opportunity to independently negotiate this requirement into his or her surface lease agreement. NDPC believes the Commission should not mandate such a notification requirement when the parties may freely contract to provide notice. The time, resource, and monetary costs of requiring a pipeline operator to notify each and every landowner – who have already been put on notice that pipeline construction on their land is likely to take place in the near future – are not insignificant.

43-02-03-29.1-9. Operating requirements. (page 26 of proposed rules)

Comment: NDPC has significant concerns with the proposed rule amendment in this subsection that would effectively limit a crude oil or produced water underground gathering pipeline portion's maximum operating pressure to that of the test pressure used in the pipeline's most recently completed integrity test demonstration. Several gathering pipeline operators voluntarily run periodic precautionary integrity tests conducted outside of the integrity test requirements of N.D.A.C. 43-02-03-29.1-13, i.e., when a pipeline has not been "repaired, replaced, relocated, or otherwise changed." Such precautionary integrity tests are often not scaled to the maximum operating pressure of which a line is capable of safely sustaining. Limiting the maximum operating pressure to such an integrity test has potential to place severe limits on the pressure allowed on lines subject to voluntary operator-initiated tests. NDPC therefore requests consideration of language applying test pressure from the most recent integrity test to the maximum operating pressure of an

underground system only when such an integrity test is performed following a repair, replacement, relocation, or other modification to the system.

Suggested language:

9. The maximum operating pressure for all crude oil and produced water underground gathering pipelines may not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The maximum operating pressure of any portion of an underground gathering system may not exceed the test pressure from the most recent integrity test demonstration following modification or repair for which it was tested.

43-02-03-30. Notification of Fires, Leaks, Spills, or Blowouts (page 31 of proposed rules)

Comment: NDPC questions whether the addition of the general and over-broad term "facility" is necessary or appropriate for inclusion in this section. The addition is likely redundant, considering that "any other receptacle or production facility associated with oil, gas, or water production, injection, processing, or well servicing [. . .]" is already subject to the notification requirements of this section.

43-02-03-34.1. Reclamation of Surface (page 32 of proposed rules)

43-02-03-34.1-6. (page 33 of proposed rules)

Comment: No comments.

43-02-03-38.1. Preservation of Cores and Samples (page 33 of proposed rules)

Comment: No comments.

43-02-03-55. Abandonment of Wells, Treating Plants, Underground Gathering Pipelines, or Saltwater Handling Facilities – Suspension of Drilling
(page 34 of proposed rules)

43-02-03-55-1. (page 34 of proposed rules)

Comment: NDPC appreciates the clarity sought to be achieved by the proposed rule amendment in the first sentence of this subsection.

Regarding the abandonment requirement proposal of underground gathering pipelines after an extended period of inactivity, NDPC is strongly opposed. Despite NDPC's appreciation of why the Commission is considering this proposed rule amendment, the undefined phrase

of "extended periods of time" raises significant questions as to which inactive underground gathering pipelines may be subject to notice and hearing, as well as the potential to be required to abandon the pipeline.

Additionally, NDPC holds that gathering lines are private property and that gathering pipeline operators may determine to idle any portion of their line for any number of reasons. As drilling inventory decreases in some areas of the state, it may make sense for an operator to idle certain portions of its gathering pipeline network when there are insufficient volumes to justify continued operations. It is also possible that gathering pipelines that have remained idle for extended periods of time, after being pressure tested again to verify integrity, may be utilized in the future as enhanced oil recovery or other new drilling technology becomes available. Certain pipelines may be idled for a period of time and also repurposed for additional uses such as transporting natural gas, freshwater, or carbon dioxide. NDPC believes the state should not require private parties to abandon private property. Requiring a party to abandon a pipeline may also violate contracts between a gathering company and a landowner, as some right-of-way contracts require the gathering company to offer the landowner the pipeline in the event the pipeline ceases being utilized by the gathering line operator.

43-02-03-88.1. Special Procedures for Increased Density Wells, Pooling, Flaring Exemption, Underground Injection, Commingling, Converting Mineral Wells to Freshwater Wells, and Central Tank Battery or Central Production Facilities Applications (page 35 of proposed rules)

Comment: No comments.

43-02-03-90.2. Official Record (page 36 of proposed rules)

Comment: No comments.

43-02-03-90.4. Notice of Order by Mail (page 37 of proposed rules)

Comment: No comments.

Proposed Chapter 43-02-14. Geological Storage of Oil or Gas

General Comment: NDPC supports the concept of establishing a regulatory structure for the underground storage of natural gas under Commission authority. Currently, such a regulatory framework is absent, halting development of critical research endeavors and field-testing projects that hold the potential to bring North Dakota's oil and gas economy to the next level. Generally, NDPC feels the proposed N.D.A.C. Chapter 43-02-14, authorized by Senate Bill 2065 enacted by

the North Dakota Legislature in 2021, provides clear regulatory parameters on underground oil and gas storage that will be a benefit to the state and the oil and gas industry.

43-02-14-01. Definitions (page 38 of proposed rules)

Comment: NDPC believes the definition of "facility area" to be overly broad and does not indicate any limitations to what may be potentially included within the area for purposes of regulation.

43-02-14-02. Scope of Chapter (page 38 of proposed rules)

Comment: NDPC questions whether the current language of the section is sufficient to avoid possible application to enhanced oil/gas recovery, Class II injection/disposal wells, or Class VI CO2 injection wells. Potential clarifying language specifically excluding these activities is below for Commission consideration.

Suggested language:
This chapter pertains to the geological storage of hydrogen and produced oil or gas with little to no processing involved. If the rules differ from federal requirements on federally regulated storage facilities, the federal rules take precedence. The storage facility operator shall provide sufficient documentation to the director confirming thestorage facility is federally operated. Applications filed with the commission proposing to inject gas for the purposes of enhanced oil or gas recovery will be processed under chapter 43-02-05 and will not be subject to any requirement under this chapter that is not common to both chapters. This chapter does not apply to Class III injection wells used to create a salt cavern, Class II Produced Water Injection Wells, Class II Produced Water Disposal Wells, or any other Class II well used in the production of oil and gas and regulated under the Underground Injection Control Regulations by authority Safe Water Drinking Act (SWDA). Neither does this chapter apply to Class VI - CO2 injection wells constructed and used for carbon capture and storage (CCS) or carbon capture use and storage (CCUS). Applications for Class III wells are under the jurisdiction of the state geologist pursuant to chapter 43-02-02.1.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.

43-02-14-02.1. Application of Rules for Geological Storage Facilities
(page 39 of proposed rules)

Comment: No comments.

43-02-14-02.2. Injection into Underground Source of Drinking Water Prohibited
(page 39 of proposed rules)

Comment: No comments.

43-02-14-02.3. Transitioning from Enhanced Oil or Gas Recovery to Geological Storage (page 39 of proposed rules)

Comment: No comments.

43-02-14-02.4. Prohibition of Unauthorized Injection (page 40 of proposed rules)

Comment: No comments.

43-02-14-02.5. Existing Well Conversion (page 40 of proposed rules)

Comment: No comments.

43-02-14-03. Books and Records to be Kept to Substantiate Reports (page 40 of proposed rules)

Comment: No comments.

43-02-14-04. Access to Records (page 41 of proposed rules)

Comment: No comments.

43-02-14-05. Geological Storage Facility Permit Hearing (page 41 of proposed rules)

Comment: No comments.

43-02-14-05.1. Area of Review and Corrective Action (page 42 of proposed rules)

Comment: No comments.

43-02-14-06. Permit Requirements – Storage in Oil and Gas Reservoir (page 44 of proposed rules)

Comment: NDPC respectfully submits an alternative to the language of subsection 21 of this section to more properly capture what is to be documented by a geological storage facility permit applicant.

Suggested language:

21. Address the potential for unrecoverable injected oil or gas.

43-02-14-07. Permit Requirements – Storage in Saline Reservoir (page 48 of proposed rules)

Comment: NDPC respectfully submits an alternative to the language of subsection 21 of this section to more properly capture what is to be documented by a geological storage facility permit applicant.

Suggested language:

21. Address the potential for migration of unrecoverable injected oil or gas.

43-02-14-08. Permit Requirements – Storage in Salt Cavern (page 52 of proposed rules)

Comment: No comments.

43-02-14-09. Siting (page 57 of proposed rules)

Comment: NDPC seeks clarity on how the language of the proposed section requiring all injection wells to inject into a formation that has confining zones free of open faults or fractures within the facility area and area of review will be enforced. As written, NDPC interprets the language as requiring a certain level of due diligence on behalf of the Commission before a proposed injection well may be sited.

43-02-14-10. Construction Requirements (page 57 of proposed rules)

Comment: No comments.

43-02-14-11. Mechanical Integrity (page 58 of proposed rules)

Comment: No comments.

43-02-14-12. Plugging of Injection Wells (page 59 of proposed rules)

Comment: No comments.

43-02-14-13. Pressure Restrictions (page 59 of proposed rules)

Comment: No comments.

43-02-14-13.1. Salt Cavern Integrity (page 60 of proposed rules)

Comment: No comments.

43-02-14-14. Bonding Requirements (page 60 of proposed rules)

Comment: No comments.

43-02-14-15. Emergency and Remedial Response Plan (page 60 of proposed rules)

Comment: No comments.

43-02-14-16. Reporting, Monitoring, and Operating Requirements (page 61 of proposed rules)

Comment: No comments.

43-02-14-17. Leak Detection and Reporting (page 63 of proposed rules)

Comment: NDPC seeks additional information on what constitutes acceptable leak detection as per the requirements of subsection 1. of this section. Current language in the proposed rule alludes to a type of device designed to detect leaks. However, leak detection processes such as pressure monitoring are also useful in detecting leaks without a significant investment in additional equipment or instruments. If "leak detectors" as referenced in this subsection is meant to only refer to instruments or devices, NDPC suggests broadening the types of methods allowable in detecting leaks to include leak detection processes.

43-02-14-18. Storage Facility Permit Transfer (page 63 of proposed rules)

Comment: No comments.

43-02-14-19. Modification, Revocation, and Reissuance or Termination of Permits (page 64 of proposed rules)

Comment: No comments.

43-02-14-19.1. Minor Modifications of Permit (page 66 of proposed rules)

Comment: No comments.

Chapter 43-05-01. Geologic Storage of Carbon Dioxide

43-05-01-11. Injection Well Construction and Completion Standards (page 67 of proposed rules)

Comment: No comments.

43-05-01-17. Storage Facility Fees (page 70 of proposed rules)

Comment: No comments.

NDPGA
North Dakota Propane Gas Association

October 11, 2021

North Dakota Industrial Commission
1016 E Calgary Ave
Bismarck, ND 58503

Re: Chapter 43-02-14 (Geological Storage of Oil or Gas) Proposed Administrative Rules, Case File #28940

My name is Mike Rud. I serve as the Executive Director of the North Dakota Propane Gas Association (NDPGA). NDPGA represents well over 100 retail propane marketers and suppliers from across North Dakota and several surrounding states. We appreciate the opportunity to testify in support of the proposed administrative rules associated with SB 2065, the gas storage cavern bill, passed by the Legislative Assembly in 2021.

NDPGA has long supported the role of natural gas in ND. We all know it takes natural gas to make propane. These extra steps in the natural gas fractionation process have led to the evolution of a roughly 850 million dollar retail propane industry in our state, providing well over 1,000 good paying jobs in North Dakota. For nearly a century, propane has provided clean, safe, efficient and affordable energy to about 50,000 homes, farms and businesses across North Dakota.

This success has not come without some severe challenges along the way. Perhaps the greatest obstacle was the reversal of the Cochin Pipeline in the early 2010's. This propane line ran from the tar sands in Alberta, Canada down through the Dakotas and Minnesota into Illinois. It served as the source for nearly 70% of the retail propane supply in North Dakota. As you can imagine this reversal of this pipeline from propane to a natural gas condensate sent some shockwaves through the industry. Propane suppliers and retailers have spent millions of their own dollars attempting to right size their propane operations in terms of storage and transport capabilities. CHS, Inc. set up several large rail terminals across the tri state area to help lessen supply concerns in the peak demand periods associated with grain drying and cold winter weather in our area. Despite all these entrepreneurial efforts, supply continues to be an issue across the entire Great Plains.

While I don't have the expertise to comment on the specifics of the administrative rules associated with this potential project, I can speak to the need for it moving forward from an energy security perspective. North Dakota would not be the only state which could benefit from this project. States like Minnesota, South Dakota, Iowa and Nebraska have felt the impact of losing the Cochin Pipeline as a main supply source. A potential propane storage cavern and terminal could serve as a regional supply hub. The 325,000 barrel granite propane storage cavern operated by Hess near Mentor, MN serves as a valuable resource for the industry. The right sized cavern in western North Dakota could provide similar benefits.

From a business perspective, a propane cavern storage facility in western North Dakota only makes sense. Why keep sending natural gas out of the state to processing facilities, only to ship it back here in the form of such products as propane. Let's form the right business partnerships needed to fractionate and sell the various gases here. Let's set up a safe and reliable plan for salt cavern storage of these products and let's become a regional hub for usage and distribution.

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Ed Bickel
Tuttle Farmers Elevator
PO Box 119
Tuttle, ND 58488

Brad Haugeberg
United Quality Cooperative
PO Box 340
New Town, ND 58763-0340

Tracey Wold
United Quality Cooperative
PO Box 128
Parshall, ND 58770-0128

Andy Nowak
Valley Farmers Supply
PO Box 309
Worden, MT 59088

Vining Oil & Propane
301 2nd Ave NW
Jamestown, ND 58401

Floyd Clark
Walhalla Cooperative Oil
PO Box 498
Walhalla, ND 58282-0498

Ross Reiter
West Dakota Oil
603 East Broadway
Dickinson, ND 58602-0322

Jade Ziman
Western Choice Cooperative
200 Rodeo Drive
Killdeer, ND 58640

Randy Becker
Westside Heating & AC
PO Box 251
Ashley, ND 58413

Todd Ziegler
Ziegler Oil Company
103 Cedar Street
Drake, ND 58736

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NORTH DAKOTA
OIL AND GAS DIVISION

September 21, 2021

Mr. Dennis Johnson
P.O. Box 1260
109 5th Street SW
Watford City, ND 58854

RE: **Proposed Rules**
NDAC Section 43-02-03-14.2

Dear Mr. Johnson:

We are in receipt of your letter dated September 15, 2021, in which you request certain documents filed concerning the proposed amendment to North Dakota Administrative Code (NDAC) Section 43-02-03-14.2. Answers to your questions are provided below:

1. Marathon Oil Company (Marathon) requested the proposed rule amendment.
2. The following written or electronic documents exist in regard of the proposed amendment:
    a. Email from Marathon to the Commission (dated 8-16-2021) requesting consideration of the proposed rule change—attached
    b. Email from the Commission to Marathon (dated 9-15-2021) indicating the Commission's proposed rule change did not correctly capture Marathon's request—attached
    c. Full Notice addresses to purpose of the amendment—attached
    d. Proposed rule changes address NDAC Section 43-02-03-14.2—pages 1-6 are attached
3. Marathon's email (dated 8-16-2021) outlines savings that would be realized by Marathon.
4. The term "onerous" used by the Commission in the Full Notice was used in a general sense. The Commission did not rely on any particular document indicating the rule is currently oppressively burdensome.
5. Common ownership, defined in NDAC Section 43-02-03-48.1, is production from wells that do not have diverse ownership. Production with diverse ownership is defined as production from wells that are both in different spacing units and have different mineral ownership. Differences in revenue interests based upon risk or an operating agreement imposed penalty would not be considered.
6. The Commission has not researched any empirical data demonstrating the sustained accuracy of meters such that changing to a less frequent proving period will not impact the accuracy of per well production reports or oil and/or gas.

Sincerely,

Bruce E. Hicks
Assistant Director

Enclosures

JOHNSON & SUNDEEN

ATTORNEYS AT LAW

P.O. Box 1260
109 5th Street SW
Watford City, ND 58854

Telephone: (701) 444-2211
Fax: (701) 444-2847

September 15, 2021

North Dakota Industrial Commission
Oil and Gas Division
Mineral Resources
600 E. Boulevard Ave., Dept 405
Bismarck, ND 58505-0840

RE: Proposed Amendment to NDAC Section 43-02-03-14.2

Dear North Dakota Industrial Commission:

I am writing to inquire prior to the public hearings scheduled on the above proposed NDAC and obtain documents and certain things so that I may determine whether such proposed amendment is in the best interests of North Dakota and various individuals and companies who may be impacted by the proposed amendment. Kindly provide the information and documents as requested below:

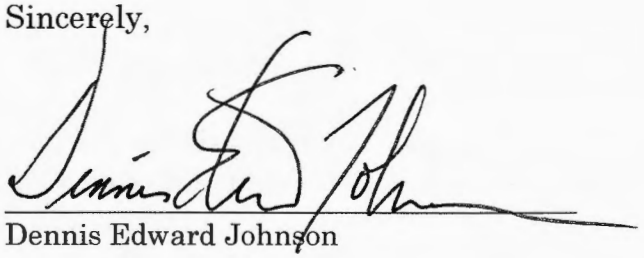
1. Please identify who or what group proposed the contemplated amendment;
2. Provide any written or electronic documentation and written or electronic communications (including email and text messages generated or received by NDIC personnel) received or generated in regard to this proposed amendment;
3. Provide any written or electronic documentation which demonstrates that changing the requirements from quarterly to annually the proving of oil meters and gas meters from semiannual to annual provides an economic benefit to the regulated community;
4. Provide any written or electronic documentation which demonstrates that that the current practice of proving oil and gas meters is "onerous";
5. In regard to production in "common ownership facility" addressed in the Notice of Intent to amend this NDAC rule identify what is meant by common ownership facility" and whether that considers differences of revenue interests based upon risk or operating agreement imposed penalty or allocation of expenses between different working interest owners in each well in a common production facility; and,
6. Provide any empirical data possessed or gathered or available to the NDIC which demonstrates the sustained accuracy of meters such that changing to a less frequent proving period will not impact the accuracy of per well production reports of oil and/or gas.

To the extent necessary the copies of documents (written or electronic) here requested should be considered an open records requests as allowed under North Dakota law. Should the fee exceed $500.00 to assemble and copy the documents please contact me. If you require a deposit of the anticipated fee, please let me know as soon as possible so that I may provide the same to the NDIC.

Due to the hearing date on this proposed amendment being October 11 and 12, 2021 and the potential need to obtain subpoenas to compel testimony, I would ask that the documents requested be provided in a reasonable timely manner.

Please contact me if you have questions. Thank you.

Sincerely,



Dennis Edward Johnson

DEJ:dej / Proving metters / 210915 NDIC letter

Hicks, Bruce E.

From: Weis, Zachary A. (MRO) <zaweis@marathonoil.com>
Sent: Monday, August 16, 2021 2:02 PM
To: Hicks, Bruce E.
Cc: Kraiter, Barry J. (MRO); Nodland, Darrell W. (MRO)
Subject: Allocation Meter Proving
Attachments: Memo allocation meter.docx

Follow Up Flag: Follow up
Flag Status: Completed

Bruce,
Here is a write up on our thoughts for a rule change for common ownership allocation meters. We have some quick info from other states that we can share as well if you are interest.

If you would like, we can pull together a meeting to discuss this change if your team has any questions.

Thanks,

Zac Weis
Government & Community Relations Manager
Marathon Oil Company
Mobile: 701-400-2989

Marathon Oil

August 16, 2021

MEMO

RE: NDIC Rule Change: 43-02-03-14.2. (6.f.) OIL AND GAS METERING SYSTEMS

Due to the nature of commonly owned centralized tank batteries (CTBs), Marathon Oil (Marathon) believes that oil and gas meters used for the allocation of production in common ownership wells should be proven or calibrated annually. The requested change does not pertain to custody transfer meters or diverse CTB allocation meters in order to alter any requirements related to sales.

Marathon has 228 oil allocation meters and 298 gas allocation meters on commonly owned CTBs. A change to annual meter proving for these meters would account for a savings of roughly 1,200 labor hours per year for Marathon. Additionally, the reduction in reporting and redundant review by NDIC would be roughly 1,000 less submitted reports and subsequent reviews benefitting both the State and the operator

Again, this request for change would not affect royalties to the interest owners, the State of ND or MHA Nation as it impacts only commonly operated facilities. This change would also align with Marathon procedures in Oklahoma and Texas.

Suggested language:

6.

~~e.~~f. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:

(1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.

(2) Quarterly for oil meters used for allocation ofproduction in diversely comingled CTB.

(3) Annually for oil meters used for allocation of production in commonly comingled CTB.

~~(3)~~(4) Semiannually for gas meters used for allocation of production in diversely comingled CTB.

~~(4)~~(5) Annually for gas meters used for allocation of production in commonly comingled CTB.

~~(5)~~(6) Semiannually for gas meters in gas gathering systems.

Hicks, Bruce E.

From: Hicks, Bruce E.
Sent: Wednesday, September 15, 2021 9:14 AM
To: Weis, Zachary A. (MRO)
Subject: RE: Allocation Meter Proving

Zac,
I regret to inform you that the amendment to NDAC Section 43-02-03-14.2 in our proposed rules did not correctly capture your request for relief of calibration requirements for allocation meters on "common" ownership CTBs. Please make sure you address this issue in comments to the Commission. Sorry for the inconvenience.

Bruce E. Hicks
Assistant Director

bhicks@nd.gov • www.nd.gov

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701.328-8020 • oilandgasinfo@nd.gov • www.dmr.nd.gov • 600 E Boulevard Ave, Dept. 405 • Bismarck, ND 58505

From: Weis, Zachary A. (MRO) <zaweis@marathonoil.com>
Sent: Monday, August 16, 2021 2:02 PM
To: Hicks, Bruce E. <bhicks@nd.gov>
Cc: Kraiter, Barry J. (MRO) <bjkraiter@marathonoil.com>; Nodland, Darrell W. (MRO) <dwnodland@marathonoil.com>
Subject: Allocation Meter Proving

Bruce,
Here is a write up on our thoughts for a rule change for common ownership allocation meters. We have some quick info from other states that we can share as well if you are interest.

If you would like, we can pull together a meeting to discuss this change if your team has any questions.

Thanks,

Zac Weis
Government & Community Relations Manager
Marathon Oil Company
Mobile: 701-400-2989

Marathon Oil

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FULL NOTICE OF INTENT TO

ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2021 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2021 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2021 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15th Avenue West, Williston, North Dakota
- October 12th, 2021 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-07 is to update the rule to be consistent with innovation. The proposed amendment clarifies that federal forms will no longer be allowed to be submitted since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendment to NDAC § 43-02-03-09 is to update the rule to be consistent with innovation. The proposed amendment clarifies that most written forms currently provided by the Commission will no longer be available since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to consider less onerous proving requirements for oil and gas meters used for allocation of production in a common ownership facility. The proposed amendments allow the owner of metering equipment to prove oil meters annually, instead of quarterly, and prove gas meters annually, instead of semiannually. The proposed amendment will provide an economic benefit to the regulated community.

600 E Boulevard Ave – Dept 405 | Bismarck, ND 58505-0840 | PHONE: 701-328-8020 | FAX: 701-328-8022 | dmr.nd.gov/oilgas

The purpose of the proposed amendment to NDAC § 43-02-03-15 is to update the rule pursuant to legislation recently passed by the Sixty-seventh Legislative Assembly. Pursuant to Senate Bill 2065, the rule provides for a geological storage facility bond after notice and hearing. The proposed amendment is not expected to have an impact on the regulated community since the bond was required in statute by the Legislative Assembly.

The purpose of the proposed amendments to NDAC § 43-02-03-16.1 is to clarify responsibilities of an operator. The proposed amendment clarifies the principal on the bond covering a facility is the operator and is responsible for compliance with all applicable laws. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to ensure freshwaters are protected and casing is cemented in a proper manner. The proposed amendments require surface casing cement to be displaced with fresh water and also clarifies that surface casing strings may be pressure tested immediately after cementing, while the cement is in a liquid state. The proposed displacement amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed pressure test amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to track fracture stimulation crews operating in North Dakota and to provide industry with relief form certain requirements. The proposed amendments require the operator to notify the Director approximately 48 hours prior to conducting operations; allow the Director to waive visual inspection and photograph of the top casing joint and the wellhead flange; and allows cement evaluation tools to be run only in affected casing strings. The proposed notification amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed visual inspection, photograph, and affected casing amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-29 is to provide the Director the location of above ground pipeline equipment to aid in field inspections. The proposed amendment requires the operator of any underground gas gathering pipeline to submit the location of all associated above ground equipment and buried drip tanks. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to clarify that natural gas and carbon dioxide pipelines are not subject to the section; addresses federal requirements verses State regulations; inform landowners when a pipeline project commences; and ensure integrity during pipeline operations. The proposed amendments remove natural gas and carbon dioxide pipelines from the requirements; clarifies that federal requirements take precedence if in conflict with State regulations; requires the pipeline operator to notify landowners prior to commencing construction of a project; and requires the maximum operating pressure on any portion of pipeline to not exceed the test pressure for which it was tested. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify facilities are subject to the section and provide electronic information to the Director. The proposed amendment clarifies the operator of a facility must notify the Director if a fire, leak, or spill occurs at the facility; and eliminates the need for an operator to sign the document, thus allowing electronic submission. The proposed amendment requiring a facility operator to notify the Director is not expected to have an impact on the regulated community in excess of $50,000 and the proposed elimination of a signature requirement amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is for clarification purposes. The proposed amendment clarifies that the operator is required to document any waiver given by the Director with the County recorder. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure samples and cores collected will be preserved. The proposed amendment requires samples and cores of injection, disposal, storage operations, or geologic information are to be sent to the state core and sample library. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify what is considered an abandoned well and require inactive pipelines to be properly abandoned. The proposed amendment clarifies the removal of production equipment constitutes abandonment of a well and underground gathering pipelines that are inactive for extended periods of time can be required, after notice and hearing, to be properly abandoned. The proposed amendment is expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can continue a hearing upon written objections to an application. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.2 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can exclude certain information from a case record. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.4 is to implement changes from House Bill 1055, which was recently enacted by the Sixty-Seventh Legislative Assembly. The proposed amendment requires the Commission to give notice of an order to all parties pursuant to North Dakota Century Code Section 38-08-11. The proposed amendment will not have any economic impact on the regulated community.

Senate Bill 2065, which was recently enacted by the Sixty-Seventh Legislative Assembly, created NDCC Section 38-25-02, which grants the Commission authority to adopt reasonable rules, after notice and hearing, for the geological storage of oil or gas. The Commission is promulgating regulations for the geological storage of oil or gas, by the creation of NDAC Chapter 43-02-14, and the following proposed rules under Chapter 43-02-14 are hereby outlined.

The purpose of NDAC § 43-02-14-01 is to define terms used in Chapter 43-02-14 that could have a different meaning than other Commission rules. Definitions are included for "facility area" and "storage reservoir". The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02 is to define outline the scope of the chapter. The scope of the chapter pertains to the geological storage of hydrogen and produced oil or gas. The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02.1 is to address the application of rules for geological storage facilities. The rule states such facilities are also subject to provisions of several other chapters under the Commission's authority. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.2 is to protect underground sources of drinking water. The rule prohibits underground injection of oil or gas that allows movement of fluid into an underground source of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.3 is to address transitioning from enhanced oil or gas recovery operations to geological storage. The rule outlines factors the Commission should be considering when determining risks to underground sources of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.4 is to address unauthorized injection. The rule requires a permit prior to site construction and injection for the purpose of geological storage. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.5 is to allow well conversions. The rule allows the conversion of existing wells to an injection well. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-03 is to require records to be kept to substantiate reports. The rule requires persons engaged in geological storage to keep appropriate records until dissolution of the storage facility. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-04 is to address access to records. The rule allows the Commission to access all storage facility records wherever located. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-05 is to require a hearing prior to allowing geological storage. The rule outlines requirements including notice and verification of the amalgamation of pore space and unitization of minerals when proposing a geological storage facility. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since the amalgamation, unitization, and hearing were all required in statute by the Legislative Assembly under the requirements of Senate Bill 2065 (NDCC Chapter 38-25).

The purpose of NDAC § 43-02-14-05.1 is to review wells within and adjacent to the proposed geological storage facility. The rule outlines the procedure to follow when determining what corrective action may be required to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since this rule only outlines procedure, while the statute (NDCC Chapter 38-25) requires the Commission to find the injected oil or gas will not escape from the storage reservoir.

The purpose of NDAC § 43-02-14-06 is to allow the geological storage in an oil and gas reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-07 is to allow the geological storage in a saline reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-08 is to allow the geological storage in a salt cavern. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-09 is to address siting of the storage facility. The rule requires all injection wells to inject into a formation which has confining zones free of open faults or fractures within the facility area and area of review. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-10 is to address construction requirements. The rule requires all injection wells to have casing cemented and quality of cement confirmed to prevent the movement of fluids into an unauthorized zone. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-11 is to address mechanical integrity. The rule outlines how to determine mechanical integrity in an injection well. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-12 is to address plugging injection wells. The rule requires injection wells to be plugged to prevent the movement of fluids into an underground source of drinking water and to obtain the Director's approval prior to the commencement of plugging operations. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-13 is to address injection well pressure restrictions. The rule requires injection wells to be operated below a maximum authorized injection pressure to prevent the initiation of fractures or cause the movement of fluids into an underground source of drinking water and also requires a minimum operating pressure when injecting into a salt cavern to assure cavern integrity. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-13.1 is to address salt cavern integrity. The rule requires the operator to execute the emergency and remedial response plan, pursuant to NDAC § 43-02-14-15, in the event of loss of integrity in a storage cavern. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-14 is to address bonding requirements. The rule states all storage facilities and wells must be bonded as provided in NDAC § 43-02-03-15. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-15 is to address an emergency and remedial response plan. The rule requires the storage facility operator to maintain a Commission-approved emergency and remedial response plan. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-16 is to address reporting, monitoring, and operating requirements. The rule requires the storage facility operator to meter volumes injected, place gauges on injection wells, notify the Director upon commencing and discontinuing injection operations, and report all work performed on the injection well. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-17 is to address leak detection and reporting. The rule requires the storage facility operator to utilize leak detectors, report any leak detected, or loss of storage integrity. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-18 is to address the transfer of a storage facility permit. The rule allows the transfer of a storage facility permit only after notice and hearing and Commission approval. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19 is to address modification, revocation, and termination of a storage facility permit. The rule allows the Commission to schedule a hearing for the purpose of reviewing a storage facility permit. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19.1 is to address minor modification of a storage facility permit. The rule allows the Commission to modify a permit to correct errors, require more frequent monitoring or reporting, change injectate, and change construction requirements. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-11 is to allow flexibility in downhole equipment of an injection well. The proposed amendment allows the Director to allow the tubing packer of an injection well to be set higher than 50 feet above the uppermost perforation. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-17 is to implement changes from Senate Bill 2014, which was recently enacted by the Sixty-Seventh Legislative Assembly, addressing fees on each ton of carbon dioxide injected for storage. The proposed amendment requires the storage operator to pay fees based upon whether or not the carbon dioxide sources contribute to the energy and agriculture production economy of North Dakota. The proposed addition could have an impact on the regulated community in excess of $50,000.

The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at **www.dmr.nd.gov/oilgas.** A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to brkadrmas@nd.gov and received by 5pm, October 22nd, 2021, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than September 27, 2021.

Dated this 31st day of August, 2021.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

GENERAL RULES AND REGULATIONS
CHAPTER 43-02-03

B. MISCELLANEOUS RULES

43-02-03-07. 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 (form 7) must be filed with the commission.~~

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1994; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-09. 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.~~ The commission will provide electronic submission for most requests and reports.

History: Amended effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-14.2. OIL AND GAS METERING SYSTEMS.

1. Application of section. This section is applicable to all allocation and custody transfer metering stations measuring production from oil and gas wells within the state of North Dakota, including private, state, and federal wells. If these rules differ from federal requirements on measurement of production from federal oil and gas wells, the federal rules take precedence.

2. Definitions. As used in this section:

   a. "Allocation meter" means a meter used by the producer to determine the volume from an individual well before it is commingled with production from one or more other wells prior to the custody transfer point.

Filed with Legislative Council 8/31/2021

b. "Calibration test" means the process or procedure of adjusting an instrument, such as a gas meter, so its indication or registration is in satisfactorily close agreement with a reference standard.

c. "Custody transfer meter" means a meter used to transfer oil or gas from the producer to transporter or purchaser.

d. "Gas gathering meter" means a meter used in the custody transfer of gas into a gathering system.

e. "Meter factor" means a number obtained by dividing the net volume of fluid (liquid or gaseous) passed through the meter during proving by the net volume registered by the meter.

f. "Metering proving" means the procedure required to determine the relationship between the true volume of a fluid (liquid or gaseous) measured by a meter and the volume indicated by the meter.

3. Inventory filing requirements. The owner of metering equipment shall file with the commission an inventory of all meters used for custody transfer and allocation of production from oil or gas wells, or both. Inventories must be updated on an annual basis, and filed with the commission on or before the first day of each year, or they may be updated as frequently as monthly, at the discretion of the operator. Inventories must include the following:

a. Well name and legal description of location or meter location if different.

b. North Dakota industrial commission well file number.

c. Meter information:

(1) Gas meters:

(a) Make and model.

(b) Differential, static, and temperature range.

(c) Orifice tube size (diameter).

(d) Meter station number.

(e) Serial number.

(2) Oil meters:

(a) Make and model.

(b) Size.

(c) Meter station number.

(d) Serial number.

4. Installation and removal of meters. The commission must be notified of all custody transfer meters placed in service. The owner of the custody transfer equipment shall notify the commission of the date a meter is placed in service, the make and model of the meter, and the meter or station number. The commission must also be notified of all metering installations removed from service. The notice must include the date the meter is removed from service, the serial number, and the meter or station number. The required notices must be filed with the commission within thirty days of the installation or removal of a meter.

   All allocation meters must be approved prior to installation and use. The application for approval must be on a sundry notice (form 4 or form provided by the commission) and shall include the make and model number of the meter, the meter or station number, the serial number, the well name, its location, and the date the meter will be placed in service.

   Meter installations for measuring production from oil or gas wells, or both, must be constructed to American petroleum institute or American gas association standards or to meter manufacturer's recommended installation. Meter installations constructed in accordance with American petroleum institute or American gas association standards in effect at the time of installation shall not automatically be required to retrofit if standards are revised. The commission will review any revised standards, and when deemed necessary will amend the requirements accordingly.

5. Registration of persons proving or testing meters. All persons engaged in meter proving or testing of oil and gas meters must be registered with the commission. Those persons involved in oil meter testing, by flowing fluid through the meter into a test tank and then gauging the tank, are exempted from the registration process. However, such persons must notify the commission prior to commencement of the test to allow a representative of the commission to witness the testing process. A report of the results of such test shall be filed with the commission within thirty days after the test is completed. Registration must include the following:

   a. Name and address of company.

   b. Name and address of measurement personnel.

   c. Qualifications, listing experience, or specific training.

Any meter tests performed by a person not registered with the commission will not be accepted as a valid test.

6. Calibration requirements. Oil and gas metering equipment must be proved or tested to American petroleum institute or American gas association standards or to the meter manufacturer's recommended procedure to establish a meter factor or to ensure measurement accuracy. The owner of a custody transfer meter or allocation meter shall notify the commission at least ten days prior to the testing of any meter.

   a. Oil allocation meter factors shall be maintained within two percent of original meter factor. If the factor change between provings or tests is greater than two percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   b. Oil custody transfer meter factors must be maintained within one-quarter of one percent of the previous meter factor. If the factor change between provings or tests is greater than one-quarter of one percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   c. Copies of all oil allocation meter test procedures are to be filed with and reviewed by the commission to ensure measurement accuracy.

   d. All gas meters must be tested with a minimum of a three point test for static and differential pressure elements and a two point test for temperature elements. The test reports must include an as-found and as-left test and a detailed report of changes.

   e. Test reports must include the following:

      (1) Producer name.

      (2) Well or CTB name.

      (3) Well file number or CTB number.

      (4) Pipeline company or company name of test contractor.

      (5) Test personnel's name.

      (6) Station or meter number.

   f. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:

      (1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two

thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.

(2) Quarterly for oil meters used for allocation of production in a common ownership central production facility. Annually for oil meters used for allocation of production in a diverse ownership central production facility.

(3) Semiannually for gas meters used for allocation of production in a common ownership central production facility. Annually for gas meters used for allocation of production in a diverse ownership central production facility.

(4) Semiannually for gas meters in gas gathering systems.

(5) For meters measuring more than one hundred thousand cubic feet [2831.68 cubic meters] per day on a monthly basis, orifice plates shall be inspected semiannually, and meter tubes shall be inspected at least every five years to ensure continued conformance with the American gas association meter tube specifications.

(6) For meters measuring one hundred thousand cubic feet [2831.68 cubic meters] per day or less on a monthly basis, orifice plates shall be inspected annually.

g. All meter test reports, including failed meter test reports, must be filed within thirty days of completion of proving or calibration tests unless otherwise approved. Test reports are to be filed on, but not limited to, all meters used for allocation measurement of oil or gas and all meters used in crude oil custody transfer.

h. Accuracy of all equipment used to test oil or gas meters must be traceable to the standards of the national institute of standards and technology. The equipment must be certified as accurate either by the manufacturer or an independent testing facility. The certificates of accuracy must be made available upon request. Certification of the equipment must be updated as follows:

(1) Annually for all equipment used to test the pressure and differential pressure elements.

(2) Annually for all equipment used to determine temperature.

(3) Biennially for all conventional pipe provers.

(4) Annually for all master meters.

(5) Five years for equipment used in orifice tube inspection.

7. Variances. Variances from all or part of this section may be granted by the commission provided the variance does not affect measurement accuracy. All requests for variances must be on a sundry notice (form 4).

   A register of variances requested and approved must be maintained by the commission.

History: Effective May 1, 1994; amended effective July 1, 1996; September 1, 2000; July 1, 2002; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

C. DRILLING

43-02-03-15. BOND AND TRANSFER OF WELLS.

1. Bond requirements. Prior to commencing construction of a site or appurtenance or road access thereto, any person who proposes to drill a well for oil, gas, injection, or source well for use in enhanced recovery operations, shall submit to the commission, and obtain its approval, 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.

2. Bond amounts and limitations. The bond shall be in the amount of fifty thousand dollars when applicable to one well only. Wells drilled to a total depth of less than two thousand feet [609.6 meters] may be bonded in a lesser amount if approved by the director. When the principal on the bond is drilling or operating a number of wells within the state or proposes to do so, the principal may submit a bond conditioned as provided by law. Wells utilized for commercial injection operations must be bonded in the amount of one hundred thousand dollars. A blanket bond covering more than one well shall be in the amount of one hundred thousand dollars, provided the bond shall be limited to no more than six of the following in aggregate:

   a. A well that is a dry hole and is not properly plugged;

   b. A well that is plugged and the site is not properly reclaimed;

   c. A well that is abandoned pursuant to subsection 1 of North Dakota Century Code section 38-08-04 or section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed; and

43-02-03-48.1. CENTRAL PRODUCTION FACILITY - COMMINGLING OF PRODUCTION.

1. The director shall have the authority to approve requests to consolidate production equipment at a central location. The applicant shall provide all information requested by the director. The director may impose such terms and conditions as the director deems necessary.

2. Commingling of production from two or more wells in a central production facility is prohibited unless approved by the director. There are two types of central production facilities in which production from two or more wells is commingled that may be approved by the director.

   a. A central production facility in which all production going into the facility has common ownership. For purposes of this section, production with common ownership is defined as production from wells that do not have diverse ownership.

   b. A central production facility in which production going into the facility has diverse ownership. For purposes of this section, production with diverse ownership is defined as production from wells that are:

      (1) In different drilling or spacing units; and

      (2) Which have different mineral ownership.

3. The commingling of production in a central production facility from two or more wells having common ownership may be approved by the director provided the production from each well can be accurately determined at reasonable intervals. Commingling of production in a central production facility from two or more wells having diverse ownership may be approved by the director provided the production from each well is accurately metered prior to commingling. Commingling of production in a central production facility from two or more wells having diverse ownership that is not metered prior to commingling may only be approved by the commission after notice and hearing.

   a. Common ownership central production facility. The application for permission to commingle oil and gas in a central production facility with common ownership must be submitted on a sundry notice (form 4) and shall include the following:

      (1) A plat or map showing thereon the location of the central facility and the name, well file number, and location of each well and flow lines from each well that will produce into the facility.

(2) A schematic drawing of the facility which diagrams the testing, treating, routing, and transferring of production. All pertinent items such as treaters, tanks, flow lines, valves, meters, recycle pumps, etc., should be shown.

(3) An affidavit executed by a person who has knowledge indicating that common ownership as defined above exists.

(4) An explanation of the procedures or method to be used to determine, accurately, individual well production at periodic intervals. Such procedures or method shall be performed at least once every three months.

A copy of all tests are to be filed with the director on form 11 within thirty days after the tests are completed.

b. Diverse ownership central production facility. The application for permission to commingle oil and gas in a central production facility having diverse ownership must be submitted on a sundry notice (form 4) and shall include the following:

(1) A plat or map showing thereon the location of the central facility and the name, well file number, and location of each well, and flow lines from each well that will produce into the facility.

(2) A schematic drawing of the facility which diagrams the testing, treating, routing, and transferring of production. All pertinent items such as treaters, tanks, flow lines, valves, meters, recycle pumps, etc., should be shown.

(3) The name of the manufacturer, size, and type of meters to be used. The meters must be proved at least once every three months and the results reported to the director within thirty days following the completion of the test.

(4) An explanation of the procedures or method to be used to determine, accurately, individual well production at periodic intervals. Such procedures or method shall be performed monthly.

A copy of all tests are to be filed with the director on form 11 within thirty days after the tests are completed.

4. Any changes to a previously approved central production facility must be reported on a sundry notice (form 4) and approved by the director.

History: Effective May 1, 1992; September 1, 2000; May 1, 2004; April 1, 2020.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-49. OIL PRODUCTION EQUIPMENT, DIKES, AND SEALS. Storage of oil in underground or partially buried tanks or containers is prohibited. Surface oil tanks and production equipment must be devoid of leaks and constructed of materials resistant to the effects of produced fluids or chemicals that may be contained therein. Unused tanks and production equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year.

Dikes must be erected around oil tanks, flowthrough process vessels, and recycle pumps at any new production facility prior to completing any well. Dikes must be erected and maintained around oil tanks at all facilities unless a waiver is granted by the director. Dikes as well as the base material under the dikes and within the diked area must be constructed of sufficiently impermeable material to provide emergency containment. Dikes around oil tanks must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid production. Dikes around flowthrough process vessels must be of sufficient dimension to contain the total capacity of the vessel. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction.

Within one hundred eighty days from the date the operator is notified by the commission, a perimeter berm, at least six inches [15.24 centimeters] in height, must be constructed and maintained. The berm must be constructed of sufficiently impermeable material to provide emergency containment and to divert surface drainage away from the site around all storage facilities and production sites that include storage tanks, have a daily throughput of more than one hundred barrels of fluid per day, and include production equipment or load lines that are not contained within secondary containment dikes. The director may consider an extension of time to implement these requirements if conditions prevent timely construction, or a modification of these requirements if other factors are present that provide sufficient protection from environmental impacts. Prior to removing any perimeter berm, the operator or owner shall obtain approval by the director.

Kadrmas, Bethany R.

From: Hicks, Bruce E.
Sent: Wednesday, September 1, 2021 3:33 PM
To: -Grp-NDLA House Appropriations; -Grp-NDLA Senate Appropriations
Subject: Proposed Rules pursuant to SB2014
Attachments: SB2014.DMR Budget.Carbon Dioxide Fees.pdf; Rule Change.SB2014.Notice to Sponsors.pdf; Z.Rule Changes.2022.2021-08-31.FullNotice.Filed with LC.pdf

Representatives and Senators:

Our agency, the Oil and Gas Division of the Department of Mineral Resources of the North Dakota Industrial Commission, is proposing amendments to rules pertaining to oil, gas, geological storage of oil or gas, and geologic storage of carbon dioxide. Pursuant to NDCC Section 28-32-10, such agencies must mail or deliver a copy of the agency's full notice and proposed rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation which is being implemented by a proposed rule.

Please find the following attached:

- Copy of SB2014—note Section 23 which pertains to carbon dioxide storage fees
- Proposed rule—note highlighted text pertains to SB2014 and amends the following rule:
  - 43-05-01-17—Storage Facility Fees
- Full notice outlining proposed rule changes—note highlighted text pertains to SB2014 on page 7

If you would like to receive a hard-copy of the attachments, please reply to this email and I will send them.

Public hearings have been scheduled to address the proposed rule changes at the following locations:

- October 11th, 2021 at 8 am (CDT) in the Conference Room of the Oil and Gas Division, 1000 E. Calgary Avenue, Bismarck, ND
- October 11th, 2021 at 1 pm (MDT) in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, ND
- October 12th, 2021 at 8:00 am (CDT) at Clarion Hotel and Suites, 1505 15th Ave West, Williston, ND
- October 12th, 2021 at 1:30 pm (CDT) in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, ND

Comments on the proposed rules received prior to 5 pm October 22, 2021 will be fully considered. If you have any questions, do not hesitate to contact myself.

Sincerely,

Bruce E. Hicks
Assistant Director

bhicks@nd.gov • www.nd.gov

NORTH Dakota | Mineral Resources
Be Legendary.

701.328-8020 • oilandgasinfo@nd.gov • www.dmr.nd.gov • 600 E Boulevard Ave, Dept. 405 • Bismarck, ND 58505

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2014
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the industrial commission and the agencies under its control; to create and enact subsections 7 and 8 of section 54-17-07.3 of the North Dakota Century Code, relating to housing finance agency programs; to amend and reenact subsection 1 of section 6-09-49, as amended by section 1 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 6-09-49, the new section to chapter 6-09, as created by section 2 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 6-09.4-05.1, section 6-09.4-06, as amended by section 3 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 15-11-40, subsection 6 of section 17-05-08, subsection 1 of section 38-22-14, subsection 1 of section 38-22-15, and sections 54-17-40 and 57-51.1-07.9 of the North Dakota Century Code and section 7 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, relating to the infrastructure revolving loan fund, the water infrastructure revolving loan fund, the state energy research center, transmission authority projects, public finance authority bonding, carbon dioxide storage fees, the housing incentive fund, and a bond issue limitation; to repeal section 54-17-07.12 of the North Dakota Century Code, relating to the housing finance agency participating as a wholesale servicing mortgage lender; to provide for a transfer; to provide an exemption; to provide a statement of legislative intent; to provide for a study; to provide for a legislative management report; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the industrial commission and agencies under its control for the purpose of defraying the expenses of the industrial commission and the agencies under its control, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$23,409,450	$288,669	$23,698,119
Operating expenses	5,830,227	(704,669)	5,125,558
Capital assets	0	100,660	100,660
Grants - bond payments	10,508,767	11,531,954	22,040,721
Contingencies	229,544	(229,544)	0
Total all funds	$39,977,988	$10,987,070	$50,965,058
Less estimated income	12,723,790	11,645,395	24,369,185
Total general fund	$27,254,198	($658,325)	$26,595,873
Full-time equivalent positions	112.25	(4.00)	108.25

Subdivision 2.

BANK OF NORTH DAKOTA

	Base Level	Adjustments or Enhancements	Appropriation

Bank of North Dakota operations	$62,847,799	$3,433,380	$66,281,179
Capital assets	1,510,000	0	1,510,000
Total special funds	$64,357,799	$3,433,380	$67,791,179
Full-time equivalent positions	181.50	(8.50)	173.00

Subdivision 3.

HOUSING FINANCE AGENCY

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$8,509,015	$1,047,257	$9,556,272
Operating expenses	5,346,276	797,784	6,144,060
Capital assets	0	150,000	150,000
Grants	33,466,600	9,508,600	42,975,200
Housing finance agency contingencies	100,000	0	100,000
Total special funds	$47,421,891	$11,503,641	$58,925,532
Full-time equivalent positions	44.00	5.00	49.00

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$46,447,824	$4,112,385	$50,560,209
Operating expenses	29,837,000	6,980,000	36,817,000
Contingencies	500,000	0	500,000
Agriculture promotion	210,000	290,000	500,000
Total special funds	$76,994,824	$11,382,385	$88,377,209
Full-time equivalent positions	156.00	0.00	156.00

Subdivision 5.

TOTAL - SECTION 1

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	$27,254,198	($658,325)	$26,595,873
Grand total special funds	201,498,304	37,964,801	239,463,105
Grand total all funds	$228,752,502	$37,306,476	$266,058,978

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2019-21	2021-23
Temporary employees	$175,000	$0
Rare earth elements study	160,000	0
Fracturing sand study	110,000	0
Oil database software upgrade	5,000,000	0
High-level radioactive fund	20,000	0
Housing finance agency - housing incentive fund	7,500,000	0
Housing finance agency - housing assessment	0	35,000
Paleontology and geological equipment	0	106,206
Total all funds	$12,965,000	$141,206

Less estimated income	5,270,000	35,000
Total general fund	$7,695,000	$106,206

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The industrial commission shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. BOND PAYMENTS. The amount of $22,040,721 included in subdivision 1 of section 1 of this Act in the grants - bond payments line item must be paid from the following funding sources, during the biennium beginning July 1, 2021, and ending June 30, 2023:

North Dakota university system	$17,204,639
North Dakota university system - energy conservation projects	415,114
Department of corrections and rehabilitation	492,354
Department of corrections and rehabilitation - energy conservation projects	8,181
State department of health	341,365
Job service North Dakota	230,600
Office of management and budget	564,515
Attorney general's office	648,055
State historical society	1,179,015
Parks and recreation department	66,165
Research and extension service	483,447
Veterans' home	407,271
Total	$22,040,721

SECTION 4. APPROPRIATION - HOUSING FINANCE AGENCY - ADDITIONAL INCOME. In addition to the amount appropriated to the housing finance agency in subdivision 3 of section 1 of this Act, there is appropriated any additional income or unanticipated income from federal or other funds which may become available to the agency, for the biennium beginning July 1, 2021, and ending June 30, 2023. The housing finance agency shall notify the office of management and budget and the legislative council of any additional income or unanticipated income that becomes available to the agency resulting in an increase in appropriation authority.

SECTION 5. APPROPRIATION - GENERAL FUND - TRANSFER TO HOUSING INCENTIVE FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $9,500,000, which the office of management and budget shall transfer to the housing incentive fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. TRANSFER STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO OIL AND GAS RESEARCH FUND. The office of management and budget shall transfer the sum of $9,500,000 from the strategic investment and improvements fund to the oil and gas research fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 7. TRANSFER - ENTITIES UNDER THE CONTROL OF THE INDUSTRIAL COMMISSION TO INDUSTRIAL COMMISSION FUND. The sum of $1,214,768, or so much of the sum as may be necessary, included in the appropriation in subdivision 1 of section 1 of this Act, may be transferred from the entities within the control of the industrial commission or entities directed to make payments to the industrial commission fund for administrative services rendered by the commission. Transfers must be made during the biennium beginning July 1, 2021, and ending June 30, 2023, upon order of the commission. Transfers from the student loan trust fund must be made to the extent permitted by sections 54-17-24 and 54-17-25.

SECTION 8. TRANSFER - BANK OF NORTH DAKOTA PROFITS TO GENERAL FUND. The industrial commission shall transfer to the general fund $140,000,000 from the current earnings and the accumulated profits of the Bank of North Dakota during the biennium beginning July 1, 2021, and ending June 30, 2023. The moneys must be transferred in the amounts and at the times requested by

the director of the office of management and budget after consultation with the Bank of North Dakota president. For legislative council budget status reporting purposes, the transfer under this section is considered an ongoing revenue source.

SECTION 9. TRANSFER - PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of $26,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. TRANSFER - AGRICULTURE PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of $5,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the agriculture partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. TRANSFER - BIOFUELS PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of $1,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the biofuels partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. TRANSFER - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer the sum of $8,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the beginning farmer revolving loan fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 13. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM - LIGNITE MARKETING FEASIBILITY STUDY. The amount of $4,500,000 from the lignite research fund, or so much of the amount as may be necessary, may be used for the purpose of contracting for an independent, nonmatching lignite marketing feasibility study or studies that determine those focused priority areas where near-term, market-driven projects, activities, or processes will generate matching private industry investment and have the most potential of preserving existing lignite production and industry jobs or that will lead to increased development of lignite and its products and create new lignite industry jobs and economic growth for the general welfare of this state. Moneys appropriated pursuant to this section also may be used for the purpose of contracting for nonmatching studies and activities in support of advanced energy technology and other technology development programs; for litigation that may be necessary to protect and promote the continued development of lignite resources; for nonmatching externality studies and activities in externality proceedings; or other marketing, environmental, or transmission activities that assist with marketing of lignite-based electricity and lignite-based byproducts. Moneys needed for the purposes stated in this section are available to the industrial commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

SECTION 14. OIL AND GAS RESEARCH FUND - UNDERGROUND ENERGY STORAGE STUDY - REPORT TO LEGISLATIVE MANAGEMENT. Pursuant to the continuing appropriation under section 57-51.1-07.3, the industrial commission shall use up to $9,500,000, or so much of the sum as may be necessary, from the oil and gas research fund to contract with the energy and environmental research center for an underground energy storage study. The study must include consideration of the potential capacity of salt caverns in geological formations in North Dakota for the development of underground storage of energy resources, including natural gas, liquified natural gas, natural gas liquids, and hydrogen. The energy and environmental research center may collaborate with other entities as needed on the study. Prior to contracting with the energy and environmental research center, the commission must receive from at least one nonstate entity assurance of financial or other types of support that demonstrate a commitment to the study. During the 2021-22 interim, the energy and environmental research center shall provide quarterly reports to the industrial commission and at least one report to the legislative management regarding the results and recommendations of the study.

SECTION 15. OIL AND GAS RESEARCH FUND - EXEMPTION - ENERGY AND ENVIRONMENTAL RESEARCH CENTER - STUDY OF HYDROGEN. Pursuant to the continuing appropriation in section 57-51.1-07.3 and notwithstanding any policies developed by the oil and gas research council requiring matching funds, the industrial commission shall use $500,000, or so much of the sum as may be necessary, from the oil and gas research fund to contract with the energy and environmental research center for a study regarding the development and implementation of hydrogen energy in the state. The study must include a plan for the development and implementation of hydrogen energy and must include consideration of existing resources, methods of production and delivery, and potential uses of hydrogen. The study may include estimates of the cost and timeline to develop infrastructure for hydrogen energy and the use of public and private partnerships to assist in the development of infrastructure for hydrogen energy. During the 2021-22 interim, the energy and environmental research center shall provide at least one report to the legislative management regarding the study.

SECTION 16. AMENDMENT. Subsection 1 of section 6-09-49 of the North Dakota Century Code, as amended by section 1 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is thirty years. A loan made from the fund under this section must have an interest rate ~~starting at two percent per year and increasing by one percent every five years, up to a maximum rate of five percent per year~~that does not exceed two percent per year.

SECTION 17. AMENDMENT. Section 6-09-49 of the North Dakota Century Code is amended and reenacted as follows:

6-09-49. Infrastructure revolving loan fund - Continuing appropriation.

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is the lesser of thirty years or the useful life of the project. A loan made from the fund under this section must have an interest rate that does not exceed two percent per year.

2. For purposes of this section, "essential infrastructure projects" means capital construction projects ~~for~~to construct new infrastructure or replace existing infrastructure, which provide the fixed installations necessary for the function of a political subdivision. Capital construction projects exclude routine maintenance and repair projects, but include the following:

   a. The Red River valley water supply project;

   b. ~~New or replacement of existing water~~Water treatment plants;

   c. ~~New or replacement of existing wastewater~~Wastewater treatment plants;

   d. ~~New or replacement of existing sewer lines and water lines~~Sewerlines and waterlines, including lift stations and pumping systems; ~~and~~

   e. ~~New or replacement of existing storm water and transportation~~Storm water infrastructure, including curb and gutter construction;

   f. Water storage systems, including dams, water tanks, and water towers;

g. Road and bridge infrastructure, including paved and unpaved roads and bridges;

h. Airport infrastructure;

i. Electricity transmission infrastructure;

j. Natural gas transmission infrastructure;

k. Communications infrastructure;

l. Emergency services facilities, excluding hospitals; and

m. Critical political subdivision buildings and infrastructure.

3. In processing political subdivision loan applications under this section, the Bank shall calculate the maximum outstanding loan amount ~~for which aper~~ qualified applicant ~~may qualify, not to exceed fifteen million dollars per loan~~. A qualified applicant under this section may have a maximum combined total of forty million dollars in outstanding loans under this section and section 6-09-49.1. The Bank shall consider the applicant's ability to repay the loan when processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan.

4. The Bank shall deposit in the infrastructure revolving loan fund all payments of interest and principal paid under loans made from the infrastructure revolving loan fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs which may not exceed one-half of one percent of the amount of the interest payment. All moneys transferred to the fund, interest upon moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank on a continuing basis for administrative costs and for loan disbursement according to this section.

5. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with the provisions of this section and to supplement and leverage the funds in the infrastructure revolving loan fund. Additionally, the Bank may adopt policies allowing participation by local financial institutions.

6. If a political subdivision applies for a loan under this section for a county road or bridge project, the department of transportation shall review and approve the project before the Bank may issue a loan. If a political subdivision applies for a loan under this section for a water-related project, the state water commission shall review and approve the project before the Bank may issue a loan. The department of transportation and state water commission may develop policies for reviewing and approving projects under this section.

SECTION 18. AMENDMENT. The new section to chapter 6-09 of the North Dakota Century Code, as created by section 2 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

Water infrastructure revolving loan fund - State water commission - Continuing appropriation.

1. There is created in the state treasury the water infrastructure revolving loan fund to provide loans for water supply, flood protection, or other water development and water management projects. The fund consists of moneys transferred into the fund, interest earned on moneys in the fund, and principal and interest payments to the fund. All moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements and administrative costs.

2. The state water commission shall approve eligible projects for loans from the water infrastructure loan fund. The state water commission shall consider the following when evaluating eligible projects:

a. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why the project is in the public interest, and the overall economic impact of the project.

b. The estimated cost of the project, the amount of loan funding requested, and other proposed sources of funding.

c. The extent to which completion of the project will provide a benefit to the state or regions within the state.

3. Projects not eligible for the state revolving funds under chapters 61-28.1 and 61-28.2 must be given priority for loans from the water infrastructure revolving loan fund.

4. In consultation with the state water commission, the Bank of North Dakota shall develop policies for the review and approval of loans under this section. Loans made under this section must be made at the same interest rate as the revolving loan funds established under chapters 61-28.1 and 61-28.2.

5. The Bank of North Dakota shall manage and administer loans from the water infrastructure loan fund. The Bank shall deposit in the fund all principal and interest paid on loans made from the fund. Annually, the Bank may deduct ~~one-quarter~~one-half of one percent of the outstanding loan balance as a service fee for administering the water infrastructure revolving loan fund. The Bank shall contract with a certified public accounting firm to audit the fund. The cost of the audit must be paid from the fund.

SECTION 19. AMENDMENT. Section 6-09.4-05.1 of the North Dakota Century Code is amended and reenacted as follows:

6-09.4-05.1. Administrative agreements with state agencies.

The public finance authority and any state agency authorized by state or federal law to make an allocation of bonds or bonding authority or to make loans, or to issue bonds to obtain funds for the purpose of making loans~~, to political subdivisions~~ or grants, may enter into an administrative agreement, which may authorize the public finance authority to administer the loan or bond program for the state agency. The agreement may delegate to the public finance authority the authority to make loans, or to issue bonds to obtain funds for the purpose of making loans~~, to political subdivisions~~ or grants.

SECTION 20. AMENDMENT. Section 6-09.4-06 of the North Dakota Century Code, as amended by section 3 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

6-09.4-06. Lending and borrowing powers generally.

1. The public finance authority may lend money to political subdivisions or other contracting parties through the purchase or holding of municipal securities which, in the opinion of the attorney general, are properly eligible for purchase or holding by the public finance authority under this chapter or chapter 40-57 and for purposes of the public finance authority's capital financing program the principal amount of any one issue does not exceed five hundred thousand dollars. However, the public finance authority may lend money to political subdivisions through the purchase of securities issued by the political subdivisions through the capital financing program without regard to the principal amount of the bonds issued, if the industrial commission approves a resolution that authorizes the public finance authority to purchase the securities. The capital financing program authorizing resolution must state that the industrial commission has determined that private bond markets will not be responsive to the needs of the issuing political subdivision concerning the securities or, if it appears that the securities can be sold through private bond markets without the involvement of the public finance authority, the authorizing resolution must state reasons for the public finance

authority's involvement in the bond issue. The public finance authority may hold such municipal securities for any length of time it finds to be necessary. The public finance authority, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds payable solely from the revenues available to the public finance authority which are authorized or pledged for payment of public finance authority obligations, and to otherwise assist political subdivisions or other contracting parties as provided in this chapter or chapter 40-57.

2. The public finance authority may lend money to the Bank of North Dakota under terms and conditions requiring the Bank to use the proceeds to make loans for agricultural improvements that qualify for assistance under the revolving loan fund program established by chapter 61-28.2.

3. The public finance authority may transfer money to the Bank of North Dakota for allocations to infrastructure projects and programs. Bonds issued for these purposes are payable in each biennium solely from amounts the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds. ~~This section may not be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds or to replenish a related reserve fund. The bonds are not a debt of the Bank of North Dakota or the state. The full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. As of the date appropriated funds and reserves are not sufficient to pay debt service on the bonds, the obligation of the public finance authority with respect to the bonds must terminate, and the bonds are no longer outstanding. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds and establish a reserve fund for the bonds.~~Neither the obligation of the state to pay the bonds nor the obligation of the issuer to pay debt service will constitute a debt of the state or any agency or political subdivision of the state within the meaning of any constitutional or statutory provision. The issuance of the bond does not directly or contingently obligate the state to pay the bond payments beyond the appropriation for the current biennium of the state. The issuer has no taxing power. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds, capitalized interest, and establish a reserve fund for the bonds.

4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority.

5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are payable solely from revenues or funds provided or to be provided under this chapter or chapter 40-57 and nothing in this chapter may be construed to authorize the public finance authority to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 21. AMENDMENT. Section 15-11-40 of the North Dakota Century Code is amended and reenacted as follows:

15-11-40. State energy research center - Report. (Effective through June 30, ~~2023~~2027)

1. The state energy research center at the university of North Dakota energy and environmental research center is created for the purpose of conducting exploratory, transformational, and

innovative research that advances future energy opportunities and benefits the state's economy and environment through:

a. Exploratory research of technologies and methodologies that facilitate the prudent development, and clean and efficient use, of the state's energy resources;

b. Greater access to energy experts for timely scientific and engineering studies to support the state's interests; and

c. Education and outreach related to the state's energy resources.

2. The state energy research center shall report all research activities and accomplishments annually to the interim legislative energy development and transmission committee and to the industrial commission. Upon request, the state energy research center shall report all research activities and accomplishments to the appropriations committees of the legislative assembly.

3. To effectuate the purposes of this section, the energy and environmental research center may:

a. Select the research topics and projects to be pursued;

b. Enter contracts or agreements with other North Dakota institutions of higher education to support select research topics and projects;

c. Enter contracts or agreements with federal, private, and nonprofit organizations to carry out selected research topics and projects; and

d. Accepting donations, grants, contributions, and gifts from any source to carry out the selected research topics and projects.

4. The state energy research center may not conduct research or pursue projects that will result in the exploration, storage, treatment, or disposal of high-level radioactive waste in North Dakota.

SECTION 22. AMENDMENT. Subsection 6 of section 17-05-08 of the North Dakota Century Code is amended and reenacted as follows:

6. The commission may approve a resolution for the issuance of bonds as provided in this section which states in substance that this subsection is applicable to any required debt service reserve for bonds issued under that resolution in an aggregate amount not to exceed two hundred forty million dollars plus costs of issuance, credit enhancement, and any reserve funds required by agreements with or for the benefit of holders of the evidences of indebtedness for the purposes for which the authority is created under this chapter. The amount of any refinancing, however, may not be counted toward the two hundred forty million dollar limitation to the extent the amount does not exceed the outstanding amount of the obligations being refinanced. No more than thirty percent of the total project costs or the appraised value, whichever is greater, for any single transmission facility project may be financed by bonds issued under this section which are supported by the debt service reserve fund approved by the commission under this subsection. To ensure the maintenance of the required debt service reserve fund approved by the commission under this subsection, the legislative assembly shall appropriate and pay to the authority for deposit in the reserve fund any sum, certified by the commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve fund approved by the commission.

SECTION 23. AMENDMENT. Subsection 1 of section 38-22-14 of the North Dakota Century Code is amended and reenacted as follows:

1. Storage operators shall pay the commission a fee on each ton of carbon dioxide injected for storage. The fee must be in the amount set by commission rule. The amount must be based on the contribution of the storage facility and the source of the carbon dioxide to the energy

and agriculture production economy of North Dakota and the commission's anticipated expenses that it will incur in regulating storage facilities during their construction, operational, and preclosure phases.

SECTION 24. AMENDMENT. Subsection 1 of section 38-22-15 of the North Dakota Century Code is amended and reenacted as follows:

1. Storage operators shall pay the commission a fee on each ton of carbon dioxide injected for storage. The fee must be in the amount set by commission rule. The amount must be based on the contribution of the storage facility and the source of the carbon dioxide to the energy and agriculture production economy of North Dakota and the commission's anticipated expenses associated with the long-term monitoring and management of a closed storage facility.

SECTION 25. Subsections 7 and 8 of section 54-17-07.3 of the North Dakota Century Code are created and enacted as follows:

7. Residential mortgage program. A program or programs to originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program, a local financial institution or credit union may assist the agency with receiving loan applications, gathering required documents, ordering legal documents, and maintaining contact with borrowers. The applicant must be referred to the agency by a local financial institution or credit union. The agency shall provide all regulatory disclosures, process and underwrite loans, prepare closing documents, and distribute loan funds. A loan under this program may be issued only for an owner-occupied primary residence.

8. The housing finance agency may purchase, service, and sell residential real estate loans secured by a first mortgage lien on real property originated by financial institutions. The loans may be held in the agency's portfolio or sold on the secondary market with servicing retained. All loans with a loan-to-value ratio exceeding eighty percent and not guaranteed by a federal agency must be insured by an approved mortgage insurance company.

SECTION 26. AMENDMENT. Section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

54-17-40. Housing incentive fund - Continuing appropriation - Report to budget section.

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.

2. a. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund as authorized under subsection 3. At least ~~fifteen~~ten percent of the fund must be used to assist developing communities to address an unmet housing need or alleviate a housing shortage. At least ten percent of the fund must be made available to prevent homelessness as authorized by subdivision d of subsection 3.

   b. The annual allocation plan must give priority to provide housing for individuals and families of low or moderate income. For purposes of this priority, eligible income limits are determined as a percentage of median family income as published in the most recent federal register notice. Under this priority, the annual allocation plan must give preference to projects that benefit households with the lowest income and to projects that have rent restrictions at or below department of housing and urban development published federal fair market rents or department of housing and urban development section 8 payment standards.

3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:

a. New construction, rehabilitation, preservation, or acquisition of a multifamily housing project;

b. Gap assistance, matching funds, and accessibility improvements;

c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and

d. Rental assistance, emergency assistance, barrier mitigation, or targeted supportive services designated to prevent homelessness.

4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.

5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.

6. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients. The origination fee assessed to grant recipients may not exceed five percent of the project award.

7. Upon request, the housing finance agency shall report to the industrial commission regarding the activities of the housing incentive fund.

8. At least once per biennium, the housing finance agency shall provide a report to the budget section of the legislative management regarding the activities of the housing incentive fund.

SECTION 27. AMENDMENT. Section 57-51.1-07.9 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.9. State energy research center fund - Continuing appropriation. (Effective through June 30, ~~20232027~~)

The state energy research center fund is a special fund in the state treasury. Before depositing oil and gas gross production tax and oil extraction tax revenues under section 57-51.1-07.5, one percent of the revenues must be deposited monthly into the state energy research center fund, up to five million dollars per biennium. All moneys deposited in the state energy research center fund and interest on all such moneys are appropriated on a continuing basis to the industrial commission for distribution to the state energy research center. The state energy research center shall use the funds in accordance with section 15-11-40.

SECTION 28. AMENDMENT. Section 7 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUE LIMITATION - BANK OF NORTH DAKOTA - APPROPRIATION.

1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority only may issue bonds under this Act to provide up to $680,000,000 of ~~bonds~~funds for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023.

2. The term of any bonds issued under this section may not exceed twenty years. The public finance authority may issue bond anticipation notes or borrow from the Bank to

support the allocations to infrastructure projects and programs prior to a bond issue. ~~The public finance authority shall make available up to ten percent of the bonds for sale directly to North Dakota residents and financial institutions~~The state investment board may purchase the bonds as investments for the funds under its management.

3. After payment of any issuance costs, capitalized interest, or any transfers to a reserve fund, $680,000,000 from the bond proceeds issued by the public finance authority is appropriated to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

   a. $435,500,000 for the Fargo diversion project;

   b. $74,500,000 to the resources trust fund;

   c. $50,000,000 to the infrastructure revolving loan fund under section 6-09-49;

   d. $70,000,000 to the highway fund; and

   e. $50,000,000 to North Dakota state university, which is appropriated to North Dakota state university, for an agriculture products development center including a northern crops institute project.

SECTION 29. REPEAL. Section 54-17-07.12 of the North Dakota Century Code is repealed.

SECTION 30. EXEMPTION - OIL AND GAS TAX REVENUE ALLOCATIONS - NORTH DAKOTA OUTDOOR HERITAGE FUND. Notwithstanding the provisions of section 57-51-15 relating to the allocations to the North Dakota outdoor heritage fund, for the period beginning September 1, 2021, and ending August 31, 2023, the state treasurer shall allocate eight percent of the oil and gas gross production tax revenue available under subsection 1 of section 57-51-15 to the North Dakota outdoor heritage fund, but not in an amount exceeding $7,500,000 per fiscal year.

SECTION 31. EXEMPTION - OIL AND GAS TAX REVENUE ALLOCATIONS - OIL AND GAS RESEARCH FUND. Notwithstanding the provisions of section 57-51.1-07.3 relating to the allocations to the oil and gas research fund, for the period beginning August 1, 2021, and ending July 31, 2023, the state treasurer shall deposit two percent of the oil and gas gross production tax and oil extraction tax revenues, up to $14,500,000, into the oil and gas research fund before depositing oil and gas tax revenues under sections 57-51.1-07.5 and 57-51.1-07.9.

SECTION 32. EXEMPTION - SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND. Notwithstanding the requirements under section 15.1-36-08 to use the moneys in the fund for loan disbursements and administrative expenses and pursuant to the continuing appropriation authority under section 15.1-36-08, $2,500,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the biennium beginning July 1, 2021, and ending June 30, 2023. In addition, subject to sufficient funding being available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 33. EXEMPTION - SURVEY REVIEW - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The amount of $800,000 appropriated from the strategic investment and improvements fund in section 2 of chapter 426 of the 2017 Session Laws and continued into the 2019-21 biennium pursuant to section 27 of chapter 14 of the 2019 Session Laws is not subject to section 54-44.1-11. Any unexpended funds from this appropriation are available to the industrial commission for expert legal testimony associated with the survey review until June 30, 2023.

SECTION 34. EXEMPTION - INDUSTRIAL COMMISSION FUND. The amount of $1,172,603 appropriated to the industrial commission in subdivision 1 of section 1 of chapter 14 of the 2019 Session Laws and transferred pursuant to section 8 of chapter 14 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the industrial commission for administrative services rendered by the commission during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 35. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE FACILITY DEBT.

1. During the 2021-22 interim, the legislative management shall consider studying the levels of debt associated with long-term care facilities in the state. The study must include consideration of the following:

   a. The current debt of long-term care facilities and the potential debt that may be incurred in the next ten years by long-term care facilities;

   b. The status of existing loan programs to assist long-term care facilities, including Bank of North Dakota loan programs and the United States department of agriculture rural loan program; and

   c. Any potential cost-savings for the state and private payers resulting from lower interest rates associated with loans to long-term care facilities.

2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 36. BANK OF NORTH DAKOTA LOAN PROGRAMS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the Bank of North Dakota shall provide at least one report to the legislative management regarding the status of the infrastructure revolving loan fund under section 6-09-49, the legacy infrastructure loan fund under section 6-09-49.1, and the water infrastructure revolving loan fund under section 16 of this Act. The report must include information regarding the types of projects funded with the loans, outstanding loans, and new loans issued, and the report must identify outstanding loans and new loans by communities with a population of less than five thousand and by communities with a population of at least five thousand.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2014.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 71	Nays 17	Absent 6

Secretary of the Senate

Received by the Governor at 10:02 P.M. on April 29, 2021.

Approved at 4:49 P.M. on April 30, 2021.

Governor

Filed in this office this 3rd day of May, 2021,

at 11:30 o'clock A. M.

Secretary of State

b. The commission may require additional testing, such as a bottom hole temperature and pressure measurements, tracer survey, temperature survey, gamma ray log, neutron log, noise log, casing inspection log, or a combination of two or more of these surveys and logs, to demonstrate mechanical integrity.

15. The commission has the authority to witness all mechanical integrity tests conducted by the storage operator.

16. If an injection well fails to demonstrate mechanical integrity by an approved method, the storage operator shall immediately shut in the well, report the failure to the commission, and commence isolation and repair of the leak. The operator shall, within ninety days or as otherwise directed by the commission, perform one of the following:

    a. Repair and retest the well to demonstrate mechanical integrity; or

    b. Properly plug the well.

17. All injection wells must be equipped with shutoff systems designed to alert the operator and shut in wells when necessary.

18. Additional requirements may be required by the commission to address specific circumstances and types of projects.

History: Effective April 1, 2010; amended effective April 1, 2013; _____

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

43-05-01-17. STORAGE FACILITY FEES.

1. The storage operator shall pay the commission ~~a fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.~~ as follows:

    a. Carbon dioxide sources that contribute to the energy and agriculture production economy of North Dakota:

        (1) A fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.

~~2.~~ (2) The storage operator shall pay the commission a fee of seven cents on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility trust fund.

b. Carbon dioxide sources that do not fall under the definition of subdivision a of subsection 1:

(1) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility administrative fund and consider:

(a) The commission's expenses during regulation of the storage facility's construction, operational, and preclosure phases.

(2) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility trust fund and must consider:

(a) The cost of post closure emergency and remedial response associated with the storage facility.

(b) The cost of long-term monitoring post closure associated with the storage facility.

3. Moneys from the carbon dioxide storage facility trust fund, including accumulated interest, may be relied upon to satisfy the financial assurance requirements pursuant to section 43-05-01-09.1 for the postclosure period. If sufficient moneys are not available in the carbon dioxide storage facility trust fund at the end of the closure period, the storage operator shall make additional payments into the trust fund to ensure that sufficient funds are available to carry out the required activities on the date at which they may occur. The commission shall take into account project-specific risk assessments, projected timing of activities (e.g., postinjection site care), and interest accumulation in determining whether sufficient funds are available to carry out the required activities.

History: Effective April 1, 2010; amended effective April 1, 2013; _____.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

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NORTH DAKOTA
OIL AND GAS DIVISION

FULL NOTICE OF INTENT TO

ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2021 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2021 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2021 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15th Avenue West, Williston, North Dakota
- October 12th, 2021 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-07 is to update the rule to be consistent with innovation. The proposed amendment clarifies that federal forms will no longer be allowed to be submitted since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendment to NDAC § 43-02-03-09 is to update the rule to be consistent with innovation. The proposed amendment clarifies that most written forms currently provided by the Commission will no longer be available since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to consider less onerous proving requirements for oil and gas meters used for allocation of production in a common ownership facility. The proposed amendments allow the owner of metering equipment to prove oil meters annually, instead of quarterly, and prove gas meters annually, instead of semiannually. The proposed amendment will provide an economic benefit to the regulated community.

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The purpose of the proposed amendment to NDAC § 43-02-03-15 is to update the rule pursuant to legislation recently passed by the Sixty-seventh Legislative Assembly. Pursuant to Senate Bill 2065, the rule provides for a geological storage facility bond after notice and hearing. The proposed amendment is not expected to have an impact on the regulated community since the bond was required in statute by the Legislative Assembly.

The purpose of the proposed amendments to NDAC § 43-02-03-16.1 is to clarify responsibilities of an operator. The proposed amendment clarifies the principal on the bond covering a facility is the operator and is responsible for compliance with all applicable laws. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to ensure freshwaters are protected and casing is cemented in a proper manner. The proposed amendments require surface casing cement to be displaced with fresh water and also clarifies that surface casing strings may be pressure tested immediately after cementing, while the cement is in a liquid state. The proposed displacement amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed pressure test amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to track fracture stimulation crews operating in North Dakota and to provide industry with relief form certain requirements. The proposed amendments require the operator to notify the Director approximately 48 hours prior to conducting operations; allow the Director to waive visual inspection and photograph of the top casing joint and the wellhead flange; and allows cement evaluation tools to be run only in affected casing strings. The proposed notification amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed visual inspection, photograph, and affected casing amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-29 is to provide the Director the location of above ground pipeline equipment to aid in field inspections. The proposed amendment requires the operator of any underground gas gathering pipeline to submit the location of all associated above ground equipment and buried drip tanks. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to clarify that natural gas and carbon dioxide pipelines are not subject to the section; addresses federal requirements verses State regulations; inform landowners when a pipeline project commences; and ensure integrity during pipeline operations. The proposed amendments remove natural gas and carbon dioxide pipelines from the requirements; clarifies that federal requirements take precedence if in conflict with State regulations; requires the pipeline operator to notify landowners prior to commencing construction of a project; and requires the maximum operating pressure on any portion of pipeline to not exceed the test pressure for which it was tested. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify facilities are subject to the section and provide electronic information to the Director. The proposed amendment clarifies the operator of a facility must notify the Director if a fire, leak, or spill occurs at the facility; and eliminates the need for an operator to sign the document, thus allowing electronic submission. The proposed amendment requiring a facility operator to notify the Director is not expected to have an impact on the regulated community in excess of $50,000 and the proposed elimination of a signature requirement amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is for clarification purposes. The proposed amendment clarifies that the operator is required to document any waiver given by the Director with the County recorder. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure samples and cores collected will be preserved. The proposed amendment requires samples and cores of injection, disposal, storage operations, or geologic information are to be sent to the state core and sample library. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify what is considered an abandoned well and require inactive pipelines to be properly abandoned. The proposed amendment clarifies the removal of production equipment constitutes abandonment of a well and underground gathering pipelines that are inactive for extended periods of time can be required, after notice and hearing, to be properly abandoned. The proposed amendment is expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can continue a hearing upon written objections to an application. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.2 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can exclude certain information from a case record. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.4 is to implement changes from House Bill 1055, which was recently enacted by the Sixty-Seventh Legislative Assembly. The proposed amendment requires the Commission to give notice of an order to all parties pursuant to North Dakota Century Code Section 38-08-11. The proposed amendment will not have any economic impact on the regulated community.

Senate Bill 2065, which was recently enacted by the Sixty-Seventh Legislative Assembly, created NDCC Section 38-25-02, which grants the Commission authority to adopt reasonable rules, after notice and hearing, for the geological storage of oil or gas. The Commission is promulgating regulations for the geological storage of oil or gas, by the creation of NDAC Chapter 43-02-14, and the following proposed rules under Chapter 43-02-14 are hereby outlined.

The purpose of NDAC § 43-02-14-01 is to define terms used in Chapter 43-02-14 that could have a different meaning than other Commission rules. Definitions are included for "facility area" and "storage reservoir". The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02 is to define outline the scope of the chapter. The scope of the chapter pertains to the geological storage of hydrogen and produced oil or gas. The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02.1 is to address the application of rules for geological storage facilities. The rule states such facilities are also subject to provisions of several other chapters under the Commission's authority. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.2 is to protect underground sources of drinking water. The rule prohibits underground injection of oil or gas that allows movement of fluid into an underground source of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.3 is to address transitioning from enhanced oil or gas recovery operations to geological storage. The rule outlines factors the Commission should be considering when determining risks to underground sources of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.4 is to address unauthorized injection. The rule requires a permit prior to site construction and injection for the purpose of geological storage. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.5 is to allow well conversions. The rule allows the conversion of existing wells to an injection well. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-03 is to require records to be kept to substantiate reports. The rule requires persons engaged in geological storage to keep appropriate records until dissolution of the storage facility. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-04 is to address access to records. The rule allows the Commission to access all storage facility records wherever located. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-05 is to require a hearing prior to allowing geological storage. The rule outlines requirements including notice and verification of the amalgamation of pore space and unitization of minerals when proposing a geological storage facility. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since the amalgamation, unitization, and hearing were all required in statute by the Legislative Assembly under the requirements of Senate Bill 2065 (NDCC Chapter 38-25).

The purpose of NDAC § 43-02-14-05.1 is to review wells within and adjacent to the proposed geological storage facility. The rule outlines the procedure to follow when determining what corrective action may be required to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since this rule only outlines procedure, while the statute (NDCC Chapter 38-25) requires the Commission to find the injected oil or gas will not escape from the storage reservoir.

The purpose of NDAC § 43-02-14-06 is to allow the geological storage in an oil and gas reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-07 is to allow the geological storage in a saline reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-08 is to allow the geological storage in a salt cavern. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-09 is to address siting of the storage facility. The rule requires all injection wells to inject into a formation which has confining zones free of open faults or fractures within the facility area and area of review. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-10 is to address construction requirements. The rule requires all injection wells to have casing cemented and quality of cement confirmed to prevent the movement of fluids into an unauthorized zone. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-11 is to address mechanical integrity. The rule outlines how to determine mechanical integrity in an injection well. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-12 is to address plugging injection wells. The rule requires injection wells to be plugged to prevent the movement of fluids into an underground source of drinking water and to obtain the Director's approval prior to the commencement of plugging operations. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-13 is to address injection well pressure restrictions. The rule requires injection wells to be operated below a maximum authorized injection pressure to prevent the initiation of fractures or cause the movement of fluids into an underground source of drinking water and also requires a minimum operating pressure when injecting into a salt cavern to assure cavern integrity. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-13.1 is to address salt cavern integrity. The rule requires the operator to execute the emergency and remedial response plan, pursuant to NDAC § 43-02-14-15, in the event of loss of integrity in a storage cavern. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-14 is to address bonding requirements. The rule states all storage facilities and wells must be bonded as provided in NDAC § 43-02-03-15. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-15 is to address an emergency and remedial response plan. The rule requires the storage facility operator to maintain a Commission-approved emergency and remedial response plan. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-16 is to address reporting, monitoring, and operating requirements. The rule requires the storage facility operator to meter volumes injected, place gauges on injection wells, notify the Director upon commencing and discontinuing injection operations, and report all work performed on the injection well. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-17 is to address leak detection and reporting. The rule requires the storage facility operator to utilize leak detectors, report any leak detected, or loss of storage integrity. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-18 is to address the transfer of a storage facility permit. The rule allows the transfer of a storage facility permit only after notice and hearing and Commission approval. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19 is to address modification, revocation, and termination of a storage facility permit. The rule allows the Commission to schedule a hearing for the purpose of reviewing a storage facility permit. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19.1 is to address minor modification of a storage facility permit. The rule allows the Commission to modify a permit to correct errors, require more frequent monitoring or reporting, change injectate, and change construction requirements. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-11 is to allow flexibility in downhole equipment of an injection well. The proposed amendment allows the Director to allow the tubing packer of an injection well to be set higher than 50 feet above the uppermost perforation. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-17 is to implement changes from Senate Bill 2014, which was recently enacted by the Sixty-Seventh Legislative Assembly, addressing fees on each ton of carbon dioxide injected for storage. The proposed amendment requires the storage operator to pay fees based upon whether or not the carbon dioxide sources contribute to the energy and agriculture production economy of North Dakota. The proposed addition could have an impact on the regulated community in excess of $50,000.

The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at **www.dmr.nd.gov/oilgas.** A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to brkadrmas@nd.gov and received by 5pm, October 22nd, 2021, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than September 27, 2021.

Dated this 31st day of August, 2021.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

Kadrmas, Bethany R.

From: Hicks, Bruce E.
Sent: Wednesday, September 1, 2021 2:58 PM
To: -Grp-NDLA House Energy & Natural Resources; -Grp-NDLA Senate Natural Resources
Subject: Proposed Rules pursuant to SB2065
Attachments: SB2065.Underground Storage O&G.pdf; Rule Change.SB2065.Notice to Sponsors.pdf; Z.Rule Changes.2022.2021-08-31.FullNotice.Filed with LC.pdf

Representatives and Senators:

Our agency, the Oil and Gas Division of the Department of Mineral Resources of the North Dakota Industrial Commission, is proposing amendments to rules pertaining to oil, gas, geological storage of oil or gas, and geologic storage of carbon dioxide. Pursuant to NDCC Section 28-32-10, such agencies must mail or deliver a copy of the agency's full notice and proposed rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation which is being implemented by a proposed rule.

Please find the following attached:

- Copy of SB2065—note Section 3 which creates NDCC Chapter 38-25
- Proposed rules—note we are proposing to promulgate the following rules pursuant to SB2065:
  - Chapter 43-02-14—Geological Storage of Oil or Gas
- Full notice outlining proposed rule changes—note highlighted text pertains to SB2065 on pages 3-7

If you would like to receive a hard-copy of the attachments, please reply to this email and I will send them.

Public hearings have been scheduled to address the proposed rule changes at the following locations:

- October 11th, 2021 at 8 am (CDT) in the Conference Room of the Oil and Gas Division, 1000 E. Calgary Avenue, Bismarck, ND
- October 11th, 2021 at 1 pm (MDT) in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, ND
- October 12th, 2021 at 8:00 am (CDT) at Clarion Hotel and Suites, 1505 15th Ave West, Williston, ND
- October 12th, 2021 at 1:30 pm (CDT) in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, ND

Comments on the proposed rules received prior to 5 pm October 22, 2021 will be fully considered. If you have any questions, do not hesitate to contact myself.

Sincerely,

Bruce E. Hicks
Assistant Director

bhicks@nd.gov • www.nd.gov

NORTH Dakota | Mineral Resources
Be Legendary.

701.328-8020 • oilandgasinfo@nd.gov • www.dmr.nd.gov • 600 E Boulevard Ave, Dept. 405 • Bismarck, ND 58505

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2065
(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to create and enact chapter 38-25 of the North Dakota Century Code, relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil or gas; and to amend and reenact sections 15-05-09 and 15-05-10 of the North Dakota Century Code, relating to oil and gas leases and royalties from oil leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-05-09 of the North Dakota Century Code is amended and reenacted as follows:

15-05-09. Leases for oil, gas, and other products.

The board of university and school lands may lease any lands under its control believed to contain oil, gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, ~~or~~ colloidal or other clays, or other naturally occurring elements and their compounds, and may make and establish rules and regulations for development ~~and~~, drilling, and mining operations.

SECTION 2. AMENDMENT. Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil and gas leases - Rents from other leases - Rules.

Oil and gas leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty shall be not less than twelve and one-half percent of the gross output of oil from the lands leased. Oil and gas leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases ~~for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays~~issued by the board under section 15-05-09 for products other than oil and gas must ~~be made by the board in such annual payments~~provide for adequate rental payments and other provisions as ~~are~~ determined by the board. The board may adopt rules regarding ~~annual~~rental payments and royalties under this section.

SECTION 3. Chapter 38-25 of the North Dakota Century Code is created and enacted as follows:

38-25-01. Definitions.

As used in this chapter:

1. "Commission" mean the industrial commission.
2. "Gas" includes all natural gas, including hydrogen, and all other fluid hydrocarbons not defined as oil.
3. "Geological storage" means the underground storage of oil or gas in a storage reservoir or salt cavern.

4. "Oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.

5. "Permit" means a permit issued by the commission allowing a person to operate an underground storage facility.

6. "Pore space" has the same meaning as in section 47-31-02.

7. "Prevent waste" means the locating, spacing, drilling, equipping, operating, or producing of any oil or gas storage well or facility in a manner that increases the quantity of oil or gas stored, or which decreases unnecessary loss or destruction of oil or gas.

8. "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, or void, whether natural or artificially created, including oil and gas reservoirs and saline formations suitable for or capable of being made suitable for injecting, storing, and withdrawing oil or gas. The term does not include salt caverns.

9. "Salt cavern" means a natural occurring cavity contained within a salt formation or a cavity created in a salt formation by solution mining, suitable for injecting, storing, and withdrawing oil or gas.

10. "Solution mining" means the process of injecting fluid into a well to dissolve rock salt or other readily soluble rock to create a salt cavern for underground storage of oil or gas.

11. "Storage facility" means the reservoir, salt cavern, underground equipment, and surface facilities and equipment used or proposed to be used in an underground storage operation. The term does not include a pipeline used to transport oil or gas to the storage facility.

12. "Storage operator" means a person holding or applying for a permit.

13. "Waste" means the inefficient storing of oil or gas.

38-25-02. Commission authority.

The commission has authority:

1. Over all persons and property necessary to administer and enforce this chapter when necessary to prevent waste, to protect correlative rights of the mineral and surface estate, or to effect greater ultimate storage and recovery of oil and gas.

2. To regulate activities relating to an underground storage facility, including construction, solution mining to create salt caverns, operation, and closure.

3. To enter an underground storage facility at a reasonable time and manner to inspect equipment and facilities, to observe, monitor, and investigate operations, and to inspect records required to be maintained at the facility.

4. To require storage operators provide financial assurance, including bonds, to ensure money is available to fulfill the storage operator's duties.

5. To exercise continuing jurisdiction over storage operators and storage facilities, including the authority to amend or revoke a permit after notice and hearing.

6. After notice and hearing, to dissolve or change the boundaries of any commission established oil or gas field or unit within or near a storage reservoir's or salt cavern's boundaries.

7. After notice and hearing, to adopt reasonable rules and issue reasonable orders to implement the policies of this chapter.

8. After notice and hearing, to grant exceptions to this chapter's requirements and implementing rules if required to comply with applicable federal law.

38-25-03. Permit required - Permit transfer.

Geologic storage is allowed if permitted by the commission. A permit may be transferred if the commission consents.

38-25-04. Permit hearing - Hearing notice.

1. The commission shall hold a public hearing before issuing any storage permit.

2. Notice of the hearing must be published for two consecutive weeks in the official newspaper of the county or counties where the storage reservoir or salt cavern is proposed to be located and in any other newspaper the commission requires. Publication deadlines must comply with commission requirements.

3. Written notice of hearing must be mailed to each surface owner of record of land overlying the storage reservoir or salt cavern and within one-half mile [0.80 kilometer] of the reservoir's or salt cavern's boundaries. The notice of hearing must be mailed to an owner's last known address.

4. If the proposed storage facility contemplates storage of oil or gas in an oil and gas reservoir, notice of the hearing also must be mailed to each mineral lessee, mineral owner of record, and pore space owner of record within the storage reservoir and within one-half mile [0.80 kilometer] of the storage reservoir's boundaries.

5. If the proposed storage facility contemplates storage of oil or gas in a salt cavern, notice of the hearing must be mailed to each salt mineral lessee, salt mineral owner of record, and pore space owner of record within the salt cavern outer boundaries and within one-half mile [0.80 kilometer] of the outer boundaries of the salt cavern, or as otherwise may be required by the commission.

6. If the storage facility contemplates storage of oil or gas in a saline formation or aquifer, notice of hearing must be mailed to each pore space owner of record within the storage reservoir and within one-half mile [0.80 kilometer] of the storage reservoir's boundaries.

7. Hearing notices required by this section must comply with the deadlines set by the commission and must contain the information the commission requires.

38-25-05. Permit requirements - Storage in oil and gas reservoir.

Before issuing a permit for storage in an oil and gas reservoir, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.

2. The storage operator has complied with all requirements set by the commission.

3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.

4. The storage operator has made a good-faith effort to get the consent of all persons that own the storage reservoir's pore space.

5. The storage operator has made a good-faith effort to obtain the consent of all persons that own oil and gas minerals and oil and gas leases.

6. The storage operator has obtained the consent of persons that own at least fifty-five percent of the storage reservoir's pore space unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order required to pool the mineral interests prevails as to the percentage of pore space owners from whom the storage operator must obtain consent.

7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the storage reservoir's oil and gas minerals and oil and gas leases unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order prevails.

8. Whether the storage reservoir contains any commercially valuable oil, gas, or other minerals and, if it does, a permit may be issued only if the commission is satisfied the interests of the mineral owners or mineral lessees will not be affected adversely or have been addressed in an arrangement entered by the mineral owners or mineral lessees and the storage operator.

9. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.

10. The injected oil or gas will not escape from the storage reservoir.

11. The storage facility will not endanger health or unduly endanger the environment.

12. The storage facility is in the public interest.

13. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.

14. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.

15. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.

16. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

17. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

18. All nonconsenting owners are or will be compensated equitably.

38-25-06. Permit requirements - Storage in saline reservoir or aquifer.

Before issuing a permit for storage in a saline reservoir or aquifer, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.

2. The storage operator has complied with all requirements set by the commission.

3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.

4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the storage reservoir's pore space.

5. The storage operator has obtained the consent of persons that own at least sixty percent of the storage reservoir's pore space.

6. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.

7. The injected oil or gas will not escape from the storage reservoir.

8. The storage facility will not endanger health or unduly endanger the environment.

9. The storage facility is in the public interest.

10. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.

11. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.

12. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.

13. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

14. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

15. All nonconsenting pore space owners are or will be compensated equitably.

38-25-07. Permit requirements - Storage in salt cavern.

Before issuing a permit for storage in a salt cavern, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.

2. The storage operator has complied with all requirements set by the commission, including all necessary permits to conduct solution mining, if applicable.

3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.

4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's pore space.

5. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's salt minerals and salt leases.

6. The storage operator has obtained the consent of persons that own at least sixty percent of the salt cavern's pore space.

7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the salt cavern's salt minerals and salt leases.

8. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.

9. The injected oil or gas will not escape from the salt cavern.

10. The storage facility will not endanger health or unduly endanger the environment.

11. The storage facility is in the public interest.

12. The horizontal and vertical boundaries of the salt cavern are defined to include a buffer zone from the outer walls of the cavern for the purpose of ensuring the safe operation of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of gas therefrom.

13. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.

14. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

15. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

16. That all nonconsenting owners are or will be equitably compensated.

38-25-08. Amalgamating property interests.

If a storage operator does not obtain the consent of all persons owning a pore space and of mineral interest owners when required by this chapter, the commission may require the interest owned by the nonconsenting owners be included in an approved storage facility and subject to geologic storage if the minimum percentage of consent is obtained as specified in this chapter. Any pore space owner who does not have responsibility over the construction, management, supervision, or control of the storage facility operations is not liable for money damages for personal or other property damages proximately caused by the operations.

38-25-09. Ownership of oil and gas.

All oil or gas previously reduced to possession and subsequently injected into underground storage facilities must be deemed the property of the storage operator subject to the obligation to pay royalties as set forth in section 38-25-10.

38-25-10. Injection of produced gas - When royalties owed.

1. Unless otherwise expressly agreed by the storage operator, mineral owners, and lease owners, royalties on gas produced but not sold and which is injected into a storage facility instead of flaring or for lack of market, are not due on the produced and stored gas until gas volumes actually are withdrawn from the storage facility, sold, and proceeds received from the sale.

2. Prior to gas being withdrawn and sold from a storage facility under this section, the storage operator, after notice and hearing, shall obtain approval from the commission evidencing a reasonable and equitable method of allocation of the stored gas sale proceeds to the rightful mineral, royalty, and leasehold owners of the gas injected into storage. The commission may adopt such rules and orders as necessary to implement the purposes of this section.

38-25-11. Application.

This chapter does not apply to applications filed with the commission which propose to use produced gas for an enhanced oil or gas recovery project. Those applications must be processed under chapter 38-08.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2065.

Senate Vote:	Yeas 35	Nays 12	Absent 0
House Vote:	Yeas 72	Nays 19	Absent 3

Secretary of the Senate

Received by the Governor at 1:45 P.M. on April 16, 2021.

Approved at 8:19 P.M. on April 19, 2021.

Governor

Filed in this office this 20th day of April, 2021,

at 9:44 o'clock A. M.

Secretary of State

Section 43-02-14 is hereby created:

GEOLOGICAL STORAGE OF OIL OR GAS
CHAPTER 43-02-14

43-02-14-01. DEFINITIONS. The terms used throughout this chapter have the same meaning as in chapters 43-02-02.1, 43-02-03, and 43-02-05, and North Dakota Century Code chapters 38-08, 38-12, 38-25, and 47-31 except:

1. "Facility area" means the areal extent of the storage reservoir or salt cavern.

2. "Storage reservoir" means the total pore space occupied by the injected produced oil or gas during all phases of the project plus any reasonable or necessary horizontal buffer zones.

History: Effective ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02. SCOPE OF CHAPTER. This chapter pertains to the geological storage of hydrogen and produced oil or gas with little to no processing involved. If the rules differ from federal requirements on federally regulated storage facilities, the federal rules take precedence. The storage facility operator shall provide sufficient documentation to the director confirming the storage facility is federally operated. Applications filed with the commission proposing to inject gas for the purposes of enhanced oil or gas recovery will be processed under chapter 43-02-05. This chapter does not apply to Class III injection wells used to create a salt cavern. Applications for Class III wells are under the jurisdiction of the state geologist pursuant to chapter 43-02-02.1. 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: Effective ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

Filed with Legislative Council 8/31/2021

43-02-14-02.1. APPLICATION OF RULES FOR GEOLOGICAL STORAGE FACILITIES. All geological storage facilities, injection wells, and monitoring wells are also subject to the provisions of chapters 43-02-03, 43-02-05, and 43-05-01 where applicable.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.2. INJECTION INTO UNDERGROUND SOURCE OF DRINKING WATER PROHIBITED. Underground injection of oil or gas that causes or allows movement of fluid into an underground source of drinking water is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.3. TRANSITIONING FROM ENHANCED OIL OR GAS RECOVERY TO GEOLOGICAL STORAGE. A storage facility operator injecting oil or gas for the primary purpose of geological storage into an oil and gas reservoir shall apply for a geological storage facility and injection well permit. In determining if there is an increased risk to underground sources of drinking water, the commission shall consider the following factors:

1. Increase in reservoir pressure within the injection zone.
2. Oil or gas injection rates.
3. Decrease in reservoir production rates.
4. Distance between the injection zone and underground sources of drinking water.
5. Suitability of the enhanced oil or gas recovery area of review delineation.
6. Quality of abandoned well plugs within the area of review.
7. The storage facility operator's plan for recovery of oil or gas at the cessation of injection.
8. The source and properties of the injected oil or gas.

9. Any additional site-specific factors as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.4. PROHIBITION OF UNAUTHORIZED INJECTION. Any underground injection of oil or gas for the purpose of geological storage, except into a well authorized by permit issued under this chapter, is prohibited. The construction of any well or site or access road is prohibited until the permit authorizing construction of the well or site or access road has been issued.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.5. EXISTING WELL CONVERSION. Storage facility operators seeking to convert an existing well to an injection well for the purpose of geological storage of oil or gas must demonstrate to the commission that the well is constructed in a manner that will ensure the protection of underground sources of drinking water.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-03. BOOKS AND RECORDS TO BE KEPT TO SUBSTANTIATE REPORTS. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall make and keep appropriate books and records until dissolution of the storage facility, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-04. ACCESS TO RECORDS. The commission and the commission's authorized agents shall have access to all storage facility records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall permit the commission, or its authorized agents, to come upon any lease, property, well, or drilling rig operated or controlled by them, complying with state safety rules and to inspect the records and operation of wells and to conduct sampling and testing. Any information so obtained shall be public information. If requested, copies of storage facility records must be filed with the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05. GEOLOGICAL STORAGE FACILITY PERMIT HEARING.

1. At least thirty days prior to the scheduled hearing, the applicant shall give notice of the hearing to persons outlined in North Dakota Century Code 38-25-04.

2. Notice given by the applicant must contain the following:

   a. A legal description of the land within the oil or gas facility area.

   b. The date, time, and place the commission will hold a hearing on the permit application.

   c. A statement of purpose of the application.

   d. A statement that a digital copy (.pdf format) of the permit may be obtained from the commission.

   e. A statement that all comments regarding the geological storage facility permit application must be in writing and submitted to the commission by five p.m. on the last business day prior to the hearing date or presented at the hearing.

   f. Storage in an oil and gas reservoir must contain:

      (1) A statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of oil and gas minerals and oil and gas leases within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the oil and gas minerals and oil and gas leases, and a statement that the commission may require the oil and gas minerals and oil and gas leases owned by nonconsenting owners to be included in the geological storage facility.

g. Storage in a saline reservoir must contain a statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

h. Storage in a salt cavern must contain

(1) A statement that amalgamation of the pore space within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of salt minerals and salt leases within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent of the salt minerals and salt leases, and a statement that the commission may require the salt minerals and salt leases owned by nonconsenting owners to be included in the geological storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05.1. AREA OF REVIEW AND CORRECTIVE ACTION.

1. The storage facility operator shall prepare, maintain, and comply with a plan to delineate the area of review for a proposed storage facility, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this section and is acceptable to the commission. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the storage facility permit application, the storage facility operator shall submit an area of review and corrective action plan that includes the following:

Filed with Legislative Council 8/31/2021

a. The method for delineating the area of review, results of the reservoir or geomechanical modeling and simulation, inputs that will be made, and the site characterization data on which the model will be based.

b. A description of:

(1) The reevaluation date, not to exceed five years, at which time the storage facility operator shall reevaluate the area of review.

(2) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation date.

(3) How monitoring and operational data will be used to inform an area of review reevaluation.

(4) How corrective action will be conducted to meet requirements of this section, and how corrective action will be adjusted if there are changes in the area of review.

2. The storage facility operator shall perform the following actions to delineate the area of review and identify all wells that require corrective action:

a. Applicable to oil and gas and saline reservoirs. Predict, using existing site characterization, monitoring and operational data, and reservoir modeling and simulation, the projected lateral and vertical migration of the injectate in the subsurface from the commencement of injection activities until the oil or gas movement ceases, or until the end of a fixed time as determined by the director:

(1) Be based on detailed geologic data collected to characterize the injection zone, confining zones, and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the storage project.

(2) Consider any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions.

(3) Consider potential migration through faults, fractures, and artificial penetrations.

b. Applicable to salt caverns. Using site specific geology, cavern construction data acquired during dissolution mining, and geomechanical modeling, determine necessary buffers as setbacks for the following:

(1) Future drilling in the proximity of the cavern.

(2) Additional caverns.

3. The storage facility operator shall perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones.

4. At the reevaluation date, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, the storage facility operator shall:

   a. Reevaluate the area of review in the same manner specified in subdivision a of subsection 2 or subdivision b of subsection 2, whichever is applicable.

   b. Identify all wells or caverns in the reevaluated area of review in the same manner specified in subsection 2.

   c. Perform corrective action on wells requiring action in the reevaluated area of review in the same manner specified in subsection 3.

   d. Submit an amended area of review and corrective action plan or demonstrate to the commission through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the plan are subject to the director's approval and must be incorporated into the permit.

5. All modeling inputs and data used to support area of review delineations and reevaluations must be retained until project completion. Upon project completion, the storage facility operator shall deliver the records to the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-06. PERMIT REQUIREMENTS – STORAGE IN OIL AND GAS RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

b. An affidavit of mailing, including the name and address of each owner, certifying that all mineral lessees, mineral owners of record, pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of mineral lessees and mineral owners of record within the storage reservoir and one-half mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface

bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area and its delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1.

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the unrecoverable injected oil or gas.

22. Address enrichment of the injected gas by hydrocarbons native to the oil and gas reservoir.

23. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

24. An emergency and remedial response plan pursuant to section 43-02-14-15.

25. A corrosion monitoring and prevention plan for all wells and surface facilities.

26. A leak detection and monitoring plan for all surface facilities.

27. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, and its delineated area of review.

28. A time frame for extraction of injected oil or gas and expected recovery percentages.

29. Address associated water recovery and a plan for disposal.

30. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-07. PERMIT REQUIREMENTS – STORAGE IN SALINE RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface and pore space ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all pore space owners and pore space lessees of record within the storage

reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the migration of unrecoverable injected oil or gas.

22. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

23. An emergency and remedial response plan pursuant to section 43-02-14-15.

24. A corrosion monitoring and prevention plan for all wells and surface facilities.

25. A leak detection and monitoring plan for all surface facilities.

26. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, its delineated area of review.

27. A time frame for extraction of injected oil or gas and expected recovery percentages.

28. Address associated water recovery and a plan for disposal.

29. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-08. PERMIT REQUIREMENTS – STORAGE IN SALT CAVERN. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and salt mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all salt mineral lessees, salt mineral owners of record, pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   c. Legal descriptions of surface ownership of record within the salt cavern and one-half mile adjacent.

d. Legal descriptions of salt mineral lessees and salt mineral owners of record within the salt cavern and one half-mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing an application for permit to inject filed on a form provided by the director including at least the following:

a. The name and address of the operator of the injection well.

b. The estimated bottom hole fracture pressure of the upper confining zone.

c. Average maximum daily rate of oil or gas to be injected.

d. Average and maximum requested surface injection pressure.

e. Current capacity and geometry of the cavern.

f. Tools used to confirm capacity and geometry of cavern.

g. Current thickness of remaining salt at top and bottom of cavern.

h. Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

i. Existing or proposed casing, tubing, and packer data.

j. Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

k. A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

l. A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

m. Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

n. List identifying all source wells or sources of injectate.

o. All logging and testing data on the well which has not been previously submitted.

p. Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

q. A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

r. A detailed description of the proposed completion or conversion procedure.

s. Any other information required by the director to evaluate the proposed well.

4. Anticipated capacity and geometry of the cavern.

5. Minimum and maximum capacity of the cavern to be utilized.

6. Tools used to confirm capacity and geometry of the cavern.

7. Current thickness of remaining salt at the top and bottom of the cavern.

8. Description and schematics for brine management at the surface.

9. Description of measures in place to prevent unintended flow back.

10. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

11. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

12. Structural and stratigraphic cross sections that describe the geologic conditions of the salt cavern.

13. A structure map of the top and base of the salt formation being utilized.

14. An isopach map of the salt formation being utilized.

15. Geomechanical analysis of the cavern used to determine cavern stability, using, but not limited to the following:

    a. Geologic characteristics.

    b. Petrophysical properties.

    c. Rock mechanical properties.

    d. In situ stresses.

    e. Any other input data acquired and utilized.

16. Address the following cavern stability issues at minimum:

    a. Salt creep and mitigation measures.

    b. Minimum salt roof thickness.

    c. Roof collapse.

    d. Maximum cavern diameter.

    e. Spacing between offsetting caverns.

    f. Minimum setback for drilling in the vicinity.

    g. Salt thinning due to any stratigraphic change.

    h. Any dissolution zones in the salt.

    i. Minimum operating pressures and capacity volumes, roof geometry, and height/diameter ratios used to prevent any of the above or other pertinent stability issues.

17. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

18. A method for delineating the area of review, including the geomechanical model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

19. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface

structures within the oil or gas facility area and its delineated area of review.

20. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the salt cavern.

21. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

22. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the geological storage facility. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

23. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

24. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

25. Corrective action plan pursuant to section 43-02-14-05.1.

26. Identify whether the area of review extends across state jurisdiction boundary lines.

27. An emergency and remedial response plan pursuant to section 43-02-14-15.

28. A corrosion monitoring and prevention plan for all wells and surface facilities.

29. A leak detection and monitoring plan for all surface facilities.

30. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the salt cavern. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area and its delineated area of review.

31 Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-09. SITING. All injection wells shall be sited in such a fashion that they inject into a formation which has confining zones that are free to known open faults or fractures within the facility area and its delineated area of review.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-10. CONSTRUCTION REQUIREMENTS.

1. All injection wells shall be cased and cemented to prevent movement of fluids into or between underground sources of drinking water or into an unauthorized zone. The casing and cement used in construction of each new injection well shall be designed for the life expectancy of the well. All wells used for injection into a storage reservoir or salt cavern must have surface casing set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. In determining and specifying casing and cementing requirements, all the following factors shall be considered:

   a. Depth to the injection zone and lower confining zone, or salt cavern specifics. Long string casing must be set at least to the top of the injection zone and cemented as approved by the director.

   b. Depth to the bottom of all underground sources of drinking water.

   c. Estimated minimum, maximum, and average injection pressures.

   d. Fluid pressure.

   e. Estimated fracture pressures.

   f. Physical and chemical characteristics of the injection zone.

2. Appropriate logs and other tests shall be conducted during the drilling and construction of injection wells. Any well drilled or converted to an injection well shall have a cement bond log from which a presence of channels and micro-annulus can be determined radially. Cement bond logs shall contain elements approved by the director.

3. After an injection well has been completed, approval must be obtained on a sundry notice filed on a form provided by the director prior to any subsequent perforating.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-11. MECHANICAL INTEGRITY.

1. An injection well has mechanical integrity if:

   a. There is no significant leak in the casing, tubing, or packer; and

   b. There is no significant fluid movement into an underground source of drinking water through channels adjacent to the well bore.

2. One of the following methods must be used to evaluate the absence of significant leaks:

   a. Pressure test with liquid or gas.

   b. Monitoring of positive annulus pressure following a valid pressure test.

   c. Radioactive tracer survey.

3. On a schedule determined by the commission, the storage facility operator shall use one or more of the following methods to determine the absence of significant fluid or gas movement:

   a. A cement bond log from which a presence of channels and micro-annulus can be determined radially.

   b. A temperature log.

   c. Any alternative testing method that provides equivalent or better information and that the director requires or approves.

4. The operator of an injection well immediately shall shut-in the well if mechanical failure indicates fluids are, or may be, migrating into an underground source of drinking water or an unauthorized zone, or if so directed by the director.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-12. PLUGGING OF INJECTION WELLS. The proper plugging of an injection well requires the well be plugged with cement or other types of plugs, or both, in a manner which will not allow movement of fluids into an underground source of drinking water. The operator shall file a notice of intention to plug on a form provided by the director and shall obtain the director's approval of the plugging method prior to the commencement of plugging operations.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-13. PRESSURE RESTRICTIONS.

1. The following applies to geological storage in an oil and gas reservoir or saline reservoir: Injection pressure at the wellhead shall not exceed a maximum authorized injection pressure which shall be calculated to assure that the pressure in the storage reservoir during injection does not initiate new fracture or propagate existing fractures in the confining zones. In no case shall injection pressure initiate fractures in the confining zones or cause the movement of injection or formation fluids into an unauthorized zone or underground source of drinking water.

2. The following applies to geological storage in a salt cavern:

   a. A minimum operating pressure protective of the cavern's integrity must be maintained.

   b. A maximum allowable operating pressure must be established based on the casing seat or the highest elevation of the cavern's roof, whichever is higher in elevation.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

Filed with Legislative Council 8/31/2021

43-02-14-13.1. SALT CAVERN INTEGRITY. The operator shall execute the emergency and remedial response plan pursuant to section 43-02-14-15 in the event of loss of integrity in the storage cavern for any reason.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-14. BONDING REQUIREMENTS. All storage facilities, injection wells, and monitoring wells must be bonded as provided in section 43-02-03-15.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-15. EMERGENCY AND REMEDIAL RESPONSE PLAN. The storage facility operator shall maintain a commission-approved emergency and remedial response plan. This plan must include emergency response and security procedures. The plan, including revision of the list of contractors and equipment vendors, must be updated as necessary or as the commission requires. Copies of the plans must be available at the storage facility and at the storage facility operator's nearest operational office.

1. The emergency and remedial response plan requires a description of the actions the storage facility operator shall take to address movement of the injection or formation fluids that may endanger an underground source of drinking water during any phase of the project. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The plan must also detail:

    a. The safety procedures concerning the facility and residential, commercial, and public land use within the facility area and its delineated area of review.

    b. Contingency plans for addressing oil or gas leaks from any well, flow lines, or other facility, and loss of containment from the storage reservoir or salt cavern and identify specific contractors and equipment vendors capable of providing necessary services and equipment to respond to such leaks or loss of containment.

2. If the storage facility operator obtains evidence that the injected oil or gas stream, or displaced fluids may endanger an underground source of drinking water, the storage facility operator shall:

a. Immediately cease injection.

b. Take all steps reasonably necessary to identify and characterize any release.

c. Notify the director immediately and submit a subsequent sundry notice filed on a form provided by the director within twenty-four hours.

d. Implement the emergency and remedial response plan approved by the director.

3. The commission may allow the operator to resume injection prior to remediation if the storage facility operator demonstrate that the injection operation will not endanger underground sources of drinking water.

4. The storage facility operator shall review annually the emergency and remedial response plan developed under subsection 1. Any amendments to the plan are subject to the commission's approval, must be incorporated into the storage facility permit, and are subject to the permit modification requirements. Amended plans or demonstrations that amendments are not needed shall be submitted to the commission as follows:

a. With the area of review reevaluation.

b. Following any significant changes to the facility, such as addition of injection or monitoring wells, or on a schedule determined by the commission.

c. When required by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-16. REPORTING, MONITORING, AND OPERATING REQUIREMENTS.

1. The operator of a storage facility shall meter or use an approved method to keep records and shall report monthly to the director, the volume and nature of the injected hydrocarbons, the average, minimum, and maximum injection pressures, the maximum injection rates, and such other information as the director may require. The operator of each storage facility shall, on or before the fifth day of the second month succeeding the month in which the well is capable of injection, file with the director the aforementioned information for the storage facility in a format provided by the director.

2. Immediately upon the commencement or recommencement of injection, the operator shall notify the director of the injection date verbally and in writing.

3. The operator shall place accurate gauges on the tubing and the tubing-casing annulus of all injection wells utilized in the storage facility. Accurate gauges shall also be placed on any other annuluses deemed necessary by the director.

4. The operator of a storage facility shall keep the wells, surface facilities, and injection system under continuing surveillance and conduct such monitoring, testing, and sampling as the director may require verifying the integrity of the surface facility, gathering system, and injection wells to protect surface and subsurface waters. Prior to commencing operations, the injection pipeline must be pressure tested. All existing injection pipelines where the pump and the wellhead are not located on the same site are required to be pressure tested annually.

5. The operator of a storage facility shall report any noncompliance with regulations or permit conditions to the director verbally within twenty-four hours followed by a written explanation within five days. The operator shall cease injection operations if so directed by the director.

6. Within ten days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reason therefor.

7. Upon the completion or recompletion of an injection well or the completion of any remedial work or attempted remedial work such as plugging back, deepening, acidizing, shooting, formation fracturing, squeezing operations, setting liner, perforating, reperforating, tubing repairs, packer repairs, casing repairs, or other similar operations not specifically covered herein, a report on the operation shall be filed with the director within thirty days. The report shall present a detailed account of all work done including the reason for the work, the date of such work, the shots per foot and size and depth of perforations, the quantity of sand, crude, chemical, or other materials employed in the operation, the size and type of tubing, the type and location of packer, the result of the packer pressure test, and any other pertinent information or operations which affect the status of the well and are not specifically covered herein.

8. Annular injection of fluids is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-17. LEAK DETECTION AND REPORTING.

1. Leak detectors must be integrated, where applicable and must be inspected and tested on a semiannual basis and, if defective, shall be repaired or replaced within ten days. Each repaired or replaced detector must be retested if required by the commission. An extension of time for repair or replacement of a leak detector may be granted upon a showing of good cause by the storage facility operator. A record of each inspection must include the inspection results and be maintained by the operator at least until project completion, and must be made available to the commission upon request.

2. Pursuant to section 43-02-03-30 the storage facility operator shall immediately report to the commission any leak detected at any well or surface facility.

3. The storage facility operator shall immediately report to the commission any pressure changes or other monitoring data from subsurface observation wells or injection wells that indicate the presence of leaks in the storage reservoir or salt cavern.

4. The storage facility operator shall immediately report to the commission any other indication that the storage facility is not containing oil, gas, or brine, whether the lack of containment concerns the storage reservoir or salt cavern, surface equipment, or any other aspect of the storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-18. STORAGE FACILITY PERMIT TRANSFER.

1. The storage operator and proposed transferee shall notify the commission in writing of any proposed permit transfer. The notice must contain the following:

   a. The name and address of the person to whom the permit is to be transferred.

   b. The name of the permit subject to transfer and location of the storage facility and a description of the land within the facility area.

   c. The date that the storage operator desires the proposed transfer to occur.

   d. Meet the bonding requirements of section 43-02-14-14.

2. A transfer may only take place after notice and hearing. The transferee must demonstrate that all requirements of chapter 43-02-14 are complied with. The transferee must outline necessary permit modifications based on operational changes, if any.

3. Commission review. The commission shall review the proposed transfer to ensure that the purposes of North Dakota Century Code chapter 38-25 are not compromised but are promoted. For good cause, the commission may deny a transfer request, delay on acting on it, and place conditions on its approval.

4. Commission approval required. A permit transfer can occur only upon the commission's written order. The transferor of a permit shall receive notice from the commission that the approved new storage facility operator has met the bonding requirements of section 43-02-14-14.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19. MODIFICATION, REVOCATION, AND REISSUANCE OR TERMINATION OF PERMITS.

1. Permits are subject to review by the commission. Any interested person (i.e., the storage operator, local governments having jurisdiction over land within the area of review, and any person who has suffered or will suffer actual injury or economic damage) may request that the commission review permits issued under this chapter for one of the reasons set forth below. All requests must be in writing and must contain facts or reasons supporting the request. If the commission determines that the request may have merit or at the commission's initiative for one or more of the reasons set forth below, the commission may schedule a hearing to review the permit and thereafter issue an order modifying or revoking the permit. Permits, after notice and hearing, may be modified or revoked and reissued when the commission determines one of the following events has occurred:

   a. Changes to the facility area.

   b. Area of review or corrective action reevaluations pursuant to section 43-02-14-05.1.

   c. Operating outside of parameters of the permit of sections 43-02-14-06, 43-02-14-07, or 43-02-14-08, whichever is applicable.

   d. Amendment to the emergency and remedial response plan of section 43-02-14-15.

   e. Amendment to the leak detection plan of section 43-02-14-17.

   f. Review of monitoring and testing results conducted in accordance with injection well permit requirements.

g. The commission receives information that was not available at the time of permit issuance. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified application of different permit conditions at the time of the issuance.

h. The standards or regulations on which the storage facility permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued.

i. The commission determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the storage operator has little or no control and for which there is no reasonably available remedy.

j. There are material and substantial additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2. If the commission tentatively decides to modify or revoke and reissue a permit, the commission shall incorporate the proposed changes to the original permit. The commission may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit, the commission shall require the submission of a new permit application.

3. In a permit modification under this section, only those conditions to be modified shall be reopened when a revised permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the storage operator shall comply with all conditions of the existing permit until a new final permit is reissued.

4. Suitability of the storage facility location will not be considered at the time of a permit modification or revocation unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

5. The following are causes for terminating an injection well permit during its term:

a. Noncompliance by the storage operator with any permit condition.

b. Failure by the storage operator to fully disclose all relevant facts or misrepresentation of relevant facts to the commission.

c. A determination that the permitted activity endangers human health or the environment.

6. If the commission tentatively decides to terminate a permit, the commission shall issue notice of intent to terminate.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19.1. MINOR MODIFICATIONS OF PERMIT. Upon agreement between the storage facility operator and the commission, the commission may modify a permit to make the corrections or allowances without the storage operator filing an application to amend a permit. Any permit modification not processed as a minor modification under this section must be filed as an application to amend an existing permit under section 43-02-14-18. Minor modifications may include:

1. Correct typographical errors.

2. Require more frequent monitoring or reporting by the storage operator.

3. Change quantities or types of fluids or gases injected which are within the capacity of the facility as permitted and, in the judgement of the commission, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

4. Change construction requirements approved by the commission, provided that any such alteration shall comply with the requirements of this chapter and no such changes are physically incorporated into construction of the well prior to approval of the modification by the commission.

5. Amending any of the plans of this chapter where the modifications merely clarify or correct the plan, as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

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NORTH DAKOTA
OIL AND GAS DIVISION

FULL NOTICE OF INTENT TO

ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2021 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2021 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2021 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15th Avenue West, Williston, North Dakota
- October 12th, 2021 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-07 is to update the rule to be consistent with innovation. The proposed amendment clarifies that federal forms will no longer be allowed to be submitted since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendment to NDAC § 43-02-03-09 is to update the rule to be consistent with innovation. The proposed amendment clarifies that most written forms currently provided by the Commission will no longer be available since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to consider less onerous proving requirements for oil and gas meters used for allocation of production in a common ownership facility. The proposed amendments allow the owner of metering equipment to prove oil meters annually, instead of quarterly, and prove gas meters annually, instead of semiannually. The proposed amendment will provide an economic benefit to the regulated community.

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The purpose of the proposed amendment to NDAC § 43-02-03-15 is to update the rule pursuant to legislation recently passed by the Sixty-seventh Legislative Assembly. Pursuant to Senate Bill 2065, the rule provides for a geological storage facility bond after notice and hearing. The proposed amendment is not expected to have an impact on the regulated community since the bond was required in statute by the Legislative Assembly.

The purpose of the proposed amendments to NDAC § 43-02-03-16.1 is to clarify responsibilities of an operator. The proposed amendment clarifies the principal on the bond covering a facility is the operator and is responsible for compliance with all applicable laws. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to ensure freshwaters are protected and casing is cemented in a proper manner. The proposed amendments require surface casing cement to be displaced with fresh water and also clarifies that surface casing strings may be pressure tested immediately after cementing, while the cement is in a liquid state. The proposed displacement amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed pressure test amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to track fracture stimulation crews operating in North Dakota and to provide industry with relief form certain requirements. The proposed amendments require the operator to notify the Director approximately 48 hours prior to conducting operations; allow the Director to waive visual inspection and photograph of the top casing joint and the wellhead flange; and allows cement evaluation tools to be run only in affected casing strings. The proposed notification amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed visual inspection, photograph, and affected casing amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-29 is to provide the Director the location of above ground pipeline equipment to aid in field inspections. The proposed amendment requires the operator of any underground gas gathering pipeline to submit the location of all associated above ground equipment and buried drip tanks. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to clarify that natural gas and carbon dioxide pipelines are not subject to the section; addresses federal requirements verses State regulations; inform landowners when a pipeline project commences; and ensure integrity during pipeline operations. The proposed amendments remove natural gas and carbon dioxide pipelines from the requirements; clarifies that federal requirements take precedence if in conflict with State regulations; requires the pipeline operator to notify landowners prior to commencing construction of a project; and requires the maximum operating pressure on any portion of pipeline to not exceed the test pressure for which it was tested. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify facilities are subject to the section and provide electronic information to the Director. The proposed amendment clarifies the operator of a facility must notify the Director if a fire, leak, or spill occurs at the facility; and eliminates the need for an operator to sign the document, thus allowing electronic submission. The proposed amendment requiring a facility operator to notify the Director is not expected to have an impact on the regulated community in excess of $50,000 and the proposed elimination of a signature requirement amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is for clarification purposes. The proposed amendment clarifies that the operator is required to document any waiver given by the Director with the County recorder. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure samples and cores collected will be preserved. The proposed amendment requires samples and cores of injection, disposal, storage operations, or geologic information are to be sent to the state core and sample library. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify what is considered an abandoned well and require inactive pipelines to be properly abandoned. The proposed amendment clarifies the removal of production equipment constitutes abandonment of a well and underground gathering pipelines that are inactive for extended periods of time can be required, after notice and hearing, to be properly abandoned. The proposed amendment is expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can continue a hearing upon written objections to an application. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.2 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can exclude certain information from a case record. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.4 is to implement changes from House Bill 1055, which was recently enacted by the Sixty-Seventh Legislative Assembly. The proposed amendment requires the Commission to give notice of an order to all parties pursuant to North Dakota Century Code Section 38-08-11. The proposed amendment will not have any economic impact on the regulated community.

Senate Bill 2065, which was recently enacted by the Sixty-Seventh Legislative Assembly, created NDCC Section 38-25-02, which grants the Commission authority to adopt reasonable rules, after notice and hearing, for the geological storage of oil or gas. The Commission is promulgating regulations for the geological storage of oil or gas, by the creation of NDAC Chapter 43-02-14, and the following proposed rules under Chapter 43-02-14 are hereby outlined.

The purpose of NDAC § 43-02-14-01 is to define terms used in Chapter 43-02-14 that could have a different meaning than other Commission rules. Definitions are included for "facility area" and "storage reservoir". The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02 is to define outline the scope of the chapter. The scope of the chapter pertains to the geological storage of hydrogen and produced oil or gas. The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02.1 is to address the application of rules for geological storage facilities. The rule states such facilities are also subject to provisions of several other chapters under the Commission's authority. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.2 is to protect underground sources of drinking water. The rule prohibits underground injection of oil or gas that allows movement of fluid into an underground source of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.3 is to address transitioning from enhanced oil or gas recovery operations to geological storage. The rule outlines factors the Commission should be considering when determining risks to underground sources of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.4 is to address unauthorized injection. The rule requires a permit prior to site construction and injection for the purpose of geological storage. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.5 is to allow well conversions. The rule allows the conversion of existing wells to an injection well. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-03 is to require records to be kept to substantiate reports. The rule requires persons engaged in geological storage to keep appropriate records until dissolution of the storage facility. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-04 is to address access to records. The rule allows the Commission to access all storage facility records wherever located. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-05 is to require a hearing prior to allowing geological storage. The rule outlines requirements including notice and verification of the amalgamation of pore space and unitization of minerals when proposing a geological storage facility. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since the amalgamation, unitization, and hearing were all required in statute by the Legislative Assembly under the requirements of Senate Bill 2065 (NDCC Chapter 38-25).

The purpose of NDAC § 43-02-14-05.1 is to review wells within and adjacent to the proposed geological storage facility. The rule outlines the procedure to follow when determining what corrective action may be required to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since this rule only outlines procedure, while the statute (NDCC Chapter 38-25) requires the Commission to find the injected oil or gas will not escape from the storage reservoir.

The purpose of NDAC § 43-02-14-06 is to allow the geological storage in an oil and gas reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-07 is to allow the geological storage in a saline reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-08 is to allow the geological storage in a salt cavern. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-09 is to address siting of the storage facility. The rule requires all injection wells to inject into a formation which has confining zones free of open faults or fractures within the facility area and area of review. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-10 is to address construction requirements. The rule requires all injection wells to have casing cemented and quality of cement confirmed to prevent the movement of fluids into an unauthorized zone. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-11 is to address mechanical integrity. The rule outlines how to determine mechanical integrity in an injection well. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-12 is to address plugging injection wells. The rule requires injection wells to be plugged to prevent the movement of fluids into an underground source of drinking water and to obtain the Director's approval prior to the commencement of plugging operations. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-13 is to address injection well pressure restrictions. The rule requires injection wells to be operated below a maximum authorized injection pressure to prevent the initiation of fractures or cause the movement of fluids into an underground source of drinking water and also requires a minimum operating pressure when injecting into a salt cavern to assure cavern integrity. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-13.1 is to address salt cavern integrity. The rule requires the operator to execute the emergency and remedial response plan, pursuant to NDAC § 43-02-14-15, in the event of loss of integrity in a storage cavern. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-14 is to address bonding requirements. The rule states all storage facilities and wells must be bonded as provided in NDAC § 43-02-03-15. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

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The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at **www.dmr.nd.gov/oilgas.** A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to brkadrmas@nd.gov and received by 5pm, October 22nd, 2021, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than September 27, 2021.

Dated this 31st day of August, 2021.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

Kadrmas, Bethany R.

From: Hicks, Bruce E.
Sent: Wednesday, September 1, 2021 2:20 PM
To: -Grp-NDLA House Energy & Natural Resources; -Grp-NDLA Senate Natural Resources
Subject: Proposed Rules pursuant to HB1055
Attachments: HB1055.Order Notice.pdf; Rule Change.HB1055.Notice to Sponsors.pdf; Z.Rule Changes.2022.2021-08-31.FullNotice.Filed with LC.pdf

Representatives and Senators:

Our agency, the Oil and Gas Division of the Department of Mineral Resources of the North Dakota Industrial Commission, is proposing amendments to rules pertaining to oil, gas, geological storage of oil or gas, and geologic storage of carbon dioxide. Pursuant to NDCC Section 28-32-10, such agencies must mail or deliver a copy of the agency's full notice and proposed rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation which is being implemented by a proposed rule.

Please find the following attached:

- Copy of HB1055
- Proposed rule—note highlighted text pertains to HB1055 and amends/adopts the following rule:
  - 43-02-03-90.4—Notice of Order by Mail
- Full notice outlining proposed rule changes—note highlighted text pertains to HB1055 on page 3

If you would like to receive a hard-copy of the attachments, please reply to this email and I will send them.

Public hearings have been scheduled to address the proposed rule changes at the following locations:

- October 11th, 2021 at 8 am (CDT) in the Conference Room of the Oil and Gas Division, 1000 E. Calgary Avenue, Bismarck, ND
- October 11th, 2021 at 1 pm (MDT) in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, ND
- October 12th, 2021 at 8:00 am (CDT) at Clarion Hotel and Suites, 1505 15th Ave West, Williston, ND
- October 12th, 2021 at 1:30 pm (CDT) in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, ND

Comments on the proposed rules received prior to 5 pm October 22, 2021 will be fully considered. If you have any questions, do not hesitate to contact myself.

Sincerely,

Bruce E. Hicks
Assistant Director

bhicks@nd.gov • www.nd.gov

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701.328-8020 • oilandgasinfo@nd.gov • www.dmr.nd.gov • 600 E Boulevard Ave, Dept. 405 • Bismarck, ND 58505

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1055
(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact subsection 4 of section 38-08-11 of the North Dakota Century Code, relating to service of signed commission orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 38-08-11 of the North Dakota Century Code is amended and reenacted as follows:

4. The commission may act upon its own motion or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission ~~must~~shall fix a date for a hearing and give notice. Upon the filing of a petition of any interested party, the commission ~~must~~shall enter and serve its order ~~within thirty days after a hearing. A copy of any order of the commission must be mailed to all the persons filing written appearances at the hearing~~upon all parties to the proceeding as required in section 28-32-39.

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-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1055.

House Vote:	Yeas 92	Nays 0	Absent 2
Senate Vote:	Yeas 46	Nays 0	Absent 1

Chief Clerk of the House

Received by the Governor at 9:38 AM. on March 8, 2021.

Approved at 3:15 PM. on March 8, 2021.

Governor

Filed in this office this 9th day of March, 2021,

at 8:24 o'clock A. M.

Secretary of State

governed by North Dakota Century Code section 28-32-24, although the hearing ~~officer~~ examiner may strike such testimony from the record for good cause.

History: Effective May 1, 1992; amended effective April 1, 2010; April 1, 2012; October 1, 2016; _____.

General Authority
NDCC 28-32-06

Law Implemented
NDCC 28-32-06

43-02-03-90.4. NOTICE OF ORDER BY MAIL. The commission ~~may~~ shall 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~~ pursuant to North Dakota Century Code section 38-08-11.

History: Effective May 1, 1992; _____.

General Authority
NDCC 28-32-13

Law Implemented
NDCC 28-32-13

Filed with Legislative Council 8/31/2021

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NORTH DAKOTA
OIL AND GAS DIVISION

FULL NOTICE OF INTENT TO

ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2021 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2021 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2021 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15th Avenue West, Williston, North Dakota
- October 12th, 2021 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-07 is to update the rule to be consistent with innovation. The proposed amendment clarifies that federal forms will no longer be allowed to be submitted since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendment to NDAC § 43-02-03-09 is to update the rule to be consistent with innovation. The proposed amendment clarifies that most written forms currently provided by the Commission will no longer be available since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to consider less onerous proving requirements for oil and gas meters used for allocation of production in a common ownership facility. The proposed amendments allow the owner of metering equipment to prove oil meters annually, instead of quarterly, and prove gas meters annually, instead of semiannually. The proposed amendment will provide an economic benefit to the regulated community.

600 E Boulevard Ave – Dept 405 | Bismarck, ND 58505-0840 | PHONE: 701-328-8020 | FAX: 701-328-8022 | dmr.nd.gov/oilgas

The purpose of the proposed amendment to NDAC § 43-02-03-15 is to update the rule pursuant to legislation recently passed by the Sixty-seventh Legislative Assembly. Pursuant to Senate Bill 2065, the rule provides for a geological storage facility bond after notice and hearing. The proposed amendment is not expected to have an impact on the regulated community since the bond was required in statute by the Legislative Assembly.

The purpose of the proposed amendments to NDAC § 43-02-03-16.1 is to clarify responsibilities of an operator. The proposed amendment clarifies the principal on the bond covering a facility is the operator and is responsible for compliance with all applicable laws. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to ensure freshwaters are protected and casing is cemented in a proper manner. The proposed amendments require surface casing cement to be displaced with fresh water and also clarifies that surface casing strings may be pressure tested immediately after cementing, while the cement is in a liquid state. The proposed displacement amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed pressure test amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to track fracture stimulation crews operating in North Dakota and to provide industry with relief form certain requirements. The proposed amendments require the operator to notify the Director approximately 48 hours prior to conducting operations; allow the Director to waive visual inspection and photograph of the top casing joint and the wellhead flange; and allows cement evaluation tools to be run only in affected casing strings. The proposed notification amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed visual inspection, photograph, and affected casing amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-29 is to provide the Director the location of above ground pipeline equipment to aid in field inspections. The proposed amendment requires the operator of any underground gas gathering pipeline to submit the location of all associated above ground equipment and buried drip tanks. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to clarify that natural gas and carbon dioxide pipelines are not subject to the section; addresses federal requirements verses State regulations; inform landowners when a pipeline project commences; and ensure integrity during pipeline operations. The proposed amendments remove natural gas and carbon dioxide pipelines from the requirements; clarifies that federal requirements take precedence if in conflict with State regulations; requires the pipeline operator to notify landowners prior to commencing construction of a project; and requires the maximum operating pressure on any portion of pipeline to not exceed the test pressure for which it was tested. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify facilities are subject to the section and provide electronic information to the Director. The proposed amendment clarifies the operator of a facility must notify the Director if a fire, leak, or spill occurs at the facility; and eliminates the need for an operator to sign the document, thus allowing electronic submission. The proposed amendment requiring a facility operator to notify the Director is not expected to have an impact on the regulated community in excess of $50,000 and the proposed elimination of a signature requirement amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is for clarification purposes. The proposed amendment clarifies that the operator is required to document any waiver given by the Director with the County recorder. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure samples and cores collected will be preserved. The proposed amendment requires samples and cores of injection, disposal, storage operations, or geologic information are to be sent to the state core and sample library. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify what is considered an abandoned well and require inactive pipelines to be properly abandoned. The proposed amendment clarifies the removal of production equipment constitutes abandonment of a well and underground gathering pipelines that are inactive for extended periods of time can be required, after notice and hearing, to be properly abandoned. The proposed amendment is expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can continue a hearing upon written objections to an application. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.2 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can exclude certain information from a case record. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.4 is to implement changes from House Bill 1055, which was recently enacted by the Sixty-Seventh Legislative Assembly. The proposed amendment requires the Commission to give notice of an order to all parties pursuant to North Dakota Century Code Section 38-08-11. The proposed amendment will not have any economic impact on the regulated community.

Senate Bill 2065, which was recently enacted by the Sixty-Seventh Legislative Assembly, created NDCC Section 38-25-02, which grants the Commission authority to adopt reasonable rules, after notice and hearing, for the geological storage of oil or gas. The Commission is promulgating regulations for the geological storage of oil or gas, by the creation of NDAC Chapter 43-02-14, and the following proposed rules under Chapter 43-02-14 are hereby outlined.

The purpose of NDAC § 43-02-14-01 is to define terms used in Chapter 43-02-14 that could have a different meaning than other Commission rules. Definitions are included for "facility area" and "storage reservoir". The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02 is to define outline the scope of the chapter. The scope of the chapter pertains to the geological storage of hydrogen and produced oil or gas. The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02.1 is to address the application of rules for geological storage facilities. The rule states such facilities are also subject to provisions of several other chapters under the Commission's authority. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.2 is to protect underground sources of drinking water. The rule prohibits underground injection of oil or gas that allows movement of fluid into an underground source of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.3 is to address transitioning from enhanced oil or gas recovery operations to geological storage. The rule outlines factors the Commission should be considering when determining risks to underground sources of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.4 is to address unauthorized injection. The rule requires a permit prior to site construction and injection for the purpose of geological storage. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.5 is to allow well conversions. The rule allows the conversion of existing wells to an injection well. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-03 is to require records to be kept to substantiate reports. The rule requires persons engaged in geological storage to keep appropriate records until dissolution of the storage facility. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-04 is to address access to records. The rule allows the Commission to access all storage facility records wherever located. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-05 is to require a hearing prior to allowing geological storage. The rule outlines requirements including notice and verification of the amalgamation of pore space and unitization of minerals when proposing a geological storage facility. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since the amalgamation, unitization, and hearing were all required in statute by the Legislative Assembly under the requirements of Senate Bill 2065 (NDCC Chapter 38-25).

The purpose of NDAC § 43-02-14-05.1 is to review wells within and adjacent to the proposed geological storage facility. The rule outlines the procedure to follow when determining what corrective action may be required to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since this rule only outlines procedure, while the statute (NDCC Chapter 38-25) requires the Commission to find the injected oil or gas will not escape from the storage reservoir.

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The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at **www.dmr.nd.gov/oilgas.** A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to brkadrmas@nd.gov and received by 5pm, October 22nd, 2021, will be fully considered. Oral comments can be given at any public hearing listed above.

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Dated this 31st day of August, 2021.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

Kadrmas, Bethany R.

From: Hicks, Bruce E.
Sent: Tuesday, August 31, 2021 2:57 PM
To: Grossman, Jill A.
Cc: Richter, Vonette J.; Heilman, Tracy A.; Kadrmas, Bethany R.
Subject: OGD Rulemaking
Attachments: Z.Rule Changes.2022.2021-08-31.Letter.Filed with LC.pdf; Z.Rule Changes.2022.2021-08-31.FullNotice.Filed with LC.pdf; Z.Rule Changes.2022.2021-08-31.Filed with LC.pdf

Jill,

Please find the following items concerning the Oil & Gas Division's proposed rulemaking:

- Cover letter
- Full Notice
- Proposed Rules

Bruce E. Hicks
Assistant Director

bhicks@nd.gov • www.nd.gov

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NORTH DAKOTA
OIL AND GAS DIVISION

August 31, 2021

DELIVERED VIA EMAIL

Ms. Jill A. Grossman
North Dakota Legislative Council
State Capitol
600 E. Boulevard, 2nd Floor
Bismarck, ND 58505-0360
jillgrossman@nd.gov

RE: **Adopted and Amended Rules**

Dear Ms. Grossman:

The Full Notice of Intent to Adopt and Amend Administrative Rules and a copy of the proposed rules are enclosed as required by North Dakota Century Code § 28-32-10.

If you have any questions or comments, do not hesitate to contact this office.

Sincerely,

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

NORTH Dakota | Mineral Resources
Be Legendary.™

NORTH DAKOTA
OIL AND GAS DIVISION

FULL NOTICE OF INTENT TO

ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-14 (Geological Storage of Oil or Gas), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2021 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2021 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2021 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15th Avenue West, Williston, North Dakota
- October 12th, 2021 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-07 is to update the rule to be consistent with innovation. The proposed amendment clarifies that federal forms will no longer be allowed to be submitted since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendment to NDAC § 43-02-03-09 is to update the rule to be consistent with innovation. The proposed amendment clarifies that most written forms currently provided by the Commission will no longer be available since our new database through NorthSTAR requires online submittal. The proposed amendment will provide an economic benefit to the regulated community since it streamlines processes.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to consider less onerous proving requirements for oil and gas meters used for allocation of production in a common ownership facility. The proposed amendments allow the owner of metering equipment to prove oil meters annually, instead of quarterly, and prove gas meters annually, instead of semiannually. The proposed amendment will provide an economic benefit to the regulated community.

600 E Boulevard Ave – Dept 405 | Bismarck, ND 58505-0840 | PHONE: 701-328-8020 | FAX: 701-328-8022 | dmr.nd.gov/oilgas

The purpose of the proposed amendment to NDAC § 43-02-03-15 is to update the rule pursuant to legislation recently passed by the Sixty-seventh Legislative Assembly. Pursuant to Senate Bill 2065, the rule provides for a geological storage facility bond after notice and hearing. The proposed amendment is not expected to have an impact on the regulated community since the bond was required in statute by the Legislative Assembly.

The purpose of the proposed amendments to NDAC § 43-02-03-16.1 is to clarify responsibilities of an operator. The proposed amendment clarifies the principal on the bond covering a facility is the operator and is responsible for compliance with all applicable laws. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to ensure freshwaters are protected and casing is cemented in a proper manner. The proposed amendments require surface casing cement to be displaced with fresh water and also clarifies that surface casing strings may be pressure tested immediately after cementing, while the cement is in a liquid state. The proposed displacement amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed pressure test amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to track fracture stimulation crews operating in North Dakota and to provide industry with relief form certain requirements. The proposed amendments require the operator to notify the Director approximately 48 hours prior to conducting operations; allow the Director to waive visual inspection and photograph of the top casing joint and the wellhead flange; and allows cement evaluation tools to be run only in affected casing strings. The proposed notification amendment is not expected to have an impact on the regulated community in excess of $50,000 and the proposed visual inspection, photograph, and affected casing amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-29 is to provide the Director the location of above ground pipeline equipment to aid in field inspections. The proposed amendment requires the operator of any underground gas gathering pipeline to submit the location of all associated above ground equipment and buried drip tanks. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to clarify that natural gas and carbon dioxide pipelines are not subject to the section; addresses federal requirements verses State regulations; inform landowners when a pipeline project commences; and ensure integrity during pipeline operations. The proposed amendments remove natural gas and carbon dioxide pipelines from the requirements; clarifies that federal requirements take precedence if in conflict with State regulations; requires the pipeline operator to notify landowners prior to commencing construction of a project; and requires the maximum operating pressure on any portion of pipeline to not exceed the test pressure for which it was tested. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify facilities are subject to the section and provide electronic information to the Director. The proposed amendment clarifies the operator of a facility must notify the Director if a fire, leak, or spill occurs at the facility; and eliminates the need for an operator to sign the document, thus allowing electronic submission. The proposed amendment requiring a facility operator to notify the Director is not expected to have an impact on the regulated community in excess of $50,000 and the proposed elimination of a signature requirement amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is for clarification purposes. The proposed amendment clarifies that the operator is required to document any waiver given by the Director with the County recorder. The proposed amendment is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure samples and cores collected will be preserved. The proposed amendment requires samples and cores of injection, disposal, storage operations, or geologic information are to be sent to the state core and sample library. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify what is considered an abandoned well and require inactive pipelines to be properly abandoned. The proposed amendment clarifies the removal of production equipment constitutes abandonment of a well and underground gathering pipelines that are inactive for extended periods of time can be required, after notice and hearing, to be properly abandoned. The proposed amendment is expected to have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can continue a hearing upon written objections to an application. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.2 is to clarify duties of hearing examiners. The proposed amendment clarifies that the hearing examiner can exclude certain information from a case record. The proposed amendment will not have an impact on the regulated community in excess of $50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90.4 is to implement changes from House Bill 1055, which was recently enacted by the Sixty-Seventh Legislative Assembly. The proposed amendment requires the Commission to give notice of an order to all parties pursuant to North Dakota Century Code Section 38-08-11. The proposed amendment will not have any economic impact on the regulated community.

Senate Bill 2065, which was recently enacted by the Sixty-Seventh Legislative Assembly, created NDCC Section 38-25-02, which grants the Commission authority to adopt reasonable rules, after notice and hearing, for the geological storage of oil or gas. The Commission is promulgating regulations for the geological storage of oil or gas, by the creation of NDAC Chapter 43-02-14, and the following proposed rules under Chapter 43-02-14 are hereby outlined.

The purpose of NDAC § 43-02-14-01 is to define terms used in Chapter 43-02-14 that could have a different meaning than other Commission rules. Definitions are included for "facility area" and "storage reservoir". The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02 is to define outline the scope of the chapter. The scope of the chapter pertains to the geological storage of hydrogen and produced oil or gas. The proposed addition will not have any economic impact on the regulated community.

The purpose of NDAC § 43-02-14-02.1 is to address the application of rules for geological storage facilities. The rule states such facilities are also subject to provisions of several other chapters under the Commission's authority. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.2 is to protect underground sources of drinking water. The rule prohibits underground injection of oil or gas that allows movement of fluid into an underground source of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.3 is to address transitioning from enhanced oil or gas recovery operations to geological storage. The rule outlines factors the Commission should be considering when determining risks to underground sources of drinking water. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.4 is to address unauthorized injection. The rule requires a permit prior to site construction and injection for the purpose of geological storage. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-02.5 is to allow well conversions. The rule allows the conversion of existing wells to an injection well. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-03 is to require records to be kept to substantiate reports. The rule requires persons engaged in geological storage to keep appropriate records until dissolution of the storage facility. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-04 is to address access to records. The rule allows the Commission to access all storage facility records wherever located. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-05 is to require a hearing prior to allowing geological storage. The rule outlines requirements including notice and verification of the amalgamation of pore space and unitization of minerals when proposing a geological storage facility. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since the amalgamation, unitization, and hearing were all required in statute by the Legislative Assembly under the requirements of Senate Bill 2065 (NDCC Chapter 38-25).

The purpose of NDAC § 43-02-14-05.1 is to review wells within and adjacent to the proposed geological storage facility. The rule outlines the procedure to follow when determining what corrective action may be required to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000 since this rule only outlines procedure, while the statute (NDCC Chapter 38-25) requires the Commission to find the injected oil or gas will not escape from the storage reservoir.

The purpose of NDAC § 43-02-14-06 is to allow the geological storage in an oil and gas reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-07 is to allow the geological storage in a saline reservoir. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-08 is to allow the geological storage in a salt cavern. The rule outlines the information required in an application for a geological storage facility permit. The proposed addition could have an impact on the regulated community in excess of $50,000. The Commission notes that many of the requirements under this section are necessary for the Commission to determine if the applicant has met the requirements of the statute (NDCC Chapter 38-25) therefore the impact on the regulated community could be less than $50,000, but nevertheless, the Commission will perform a regulatory analysis on the proposed rule.

The purpose of NDAC § 43-02-14-09 is to address siting of the storage facility. The rule requires all injection wells to inject into a formation which has confining zones free of open faults or fractures within the facility area and area of review. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-10 is to address construction requirements. The rule requires all injection wells to have casing cemented and quality of cement confirmed to prevent the movement of fluids into an unauthorized zone. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-11 is to address mechanical integrity. The rule outlines how to determine mechanical integrity in an injection well. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-12 is to address plugging injection wells. The rule requires injection wells to be plugged to prevent the movement of fluids into an underground source of drinking water and to obtain the Director's approval prior to the commencement of plugging operations. The proposed addition could have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-13 is to address injection well pressure restrictions. The rule requires injection wells to be operated below a maximum authorized injection pressure to prevent the initiation of fractures or cause the movement of fluids into an underground source of drinking water and also requires a minimum operating pressure when injecting into a salt cavern to assure cavern integrity. The proposed addition will provide an economic benefit to the regulated community.

The purpose of NDAC § 43-02-14-13.1 is to address salt cavern integrity. The rule requires the operator to execute the emergency and remedial response plan, pursuant to NDAC § 43-02-14-15, in the event of loss of integrity in a storage cavern. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-14 is to address bonding requirements. The rule states all storage facilities and wells must be bonded as provided in NDAC § 43-02-03-15. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-15 is to address an emergency and remedial response plan. The rule requires the storage facility operator to maintain a Commission-approved emergency and remedial response plan. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-16 is to address reporting, monitoring, and operating requirements. The rule requires the storage facility operator to meter volumes injected, place gauges on injection wells, notify the Director upon commencing and discontinuing injection operations, and report all work performed on the injection well. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-17 is to address leak detection and reporting. The rule requires the storage facility operator to utilize leak detectors, report any leak detected, or loss of storage integrity. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-18 is to address the transfer of a storage facility permit. The rule allows the transfer of a storage facility permit only after notice and hearing and Commission approval. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19 is to address modification, revocation, and termination of a storage facility permit. The rule allows the Commission to schedule a hearing for the purpose of reviewing a storage facility permit. The proposed addition is not expected to have an impact on the regulated community in excess of $50,000.

The purpose of NDAC § 43-02-14-19.1 is to address minor modification of a storage facility permit. The rule allows the Commission to modify a permit to correct errors, require more frequent monitoring or reporting, change injectate, and change construction requirements. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-11 is to allow flexibility in downhole equipment of an injection well. The proposed amendment allows the Director to allow the tubing packer of an injection well to be set higher than 50 feet above the uppermost perforation. The proposed addition will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-17 is to implement changes from Senate Bill 2014, which was recently enacted by the Sixty-Seventh Legislative Assembly, addressing fees on each ton of carbon dioxide injected for storage. The proposed amendment requires the storage operator to pay fees based upon whether or not the carbon dioxide sources contribute to the energy and agriculture production economy of North Dakota. The proposed addition could have an impact on the regulated community in excess of $50,000.

The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at **www.dmr.nd.gov/oilgas.** A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to brkadrmas@nd.gov and received by 5pm, October 22nd, 2021, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than September 27, 2021.

Dated this 31st day of August, 2021.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

GENERAL RULES AND REGULATIONS
CHAPTER 43-02-03

B. MISCELLANEOUS RULES

43-02-03-07. 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 (form 7) must be filed with the commission.~~

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1994; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-09. 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.~~ The commission will provide electronic submission for most requests and reports.

History: Amended effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-14.2. OIL AND GAS METERING SYSTEMS.

1. Application of section. This section is applicable to all allocation and custody transfer metering stations measuring production from oil and gas wells within the state of North Dakota, including private, state, and federal wells. If these rules differ from federal requirements on measurement of production from federal oil and gas wells, the federal rules take precedence.

2. Definitions. As used in this section:

   a. "Allocation meter" means a meter used by the producer to determine the volume from an individual well before it is commingled with production from one or more other wells prior to the custody transfer point.

b. "Calibration test" means the process or procedure of adjusting an instrument, such as a gas meter, so its indication or registration is in satisfactorily close agreement with a reference standard.

c. "Custody transfer meter" means a meter used to transfer oil or gas from the producer to transporter or purchaser.

d. "Gas gathering meter" means a meter used in the custody transfer of gas into a gathering system.

e. "Meter factor" means a number obtained by dividing the net volume of fluid (liquid or gaseous) passed through the meter during proving by the net volume registered by the meter.

f. "Metering proving" means the procedure required to determine the relationship between the true volume of a fluid (liquid or gaseous) measured by a meter and the volume indicated by the meter.

3. Inventory filing requirements. The owner of metering equipment shall file with the commission an inventory of all meters used for custody transfer and allocation of production from oil or gas wells, or both. Inventories must be updated on an annual basis, and filed with the commission on or before the first day of each year, or they may be updated as frequently as monthly, at the discretion of the operator. Inventories must include the following:

a. Well name and legal description of location or meter location if different.

b. North Dakota industrial commission well file number.

c. Meter information:

(1) Gas meters:

(a) Make and model.

(b) Differential, static, and temperature range.

(c) Orifice tube size (diameter).

(d) Meter station number.

(e) Serial number.

(2) Oil meters:

(a) Make and model.

(b) Size.

(c) Meter station number.

(d) Serial number.

4. Installation and removal of meters. The commission must be notified of all custody transfer meters placed in service. The owner of the custody transfer equipment shall notify the commission of the date a meter is placed in service, the make and model of the meter, and the meter or station number. The commission must also be notified of all metering installations removed from service. The notice must include the date the meter is removed from service, the serial number, and the meter or station number. The required notices must be filed with the commission within thirty days of the installation or removal of a meter.

   All allocation meters must be approved prior to installation and use. The application for approval must be on a sundry notice (form 4 or form provided by the commission) and shall include the make and model number of the meter, the meter or station number, the serial number, the well name, its location, and the date the meter will be placed in service.

   Meter installations for measuring production from oil or gas wells, or both, must be constructed to American petroleum institute or American gas association standards or to meter manufacturer's recommended installation. Meter installations constructed in accordance with American petroleum institute or American gas association standards in effect at the time of installation shall not automatically be required to retrofit if standards are revised. The commission will review any revised standards, and when deemed necessary will amend the requirements accordingly.

5. Registration of persons proving or testing meters. All persons engaged in meter proving or testing of oil and gas meters must be registered with the commission. Those persons involved in oil meter testing, by flowing fluid through the meter into a test tank and then gauging the tank, are exempted from the registration process. However, such persons must notify the commission prior to commencement of the test to allow a representative of the commission to witness the testing process. A report of the results of such test shall be filed with the commission within thirty days after the test is completed. Registration must include the following:

   a. Name and address of company.

   b. Name and address of measurement personnel.

   c. Qualifications, listing experience, or specific training.

Any meter tests performed by a person not registered with the commission will not be accepted as a valid test.

6. Calibration requirements. Oil and gas metering equipment must be proved or tested to American petroleum institute or American gas association standards or to the meter manufacturer's recommended procedure to establish a meter factor or to ensure measurement accuracy. The owner of a custody transfer meter or allocation meter shall notify the commission at least ten days prior to the testing of any meter.

   a. Oil allocation meter factors shall be maintained within two percent of original meter factor. If the factor change between provings or tests is greater than two percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   b. Oil custody transfer meter factors must be maintained within one-quarter of one percent of the previous meter factor. If the factor change between provings or tests is greater than one-quarter of one percent, meter use must be discontinued until successfully reproven after being repaired or replaced.

   c. Copies of all oil allocation meter test procedures are to be filed with and reviewed by the commission to ensure measurement accuracy.

   d. All gas meters must be tested with a minimum of a three point test for static and differential pressure elements and a two point test for temperature elements. The test reports must include an as-found and as-left test and a detailed report of changes.

   e. Test reports must include the following:

      (1) Producer name.

      (2) Well or CTB name.

      (3) Well file number or CTB number.

      (4) Pipeline company or company name of test contractor.

      (5) Test personnel's name.

      (6) Station or meter number.

   f. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:

      (1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two

thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.

(2) Quarterly for oil meters used for allocation of production in a common ownership central production facility. Annually for oil meters used for allocation of production in a diverse ownership central production facility.

(3) Semiannually for gas meters used for allocation of production in a common ownership central production facility. Annually for gas meters used for allocation of production in a diverse ownership central production facility.

(4) Semiannually for gas meters in gas gathering systems.

(5) For meters measuring more than one hundred thousand cubic feet [2831.68 cubic meters] per day on a monthly basis, orifice plates shall be inspected semiannually, and meter tubes shall be inspected at least every five years to ensure continued conformance with the American gas association meter tube specifications.

(6) For meters measuring one hundred thousand cubic feet [2831.68 cubic meters] per day or less on a monthly basis, orifice plates shall be inspected annually.

g. All meter test reports, including failed meter test reports, must be filed within thirty days of completion of proving or calibration tests unless otherwise approved. Test reports are to be filed on, but not limited to, all meters used for allocation measurement of oil or gas and all meters used in crude oil custody transfer.

h. Accuracy of all equipment used to test oil or gas meters must be traceable to the standards of the national institute of standards and technology. The equipment must be certified as accurate either by the manufacturer or an independent testing facility. The certificates of accuracy must be made available upon request. Certification of the equipment must be updated as follows:

(1) Annually for all equipment used to test the pressure and differential pressure elements.

(2) Annually for all equipment used to determine temperature.

(3) Biennially for all conventional pipe provers.

(4) Annually for all master meters.

(5) Five years for equipment used in orifice tube inspection.

7. Variances. Variances from all or part of this section may be granted by the commission provided the variance does not affect measurement accuracy. All requests for variances must be on a sundry notice (form 4).

   A register of variances requested and approved must be maintained by the commission.

History: Effective May 1, 1994; amended effective July 1, 1996; September 1, 2000; July 1, 2002; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

C. DRILLING

43-02-03-15. BOND AND TRANSFER OF WELLS.

1. Bond requirements. Prior to commencing construction of a site or appurtenance or road access thereto, any person who proposes to drill a well for oil, gas, injection, or source well for use in enhanced recovery operations, shall submit to the commission, and obtain its approval, 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.

2. Bond amounts and limitations. The bond shall be in the amount of fifty thousand dollars when applicable to one well only. Wells drilled to a total depth of less than two thousand feet [609.6 meters] may be bonded in a lesser amount if approved by the director. When the principal on the bond is drilling or operating a number of wells within the state or proposes to do so, the principal may submit a bond conditioned as provided by law. Wells utilized for commercial injection operations must be bonded in the amount of one hundred thousand dollars. A blanket bond covering more than one well shall be in the amount of one hundred thousand dollars, provided the bond shall be limited to no more than six of the following in aggregate:

   a. A well that is a dry hole and is not properly plugged;

   b. A well that is plugged and the site is not properly reclaimed;

   c. A well that is abandoned pursuant to subsection 1 of North Dakota Century Code section 38-08-04 or section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed; and

d. A well that is temporarily abandoned under section 43-02-03-55 for more than seven years.

If this aggregate of wells is reached, all well permits, for which drilling has not commenced, held by the principal of such bond are suspended. No rights may be exercised under the permits until the aggregate of wells drops below the required limit, or the operator files the appropriate bond to cover the permits, at which time the rights given by the drilling permits are reinstated. A well with an approved temporary abandoned status for no more than seven years shall have the same status as an oil, gas, or injection well. The commission may, after notice and hearing, require higher bond amounts than those referred to in this section. Such additional amounts for bonds must be related to the economic value of the well or wells and the expected cost of plugging and well site reclamation, as determined by the commission. The commission may refuse to accept a bond or to add wells to a blanket 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.

3. Unit bond requirements. Prior to commencing unit operations, the operator of any area under unitized management shall submit to the commission, and obtain its approval, 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 the unit shall be the principal on the bond covering the unit. The amount of the bond shall be specified by the commission in the order approving the plan of unitization. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

   Prior to transfer of a unit to a new operator, the commission, after notice and hearing, may revise the bond amount for a unit, or in the case when the unit was not previously bonded, the commission may require a bond and set a bond amount for the unit.

4. Bond terms. Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-08, and all administrative rules and orders of the commission. It shall be a plugging bond, as well as a drilling bond, and is to endure up to and including approved plugging of all oil, gas, and injection wells as well as dry holes. Approved plugging shall also include practical reclamation of the well site and appurtenances thereto. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.

5. Transfer of wells under bond. Transfer of property does not release the bond. In case of transfer of property or other interest in the well and the principal desires to be released from the bond covering the well, such as producers, not ready for plugging, the principal must proceed as follows:

a. The principal must notify the director, in writing, of all proposed transfers of wells at least thirty days before the closing date of the transfer. The director may, for good cause, waive this requirement.

(1) The principal shall submit a schematic drawing identifying all lines owned by the principal which leave the constructed pad or facility and shall provide any details the director deems necessary.

(2) The principal shall submit to the commission a form 15 reciting that a certain well, or wells, describing each well by quarter-quarter, section, township, and range, is to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form signed by a party duly authorized to sign on behalf of the principal.

(3) On said transfer form the transferee shall recite the following: "The transferee has read the foregoing statement and does accept such transfer and does accept the responsibility of such well under the transferee's one-well bond or, as the case may be, does accept the responsibility of such wells under the transferee's blanket bond, said bond being tendered to or on file with the commission." Such acceptance must likewise be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

b. When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor shall be released from the responsibility of plugging the well and site reclamation. If such wells include all the wells within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any well from a bond if any well on the bond is in violation of a statute, rule, or order. No abandoned well may be transferred from a bond unless the transferee has obtained a single well bond in an amount equal to the cost of plugging the well and reclaiming the well site.

c. The transferee (new operator) of any oil, gas, or injection well, shall be responsible for the plugging and site reclamation of any such well. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such well. The original or prior bond shall not be released as to the plugging and reclamation responsibility of any such transferor until the transferee shall submit to the commission an acceptable bond to cover such well. All liability on bonds shall continue until the plugging and site reclamation of such wells is completed and approved.

6. Treating plant bond. Prior to commencing site or road access construction, any person proposing to operate a treating plant must 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 person responsible for the operation of the plant shall be the principal on the bond. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota. The amount of the bond must be as prescribed in section 43-02-03-51.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond. The director may refuse to transfer any treating plant from a bond if the treating plant is in violation of a statute, rule, or order.

7. Saltwater handling facility bond. Prior to commencing site or road access construction, any person proposing to operate a saltwater handling facility that is not already bonded as an appurtenance 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 person responsible for the operation of the saltwater handling facility must be the principal on the bond. Each surety bond must be executed by a responsible surety company authorized to transact business in North Dakota. The amount of the bond must be as prescribed in section 43-02-03-53.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, the surety shall satisfy the conditions or forfeit to the commission the face value of the bond. Transfer of property does not release the bond. The director may refuse to transfer any saltwater handling facility from a bond if the saltwater handling facility is in violation of a statute, rule, or order.

8. Geological storage facility bond requirements. Prior to commencing injection operations, the operator of any storage facility shall submit to the commission, and obtain its approval, a surety bond or cash bond in the amount specified by the commission in the order approving the storage facility. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of the storage facility shall be the principal on the bond covering the storage facility. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

~~8~~9. Crude oil and produced water underground gathering pipeline bond. The bonding requirements for crude oil and produced water underground gathering pipelines are not to be construed to be required on flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment on the production facility.

a. Any owner of an underground gathering pipeline transferring crude oil or produced water, after April 19, 2015, shall submit to the commission and obtain its approval of a surety bond or cash bond prior to July 1, 2017. Any owner of a proposed underground gathering pipeline to transfer crude oil or produced water shall submit to the commission and obtain its approval of a surety bond or cash bond prior to placing into service. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The person responsible for the operation of the crude oil or produced water underground gathering pipeline must be the principal on the bond. Each surety bond must be executed by a responsible surety company authorized to transact business in North Dakota. The bond must be in the amount of fifty thousand dollars when applicable to one crude oil or produced water underground gathering pipeline system only. Such underground gathering pipelines that are less than one mile [1609.34 meters] in length may be bonded in a lesser amount if approved by the director. When the principal on the bond is operating multiple gathering pipeline systems within the state or proposes to do so, the principal may submit a blanket bond conditioned as provided by law. A blanket bond covering one or more underground gathering pipeline systems must be in the amount of one hundred thousand dollars. The owner shall file with the director, as prescribed by the director, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point of all underground gathering pipelines on the bond. Each layer must include at least the following information:

(1) The name of the pipeline gathering system and other separately named portions thereof;

(2) The type of fluid transported;

(3) The pipeline composition;

(4) Burial depth; and

(5) Approximate in-service date.

b. The blanket bond covering more than one underground gathering pipeline system is limited to no more than six of the following instances of noncompliance in aggregate:

(1) Any portion of an underground gathering pipeline system that has been removed from service for more than one year and is not properly abandoned pursuant to section 43-02-03-29.1; and

(2) An underground gathering pipeline right-of-way, including associated above ground equipment, which has not been properly reclaimed pursuant to section 43-02-03-29.1.

If this aggregate of underground gathering pipeline systems is reached, the commission may refuse to accept additional pipeline systems on the bond until the aggregate is brought back into compliance. The commission, after notice and hearing, may require higher bond amounts than those referred to in this section. Such additional amounts for bonds must be related to the economic value of the underground gathering pipeline system and the expected cost of pipeline abandonment and right-of-way reclamation, as determined by the commission. The commission may refuse to accept a bond or to add underground gathering pipeline systems to a blanket bond if the owner or surety company has failed in the past to comply with statutes, rules, or orders relating to the operation of underground gathering pipelines; if a civil or administrative action brought by the commission is pending against the owner or surety company; if an underground gathering pipeline system has exhibited multiple failures; or for other good cause.

c. The underground gathering pipeline bond is to remain in force until the pipeline has been abandoned, as provided in section 43-02-03-29.1, and the right-of-way, including all associated above ground equipment, has been reclaimed as provided in section 43-02-03-29.1, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.

d. Transfer of underground gathering pipelines under bond. Transfer of property does not release the bond. In case of transfer of property or other interest in the underground gathering pipeline and the principal desires to be released from the bond covering the underground gathering pipeline, the principal must proceed as follows:

(1) The principal shall notify the director, in writing, of all proposed transfers of underground gathering pipelines at least thirty days before the closing date of the transfer. The director, for good cause, may waive this requirement.

Notice of underground gathering pipeline transfer. The principal shall submit, as provided by the director, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point of all underground gathering pipelines to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form 15pl signed by a party duly authorized to sign on behalf of the principal.

The notice of underground gathering pipeline transfer must recite the following: "The transferee has read the foregoing statement and does accept such transfer and does accept the responsibility of such underground gathering pipelines under the transferee's pipeline bond or, as the case may be, does accept the responsibility of such underground gathering pipelines under the transferee's pipeline systems blanket bond, said bond being tendered to or on file with the commission." Such acceptance must likewise be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

(2) When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor must be released from the responsibility of abandoning the underground gathering pipelines and right-of-way reclamation. If such underground gathering pipelines include all underground gathering pipeline systems within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any underground gathering pipeline from a bond if the underground gathering pipeline is in violation of a statute, rule, or order.

(3) The transferee (new owner) of any underground gathering pipeline is responsible for the abandonment and right-of-way reclamation of any such underground gathering pipeline. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such underground gathering pipeline. The original or prior bond may not be released as to the abandonment and right-of-way reclamation responsibility of any such transferor until the transferee submits to the commission an acceptable bond to cover such underground gathering pipeline. All liability on bonds continues until the abandonment and right-of-way reclamation of such underground gathering pipeline is completed and approved by the director.

~~9~~10. 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.

~~10~~11. 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.

History: Amended effective April 30, 1981; March 1, 1982; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; December 1, 1996; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006; April 1, 2012; April 1, 2014; January 1, 2017; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-16.1. DESIGNATION AND RESPONSIBILITIES OF OPERATOR. The principal on the bond covering a well, ~~or a~~ treating plant, or facility is the operator. The operator is responsible for compliance with all applicable laws. A dispute over designation of the operator may be addressed by the commission. In doing so, the factors the commission may consider include those set forth in subsection 1 of section 43-02-03-16.2.

History: Effective December 1, 1996; amended effective April 1, 2014; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-21. CASING, TUBING, AND CEMENTING REQUIREMENTS. All wells drilled for oil, natural gas or injection shall be completed with strings of casing which shall be properly cemented at sufficient depths to adequately protect and isolate all formations containing water, oil or gas or any combination of these; protect the pipe through salt sections encountered; and isolate the uppermost sand of the Dakota group.

Drilling of the surface hole shall be with freshwater-based drilling mud or other method approved by the director which will protect all freshwater-bearing strata. This includes water used during the cementing of surface casing for displacement. The surface casing shall consist of new or reconditioned pipe that has been previously tested to one thousand pounds per square inch [6900 kilopascals]. The surface casing shall be set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. Sufficient cement shall be used on surface casing to fill the annular space behind the casing to the bottom of the cellar, if any, or to the surface of the ground. If the annulus space is not adequately filled with cement, the director shall be notified immediately. The operator shall diligently perform remedial work after obtaining approval from the director. All strings of surface casing shall stand cemented under pressure for at least twelve hours before drilling the plug ~~or initiating tests~~. The term "under pressure" as used herein shall be complied with if one float valve is used or if pressure is otherwise held. Cementing shall be by the pump and plug method or other methods approved by the director. The director is authorized to require an accurate gauge be maintained on the surface casing of any well, not

properly plugged and abandoned, to detect any buildup of pressure caused by the migration of fluids.

Surface casing strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least three hundred fifty pounds per square inch [2415 kilopascals] within seventy-two hours. All compressive strengths on surface casing cement shall be calculated at a temperature of eighty degrees Fahrenheit [26.67 degrees Celsius].

Production or intermediate casing strings shall consist of new or reconditioned pipe that has been previously tested to two thousand pounds per square inch [13800 kilopascals]. Such strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least five hundred pounds per square inch [3450 kilopascals] within seventy-two hours, although in any horizontal well performing a single stage cement job from a measured depth of greater than thirteen thousand feet [3962.4 meters], the filler cement utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within forty-eight hours and at least five hundred pounds per square inch [3450 kilopascals] within ninety-six hours. All compressive strengths on production or intermediate casing cement shall be calculated at a temperature found in the Mowry formation using a gradient of 1.2 degrees Fahrenheit per one hundred feet [30.48 meters] of depth plus eighty degrees Fahrenheit [26.67 degrees Celsius]. At a formation temperature at or in excess of two hundred thirty degrees Fahrenheit [110 degrees Celsius], cement blends must include additives to address compressive strength regression.

Each casing string shall be tested by application of pump pressure of at least one thousand five hundred pounds per square inch [10350 kilopascals] immediately after cementing, while the cement is in a liquid state, or the casing string must be pressure tested after all cement has reached five hundred pounds per square inch [3450 kilopascals] compressive strength. If, at the end of thirty minutes, this pressure has dropped more than ten percent, the casing shall be repaired after receiving approval from the director. Thereafter, the casing shall again be tested in the same manner. Further work shall not proceed until a satisfactory test has been obtained. The casing in a horizontal well may be tested by use of a mechanical tool set near the casing shoe after the horizontal section has been drilled.

All flowing wells must be equipped with tubing. A tubing packer must also be utilized unless a waiver is obtained after demonstrating the casing will not be subjected to excessive

pressure or corrosion. The packer must be set as near the producing interval as practicable, but in all cases must be above the perforations.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 1997; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006; April 1, 2010; April 1, 2012; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-27.1 HYDRAULIC FRACTURE STIMULATION.

1. Prior to performing any hydraulic fracture stimulation, including refracs, through a frac string run inside the intermediate casing string:

   a. The frac string must be either stung into a liner with the hanger/packer located in cemented casing or run with a packer set at a minimum depth of one hundred feet [30.48 meters] below the top of cement or a minimum depth of one hundred feet [30.48 meters] below the top of the Inyan Kara formation, whichever is deeper.

   b. The intermediate casing-frac string annulus must be pressurized and monitored during frac operations. Prior to performing any refrac, a casing evaluation tool must be run to verify adequate wall thickness of the intermediate casing.

   c. An adequately sized, function tested pressure relief valve must be utilized on the treating lines from the pumps to the wellhead, with suitable check valves to limit the volume of flowback fluid should the relief valve open. The relief valve must be set to limit line pressure to no more than eighty-five percent of the internal yield pressure of the frac string.

   d. An adequately sized, function tested pressure relief valve and an adequately sized diversion line must be utilized to divert flow from the intermediate casing to a pit or containment vessel in case of frac string failure. The relief valve must be set to limit annular pressure to no more than eighty-five percent of the lowest internal yield pressure of the intermediate casing string or no greater than the pressure test on the intermediate casing, less one hundred pounds per square inch gauge, whichever is less.

   e. The surface casing must be fully open and connected to a diversion line rigged to a pit or containment vessel.

   f. An adequately sized, function tested remote operated frac valve must be utilized at a location on the christmas tree that provides isolation of the well bore from

the treating line and must be remotely operated from the edge of the location or other safe distance.

g. Notify the director approximately forty-eight hours prior to the commencement of hydraulic fracture stimulation operations, identifying the subject well and verifying a frac string was run in the well.

~~g~~h. Within sixty days after the hydraulic fracture stimulation is performed, the owner, operator, or service company shall post on the fracfocus chemical disclosure registry all elements made viewable by the fracfocus website.

2. Prior to performing any hydraulic fracture stimulation, including refracs, through an intermediate casing string:

a. The maximum treating pressure shall be no greater than eighty-five percent of the American petroleum institute rating of the affected intermediate casing string.

b. Casing evaluation tools to verify adequate wall thickness of ~~the~~ any affected intermediate casing string shall be run from the wellhead to a depth as close as practicable to one hundred feet [30.48 meters] above the completion formation and a visual inspection with photographs shall be made of the top joint of the intermediate casing and the wellhead flange. The visual inspection and photograph requirement can be waived by the director for good cause.

If the casing evaluation tool or visual inspection indicates wall thickness is below the American petroleum institute minimum or a lighter weight of intermediate casing than the well design called for, calculations must be made to determine the reduced pressure rating. If the reduced pressure rating is less than the anticipated treating pressure, a frac string shall be run inside the intermediate casing.

c. Cement evaluation tools to verify adequate cementing of ~~the~~ each intermediate casing string shall be run from the wellhead to a depth as close as practicable to one hundred feet [30.48 meters] above the completion formation.

(1) If the cement evaluation tool indicates defective casing or cementing, a frac string shall be run inside the intermediate casing.

(2) If the cement evaluation tool indicates the intermediate casing string cemented in the well fails to satisfy section 43-02-03-21, a frac string shall be run inside the intermediate casing.

d. ~~The~~ Each affected intermediate casing string and the wellhead must be pressure tested ~~to a minimum depth of one hundred feet [30.48 meters] below the top of~~

~~the Tyler formation~~ for at least thirty minutes with less than five percent loss to a pressure equal to or in excess of the maximum frac design pressure.

e. If the pressure rating of the wellhead does not exceed the maximum frac design pressure, a wellhead and blowout preventer protection system must be utilized during the frac.

f. An adequately sized, function tested pressure relief valve must be utilized on the treating lines from the pumps to the wellhead, with suitable check valves to limit the volume of flowback fluid should the relief valve open. The relief valve must be set to limit line pressure to no greater than the test pressure of the intermediate casing, less one hundred pounds per square inch [689.48 kilopascals].

g. The surface casing valve must be fully open and connected to a diversion line rigged to a pit or containment vessel.

h. An adequately sized, function tested remote operated frac valve must be utilized between the treating line and the wellhead.

i. Notify the director approximately forty-eight hours prior to the commencement of hydraulic fracture stimulation operations identifying the subject well and verifying all logs and pressure tests have been performed as required.

~~i~~j. Within sixty days after the hydraulic fracture stimulation is performed, the owner, operator, or service company shall post on the fracfocus chemical disclosure registry all elements made viewable by the fracfocus website.

3. If during the stimulation, the pressure in the intermediate casing-surface casing annulus exceeds three hundred fifty pounds per square inch [2413 kilopascals] gauge, the owner or operator shall verbally notify the director as soon as practicable but no later than twenty-four hours following the incident.

History: Effective April 1, 2012; amended effective April 1, 2014; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29. WELL AND LEASE EQUIPMENT, AND GAS GATHERING PIPELINES. Wellhead and lease equipment with a working pressure at least equivalent to the calculated or known pressure to which the equipment may be subjected shall be installed and maintained. Equipment on producing wells shall be installed to facilitate gas-oil ratio tests, and static bottom hole or other pressure tests. Valves shall be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing.

All newly constructed underground gas gathering pipelines must be devoid of leaks and constructed of materials resistant to external corrosion and to the effects of transported fluids. All such pipelines installed in a trench must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, the possibility of damage to the pipe, and tracer wire shall be buried with any nonconductive pipe installed. When a trench for an underground gas gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material.

1. The operator of any underground gas gathering pipeline placed into service on August 1, 2011, to June 30, 2013, shall file with the director, by January 1, 2015, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline. The operator of any underground gas gathering pipeline placed into service after June 30, 2013, shall file with the director, within one hundred eighty days of placing into service, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of <u>all associated above ground equipment, buried drip tanks, and</u> the pipeline centerline. An affidavit of completion shall accompany each layer containing the following information:

   a. A statement that the pipeline was constructed and installed in compliance with section 43-02-03-29.

   b. The outside diameter, minimum wall thickness, composition, internal yield pressure, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.

   c. The anticipated operating pressure of the pipeline.

   d. The type of fluid that will be transported in the pipeline and direction of flow.

   e. Pressure to which the pipeline was tested prior to placing into service.

   f. The minimum pipeline depth of burial.

   g. In-service date.

   h. Leak detection and monitoring methods that will be utilized after in-service date.

   i. Pipeline name.

   j. Accuracy of the geographical information system layer.

2. When an underground gas gathering pipeline or any part of such pipeline is abandoned, the operator shall leave such pipeline in a safe condition by conducting the following:

   a. Disconnect and physically isolate the pipeline from any operating facility or other pipeline.

   b. Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.

   c. Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.

   d. Remove cathodic protection from the pipeline.

   e. Permanently plug or cap all open ends by mechanical means or welded means.

3. Within one hundred eighty days of completing the abandonment of an underground gas gathering pipeline the operator of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline and an affidavit of completion containing the following information:

   a. A statement that the pipeline was abandoned in compliance with section 43-02-03-29.

   b. The type of fluid used to purge the pipeline.

The requirement to submit a geographical information system layer is not to be construed to be required on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

History: Amended effective January 1, 1983; January 1, 2006; April 1, 2014; January 1, 2017; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29.1. CRUDE OIL AND PRODUCED WATER UNDERGROUND GATHERING PIPELINES.

1. Application of section. This section is applicable to all underground gathering pipelines designed for or capable of transporting crude oil~~, natural gas, carbon dioxide,~~ or produced water from an oil and gas production facility for the purpose of disposal,

storage, or for sale purposes ~~or designed for or capable of transporting carbon dioxide from a carbon capture facility for the purpose of storage or enhanced oil recovery.~~ If these rules differ from the pipeline manufacturer's prescribed installation and operation practices, the pipeline manufacturer's prescribed installation and operation practices take precedence.

The requirements in this section are not applicable to flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment located entirely within the boundary of a well site or production facility.

If these rules differ from federal requirements on federally regulated pipelines, the federal rules take precedence. The pipeline owner shall provide sufficient documentation to the director confirming the pipeline is federally regulated.

2. Definitions. The terms used throughout this section apply to this section only.

   a. "Crude oil or produced water underground gathering pipeline" means an underground gathering pipeline designed or intended to transfer crude oil or produced water from a production facility for disposal, storage, or sale purposes.

   b. "New construction" means a new gathering pipeline installation project or an alteration or re-route of an existing gathering pipeline where the location, composition, size, design temperature, or design pressure changes.

   c. "Pipeline repair" is the work necessary to restore a pipeline system to a condition suitable for safe operations that does not change the design temperature or pressure.

   d. "Gathering system" is a group of connected pipelines ~~which are connected~~ which have been designated as a gathering system by the operator. A gathering system must have a unique name and must be interconnected.

   e. "In-service date" is the first date fluid was transported down the underground gathering pipeline for disposal, storage, or sale purposes after construction.

3. Notifications.

   a. The underground gathering pipeline owner shall notify the commission, as provided by the director, at least seven days prior to commencing new construction of any underground gathering pipeline.

      (1) The notice of intent to construct a crude oil or produced water underground gathering pipeline must include the following:

         (a) The proposed date construction is scheduled to begin.

(b) A statement that the director and landowner will be verbally notified approximately forty-eight hours prior to commencing the construction.

(c) A geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the proposed route of the pipeline from the point of origin to the termination point.

(d) The proposed underground gathering pipeline design drawings, including all associated above ground equipment.

[1] The proposed pipeline composition, specifications (i.e. size, weight, grade, wall thickness, coating, and standard dimension ratio).

[2] The type of fluid to be transported.

[3] The method of testing pipeline integrity (e.g. hydrostatic or pneumatic test) prior to placing the pipeline into service.

[4] Proposed burial depth of the pipeline.

[5] The location and type of all road crossings (i.e. bored and cased or bored only).

[6] The location of all environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies that the pipeline may traverse, if applicable.

b. The underground gathering pipeline owner shall file a sundry notice (form 4 or form provided by the commission) with the director notifying the commission of any underground gathering pipeline system or portion thereof that has been removed from service for more than one year.

c. If damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas, during construction, operation, maintenance, repair, or abandonment of an underground gathering pipeline, the responsible party shall verbally notify the director immediately.

d. The pipeline owner shall file a sundry notice (form 4 or form provided by the commission) within thirty days of the in-service date reporting the date of first service.

4. Design and construction.

The following applies to newly constructed crude oil and produced water underground gathering pipelines, including tie-ins to existing systems:

a. Underground gathering pipelines must be devoid of leaks and constructed of materials resistant to external corrosion and to the effects of transported fluids.

b. Underground gathering pipelines must be designed in a manner that allows for line maintenance, periodic line cleaning, and integrity testing.

c. Installation crews must be trained in all installation practices for which they are tasked to perform.

d. Underground gathering pipelines must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, and the possibility of damage to the pipe. Tracer wire must be buried with any nonconductive pipe installed.

e. Unless the manufacturer's installation procedures and practices provide guidance, pipeline trenches must be constructed to allow for the pipeline to rest on undisturbed native soil and provide continuous support along the length of the pipe. Trench bottoms must be free of rocks greater than two inches in diameter, debris, trash, and other foreign material not required for pipeline installation. If a trench bottom is over excavated, the trench bottom must be backfilled with appropriate material and compacted prior to installation of the pipe to provide continuous support along the length of the pipe.

The width of the trench must provide adequate clearance on each side of the pipe. Trench walls must be excavated to ensure minimal sluffing of sidewall material into the trench. Subsoil from the excavated trench must be stockpiled separately from previously stripped topsoil.

f. Underground gathering pipelines that cross a township, county, or state graded road must be bored unless the responsible governing agency specifically permits the owner to open cut the road.

g. No pipe or other component may be installed unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

h. The pipe must be handled in a manner that minimizes stress and avoids physical damage to the pipe during stringing, joining, or lowering in. During the lowering in process the pipe string must be properly supported so as not to

induce excess stresses on the pipe or the pipe joints or cause weakening or damage to the outer surface of the pipe.

i. When a trench for an underground gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material. Sufficient backfill material must be placed in the haunches of the pipe to provide long-term support for the pipe. Backfill material that will be within two feet of the pipe must be free of rocks greater than two inches in diameter and foreign debris. Backfilling material must be compacted as appropriate during placement in a manner that provides support for the pipe and reduces the potential for damage to the pipe and pipe joints.

j. Cover depths must be a minimum of four feet [1.22 meters] from the top of the pipe to the finished grade. The cover depth for an undeveloped governmental section line must be a minimum of six feet [1.83 meters] from the top of the pipe to the finished grade.

k. Underground gathering pipelines that traverse environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies, must be installed in a manner that minimizes impacts to these areas. Any horizontal directional drilling plan prepared by the owner or required by the director, must be filed with the commission, prior to the commencement of horizontal directional drilling.

l. Clamping or squeezing as a method of connecting any produced water underground gathering pipeline must be approved by the director. Prior to clamping or squeezing the pipeline, the owner shall file a sundry notice (form 4 or form provided by the commission) with the director and obtain approval of the clamping or squeezing plan. The notice must include documentation that the pipeline can be safely clamped or squeezed as prescribed by the manufacturer’s specifications. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is placed into service.

5. Pipeline reclamation.

a. When utilizing excavation for pipeline installation, repair, or abandonment, topsoil must be stripped, segregated from the subsoils, and stockpiled for use in reclamation. "Topsoil" means the suitable plant growth material on the surface; however, in no event shall this be deemed to be more than the top twelve inches [30.48 centimeters] of soil or deeper than the depth of cultivation, whichever is greater.

b. The pipeline right-of-way must be reclaimed as closely as practicable to original condition. All stakes, temporary construction markers, cables, ropes, skids, and

any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of.

c. During right-of-way reclamation all subsoils and topsoils must be returned in proper order to as close to the original depths as practicable.

d. The reclaimed right-of-way soils must be stabilized to prevent excessive settling, sluffing, cave-ins, or erosion.

e. The crude oil and produced water underground gathering pipeline owner is responsible for their right-of-way reclamation and maintenance until such pipeline is released by the commission from the pipeline bond pursuant to section 43-02-03-15.

6. Inspection.

All newly constructed crude oil and produced water underground gathering pipelines must be inspected by third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the requirements of this section. A list of all third-party independent inspectors and a description of each independent inspector's qualifications, certifications, experience, and specific training must be provided to the commission upon request. A person may not be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected. The third-party independent inspector may not be an employee of the gathering pipeline owner/operator or the contractor hired to construct and install the pipeline.

7. Associated pipeline facility.

No associated above ground equipment may be installed less than five hundred feet [152.40 meters] from an occupied dwelling unless agreed to in writing by the owner of the dwelling or authorized by order of the commission.

All associated above ground equipment used to store crude oil or produced water must be devoid of leaks and constructed of materials resistant to the effects of crude oil, produced water, brines, or chemicals that may be contained therein. The above materials requirement may be waived by the director for tanks presently in service and in good condition. Unused tanks and associated above ground equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year.

Dikes must be erected around all produced water or crude oil tanks at any new facility prior to placing the associated underground gathering pipeline into service. Dikes must be erected and maintained around all crude oil or produced water tanks or above ground equipment, when deemed necessary by the director. Dikes as well as the base material under the dikes and within the diked area must be constructed of

sufficiently impermeable material to provide emergency containment. Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid throughput. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction. Discharged crude oil or produced water must be properly removed and may not be allowed to remain standing within or outside of any diked areas.

The underground gathering pipeline owner shall take steps to minimize the amount of solids stored at the pipeline facility, although the remediation of such material may be allowed onsite, if approved by the director.

8. Underground gathering pipeline as built.

The owner of any underground gathering pipeline placed into service after July 31, 2011, shall file with the director, as prescribed by the director, within one hundred eighty days of placing into service, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point. An affidavit of completion must accompany each layer containing the following information:

a. A third-party inspector certificate that the pipeline was constructed and installed in compliance with section 43-02-03-29.1.

b. The outside diameter, minimum wall thickness, composition, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.

c. The maximum allowable operating pressure of the pipeline.

d. The specified minimum yield strength and internal yield pressure of the pipeline if applicable to the composition of pipe.

e. The type of fluid that will be transported in the pipeline.

f. Pressure and duration to which the pipeline was tested prior to placing into service.

g. The minimum pipeline depth of burial from the top of the pipe to the finished grade.

h. In-service date.

i. Leak protection and monitoring methods that will be utilized after in-service date.

j. Any leak detection methods that have been prepared by the owner.

k. The name of the pipeline gathering system and any other separately named portions thereof.

l. Accuracy of the geographical information system layer.

9. Operating requirements.

The maximum operating pressure for all crude oil and produced water underground gathering pipelines may not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The maximum operating pressure of any portion of an underground gathering system may not exceed the test pressure from the most recent integrity test demonstration for which it was tested.

The crude oil or produced water underground gathering pipeline must be equipped with adequate controls and protective equipment to prevent the pipeline from operating above the maximum operating pressure.

10. Leak protection, detection, and monitoring.

All crude oil and produced water underground gathering pipeline owners shall file with the commission any leak protection and monitoring plan prepared by the owner or required by the director, pursuant to North Dakota Century Code section 38-08-27.

If any leak detection plan has been prepared by the owner, it must be submitted to the director.

All crude oil or produced water underground gathering pipeline owners shall develop and maintain a data sharing plan. The plan must provide for real-time sharing of data between the operator of the production facility, the crude oil or produced water underground gathering pipeline owner, and the operator at the point or points of disposal, storage, or sale. If a discrepancy in the shared data is observed, the party observing the data discrepancy shall notify all other parties and action must be taken to determine the cause. A record of all data discrepancies must be retained by the crude oil or produced water underground gathering pipeline owner. If requested, copies of such records must be filed with the commission.

11. Spill response.

All crude oil and produced water underground gathering pipeline owners shall maintain a spill response plan during the service life of any crude oil or produced water underground gathering pipeline. The plan should detail the necessary steps for an effective and timely response to a pipeline spill. The spill response plan should be

tailored to the specific risks in the localized area. Response capabilities should address access to equipment and tools necessary to respond, as well as action steps to protect the health and property of impacted landowners, citizens, and the environment.

12. Corrosion control.

    a. Underground gathering pipelines must be designed to withstand the effects of external corrosion and maintained in a manner that mitigates internal corrosion.

    b. All metallic underground gathering pipelines installed must have sufficient corrosion control.

    c. All coated pipe must be electronically inspected prior to placement using coating deficiency (i.e. holiday) detectors to check for any faults not observable by visual examination. The holiday detector must be operated in accordance with manufacturer's instructions and at a voltage level appropriate for the electrical characteristics of the pipeline system being tested. During installation all joints, fittings, and tie-ins must be coated with materials compatible with the coatings on the pipe. Coating materials must:

        (1) Be designed to mitigate corrosion of the buried pipeline;

        (2) Have sufficient adhesion to the metal surface to prevent under film migration of moisture;

        (3) Be sufficiently ductile to resist cracking;

        (4) Have enough strength to resist damage due to handling and soil stress;

        (5) Support any supplemental cathodic protection; and

        (6) If the coating is an insulating type, have low moisture absorption and provide high electrical resistance.

    d. Cathodic protection systems must meet or exceed the minimum criteria set forth in the National Association of Corrosion Engineers standard practice Control of External Corrosion on Underground or Submerged Metallic Piping Systems.

    e. If internal corrosion is anticipated or detected, the underground gathering pipeline owner shall take prompt remedial action to correct any deficiencies, such as increased pigging, use of corrosion inhibitors, internal coating of the pipeline (e.g. an epoxy paint or other plastic liner), or a combination of these methods. Corrosion inhibitors must be used in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect.

13. Pipeline integrity.

A crude oil or produced water underground gathering pipeline owner may not operate a pipeline unless it has been pressure tested and demonstrated integrity. In addition, an owner may not return to service a portion of pipeline which has been repaired, replaced, relocated, or otherwise changed until it has demonstrated integrity.

a. The crude oil and produced water underground gathering pipeline owner shall notify the commission at least forty-eight hours prior to commencement of any pipeline integrity test to allow a representative of the commission to witness the testing process and results. The notice must include the pipeline integrity test procedure.

b. The crude oil and produced water underground gathering pipeline owner shall submit within sixty days of the underground gathering pipeline being placed into service the integrity test results which must include the following:

(1) The name of the pipeline gathering system and any other separately named portions thereof;

(2) The date of the test;

(3) The duration of the test;

(4) The length of pipeline which was tested;

(5) The maximum and minimum test pressure;

(6) The starting and ending pressure;

(7) A copy of the chart recorder or digital log results;

(8) A geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the centerline of the portion of the pipeline that was tested;

(9) A copy of the test procedure used; and

(10) A third-party inspector certificate summarizing the pipeline has been pressure tested and whether it demonstrated integrity, including the identification of any leaks, ruptures, or other integrity issues encountered, and an explanation for any substantial pressure gain or losses during the integrity test, if applicable.

c. All crude oil and produced water underground gathering pipeline owners shall maintain a pipeline integrity demonstration plan during the service life of any crude oil or produced water underground gathering pipeline. The director, for good cause, may require a pipeline integrity demonstration on any crude oil or produced water underground gathering pipeline.

14. Pipeline repair.

Each owner, in repairing an underground gathering pipeline or pipeline system, shall ensure that the repairs are made in a manner that prevents damage to persons or property.

An owner may not use any pipe, valve, or fitting, for replacement or repair of an underground gathering pipeline, unless it is designed to meet the maximum operating pressure.

a. At least forty-eight hours prior to any underground gathering pipeline repair or replacement, the underground gathering pipeline owner shall notify the commission, as provided by the director, except in an emergency.

b. Within one hundred eighty days of repairing or replacing any underground gathering pipeline the owner of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the centerline of the repaired or replaced pipeline and an affidavit of completion containing the following information:

(1) A statement that the pipeline was repaired in compliance with section 43-02-03-29.1.

(2) The reason for the repair or replacement.

(3) The length of pipeline which was repaired or replaced.

(4) Pressure and duration to which the pipeline was tested prior to returning to service.

c. Clamping or squeezing as a method of repair for any produced water underground gathering pipeline must be approved by the director. Prior to clamping or squeezing the pipeline, the owner shall file a sundry notice (form 4) with the director and obtain approval of the clamping or squeezing plan. The notice must include documentation that the pipeline can be safely clamped or squeezed as prescribed by the manufacturer's specifications. If an emergency requires clamping or squeezing, the owner or the owner's agent shall obtain verbal approval from the director and the notice shall be filed within seven days

of completing the repair. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is returned to service.

15. Pipeline abandonment.

    a. At least forty-eight hours prior to abandoning any underground gathering pipeline, the underground gathering pipeline owner shall notify the director verbally.

    b. When an underground gathering pipeline or any part of such pipeline is abandoned as defined under subsection 1 of North Dakota Century Code section 38-08-02 after March 31, 2014, the owner shall leave such pipeline in a safe condition by conducting the following:

        (1) Disconnect and physically isolate the pipeline from any operating facility, associated above ground equipment, or other pipeline.

        (2) Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.

        (3) Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.

        (4) Remove cathodic protection from the pipeline.

        (5) Permanently plug or cap all open ends by mechanical means or welded means.

        (6) The site of all associated above ground equipment must be reclaimed pursuant to section 43-02-03-34.1.

        (7) If the bury depth is not at least three feet below final grade, such portion of pipe must be removed.

    c. Within one hundred eighty days of completing the abandonment of an underground gathering pipeline the owner of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline and an affidavit of completion containing the following information:

        (1) A statement that the pipeline was abandoned in compliance with section 43-02-03-29.1.

        (2) The type of fluid used to purge the pipeline.

(3) The date of pipeline abandonment.

(4) The length of pipeline abandoned.

History: Effective January 1, 2017; amended effective April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-30. NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS. All persons controlling or operating any well, pipeline and associated above ground equipment, receiving tank, storage tank, facility, treating plant, or any other receptacle or production facility associated with oil, gas, or water production, injection, processing, or well servicing, shall verbally notify the director immediately and follow up utilizing the online initial notification report within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. The initial report must include the name of the reporting party, including telephone number and address, date and time of the incident, location of the incident, type and cause of the incident, estimated volume of release, containment status, waterways involved, immediate potential threat, and action taken. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section do not apply to any leak or spill involving only freshwater or to any leak, spill, or release of crude oil, produced water, or natural gas liquid that is less than one barrel total volume and remains onsite of a site where any well thereon was spud before September 2, 2000, or on a facility that was constructed before September 2, 2000, and do not apply to any leak or spill or release of crude oil, produced water, or natural gas liquid that is less than ten barrels total volume cumulative over a fifteen-day time period, and remains onsite of a site where all wells thereon were spud after September 1, 2000, or on a facility that was constructed after September 1, 2000. The initial notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, root cause of the incident unless deemed unnecessary by the director, and action taken to prevent reoccurrence, and if applicable, any additional information pursuant to subdivision e of subsection 1 of North Dakota Century Code section 37-17.1-07.1. The ~~signature~~ name, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.

The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008; April 1, 2010; April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020:_____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

D. PLUGGING OF WELLS

43-02-03-34.1. RECLAMATION OF SURFACE.

1. Within a reasonable time, but not more than one year, after a well is plugged, or if a permit expires, has been canceled or revoked, or a treating plant or saltwater handling facility is decommissioned, the site, access road, and other associated facilities constructed shall be reclaimed as closely as practicable to original condition pursuant to North Dakota Century Code section 38-08-04.12. Prior to site reclamation, the operator or the operator's agent shall file a sundry notice (form 4) with the director and obtain approval of a reclamation plan. The operator or operator's agent shall provide a copy of the proposed reclamation plan to the surface owner at least ten days prior to commencing the work unless waived by the surface owner. Verbal approval to reclaim the site may be given. The notice shall include:

   a. The name and address of the reclamation contractor;

   b. The name and address of the surface owner and the date when a copy of the proposed reclamation plan was provided to the surface owner;

   c. A description of the proposed work, including topsoil redistribution and reclamation plans for the access road and other associated facilities; and

   d. Reseeding plans, if applicable.

   The commission will mail a copy of the approved notice to the surface owner.

   All equipment, waste, and debris shall be removed from the site. All pipelines shall be purged and abandoned pursuant to section 43-02-03-29.1. Flow lines shall be removed if buried less than three feet [91.44 centimeters] below final contour.

2. Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the site, access road, and other associated facilities constructed for the well, treating plant, or saltwater handling facility shall be reshaped as near as is practicable to original contour.

3. The stockpiled topsoil shall be evenly distributed over the disturbed area and, where applicable, the area revegetated with native species or according to the reasonable specifications of the appropriate government land manager or surface owner.

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4. A site assessment may be required by the director, before and after reclamation of the site.

5. Within thirty days after completing any reclamation, the operator shall file a sundry notice with the director reporting the work performed.

6. The director, with the consent of the appropriate government land manager or surface owner, may waive the requirement of reclamation of the site and access road after a well is plugged or treating plant or saltwater handling facility is decommissioned. ~~and~~ The operator shall record documentation of the waiver with the recorder of the county in which the site or road is located.

History: Effective April 1, 2012; amended effective April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-38.1. PRESERVATION OF CORES AND SAMPLES. Unless waived by the director, operators shall have a well site geologist or mudlogger on location for at least the first well drilled on a multi-well pad to collect sample cuttings and to create a mudlog and geologic report. Sample cuttings of formations, taken at intervals prescribed by the state geologist, in all wells drilled for the production of oil or gas, injection, disposal, storage operations, or geologic information in North Dakota, shall be washed and packaged in standard sample envelopes which in turn shall be placed in proper order in a standard sample box; carefully identified as to operator, well name, well file number, American petroleum institute number, location, depth of sample; and shall be sent free of cost to the state core and sample library within thirty days after completion of drilling operations.

The operator of any well drilled for the production of oil or gas, injection, disposal, storage operations, or geologic information in North Dakota, during the drilling of or immediately following the completion of any well, shall inform the director of all intervals that are to be cored, or have been cored. Unless specifically exempted by the director, all cores taken shall be preserved, placed in a standard core box and the entire core forwarded to the state core and sample library, free of cost, within one hundred eighty days after completion of drilling operations. The director may grant an extension of the one hundred eighty-day time period for good reason. If an exemption is granted, the operator shall advise the state geologist of the final disposition of the core.

This section does not prohibit the operator from taking such samples of the core as the operator may desire for identification and testing. The operator shall furnish the state geologist with the results of all identification and testing procedures within thirty days of the completion of such work. The state geologist may grant an extension of the thirty-day time period for good reason.

The size of the standard sample envelopes, sample boxes, and core boxes shall be determined by the director and indicated in the cores and samples letter.

History: Effective October 1, 1990; amended effective January 1, 2006; April 1, 2014; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

E. OIL PRODUCTION OPERATING PRACTICES

43-02-03-55. ABANDONMENT OF WELLS, TREATING PLANTS, UNDERGROUND GATHERING PIPELINES, OR SALTWATER HANDLING FACILITIES - SUSPENSION OF DRILLING.

1. The removal of production equipment or the failure to produce oil or gas for one year constitutes abandonment of the well.~~, or the~~ The removal of production equipment or the failure to produce water from a source well~~,~~ for one year constitutes abandonment of the well. The removal of injection equipment or the failure to use an injection well for one year constitutes abandonment of the well. The failure to plug a stratigraphic test hole within one year of reaching total depth constitutes abandonment of the well. The removal of treating plant equipment or the failure to use a treating plant for one year constitutes abandonment of the treating plant. The removal of saltwater handling facility equipment or the failure to use a saltwater handling facility for one year constitutes abandonment of the saltwater handling facility. An abandoned well must be plugged and its site must be reclaimed, an abandoned treating plant must be removed and its site must be reclaimed, and an abandoned saltwater handling facility must be removed and its site must be reclaimed, pursuant to sections 43-02-03-34 and 43-02-03-34.1. A well not producing oil or natural gas in paying quantities for one year may be placed in abandoned-well status pursuant to subsection 1 of North Dakota Century Code section 38-08-04. If an injection well is inactive for extended periods of time, the commission may, after notice and hearing, require the injection well to be plugged and abandoned. If an underground gathering pipeline is inactive for extended periods of time, the commission may, after notice and hearing, require the pipeline to be properly abandoned pursuant to sections 43-02-03-29 and 43-02-03-29.1.

2. The director may waive for one year the requirement to plug and reclaim an abandoned well by giving the well temporarily abandoned status for good cause. This status may only be given to wells that are to be used for purposes related to the production of oil and gas within the next seven years. If a well is given temporarily abandoned status, the well's perforations must be isolated, the integrity of its casing must be proven, and its casing must be sealed at the surface, all in a manner approved by the director. The director may extend a well's temporarily abandoned status and each extension may be approved for up to one year. A fee of one hundred dollars shall be submitted for each

application to extend the temporary abandonment status of any well. A surface owner may request a review of a well temporarily abandoned for at least seven years pursuant to subsection 1 of North Dakota Century Code section 38-08-04.

3. In addition to the waiver in subsection 2, the director may also waive the duty to plug and reclaim an abandoned well for any other good cause found by the director. If the director exercises this discretion, the director shall set a date or circumstance upon which the waiver expires.

4. The director may approve suspension of the drilling of a well. If suspension is approved, a plug must be placed at the top of the casing to prevent any foreign matter from getting into the well. When drilling has been suspended for thirty days, the well, unless otherwise authorized by the director, must be plugged and its site reclaimed pursuant to sections 43-02-03-34 and 43-02-03-34.1.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; August 1, 1999; January 1, 2008; April 1, 2010; April 1, 2012; April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

M. SPECIAL RULES OF ORDER ON PROCEDURE GOVERNING THE CONSERVATION OF OIL AND GAS

43-02-03-88.1. SPECIAL PROCEDURES FOR INCREASED DENSITY WELLS, POOLING, FLARING EXEMPTION, UNDERGROUND INJECTION, COMMINGLING, CONVERTING MINERAL WELLS TO FRESHWATER WELLS, AND CENTRAL TANK BATTERY OR CENTRAL PRODUCTION FACILITIES APPLICATIONS.

1. Applications to amend field rules to allow additional wells on existing spacing units, for pooling under North Dakota Century Code section 38-08-08, for a flaring exemption under North Dakota Century Code section 38-08-06.4 and section 43-02-03-60.2, for underground injection under chapter 43-02-05, for commingling in one well bore the fluids from two or more pools under section 43-02-03-42, for converting a mineral well to a freshwater well under section 43-02-03-35, and for establishing central tank batteries or central production facilities under section 43-02-03-48.1, must be signed by the applicant or the applicant's representative. The application must contain or refer to attachments that contain all the information required by law as well as the information the applicant wants the commission to consider in deciding whether to grant the application. The application must designate an employee or representative of the applicant to whom the commission can direct inquiries regarding the application.

2. The commission shall give the county auditor notice at least fifteen days prior to the hearing of any application in which a request for a disposal under chapter 43-02-05 is received.

3. The applications referred to in subsection 1 will be advertised and scheduled for hearing as are all other applications received by the commission. The applicant, however, unless required by the director, need not appear at the hearing scheduled to consider the application, although additional evidence may be submitted prior to the hearing. Any interested party may appear at the hearing to oppose or comment on the application. Any interested party may also 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.

4. The director is authorized, on behalf of the commission, to grant or deny the applications referred to in subsection 1.

5. In any proceeding under this section, the applicant, at the hearing, may supplement the record by offering testimony and exhibits in support of the application.

6. In the event the applicant is not required by the director to appear at the hearing and an interested party does appear to oppose the application or submits a written objection to the application, the hearing ~~officer~~ examiner shall continue the hearing to a later date, keep the record open for the submission of additional evidence, or take any other action necessary to ensure that the applicant, who does not appear at the hearing as the result of subsection 3, is accorded due process.

History: Effective May 1, 1992; amended effective May 1, 1994; May 1, 2004; April 1, 2012; April 1, 2014; April 1, 2018; _____.

General Authority	Law Implemented
NDCC 38-08-04	NDCC 38-08-04
38-08-11	38-08-08

43-02-03-90.2. OFFICIAL RECORD. The evidence in each case heard by the commission, unless specifically excluded by the hearing ~~officer~~ examiner, includes the certified directional surveys, all oil, water, and gas 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~~ examiner may strike such testimony from the record for good cause.

History: Effective May 1, 1992; amended effective April 1, 2010; April 1, 2012; October 1, 2016; _____.

General Authority
NDCC 28-32-06

Law Implemented
NDCC 28-32-06

43-02-03-90.4. NOTICE OF ORDER BY MAIL. The commission ~~may~~ shall 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~~ pursuant to North Dakota Century Code section 38-08-11.

History: Effective May 1, 1992; _____.

General Authority
NDCC 28-32-13

Law Implemented
NDCC 28-32-13

Section 43-02-14 is hereby created:

GEOLOGICAL STORAGE OF OIL OR GAS
CHAPTER 43-02-14

43-02-14-01. DEFINITIONS. The terms used throughout this chapter have the same meaning as in chapters 43-02-02.1, 43-02-03, and 43-02-05, and North Dakota Century Code chapters 38-08, 38-12, 38-25, and 47-31 except:

1. "Facility area" means the areal extent of the storage reservoir or salt cavern.

2. "Storage reservoir" means the total pore space occupied by the injected produced oil or gas during all phases of the project plus any reasonable or necessary horizontal buffer zones.

History: Effective ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02. SCOPE OF CHAPTER. This chapter pertains to the geological storage of hydrogen and produced oil or gas with little to no processing involved. If the rules differ from federal requirements on federally regulated storage facilities, the federal rules take precedence. The storage facility operator shall provide sufficient documentation to the director confirming the storage facility is federally operated. Applications filed with the commission proposing to inject gas for the purposes of enhanced oil or gas recovery will be processed under chapter 43-02-05. This chapter does not apply to Class III injection wells used to create a salt cavern. Applications for Class III wells are under the jurisdiction of the state geologist pursuant to chapter 43-02-02.1. 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: Effective ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

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43-02-14-02.1. APPLICATION OF RULES FOR GEOLOGICAL STORAGE FACILITIES. All geological storage facilities, injection wells, and monitoring wells are also subject to the provisions of chapters 43-02-03, 43-02-05, and 43-05-01 where applicable.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.2. INJECTION INTO UNDERGROUND SOURCE OF DRINKING WATER PROHIBITED. Underground injection of oil or gas that causes or allows movement of fluid into an underground source of drinking water is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.3. TRANSITIONING FROM ENHANCED OIL OR GAS RECOVERY TO GEOLOGICAL STORAGE. A storage facility operator injecting oil or gas for the primary purpose of geological storage into an oil and gas reservoir shall apply for a geological storage facility and injection well permit. In determining if there is an increased risk to underground sources of drinking water, the commission shall consider the following factors:

1. Increase in reservoir pressure within the injection zone.
2. Oil or gas injection rates.
3. Decrease in reservoir production rates.
4. Distance between the injection zone and underground sources of drinking water.
5. Suitability of the enhanced oil or gas recovery area of review delineation.
6. Quality of abandoned well plugs within the area of review.
7. The storage facility operator's plan for recovery of oil or gas at the cessation of injection.
8. The source and properties of the injected oil or gas.

9. Any additional site-specific factors as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.4. PROHIBITION OF UNAUTHORIZED INJECTION. Any underground injection of oil or gas for the purpose of geological storage, except into a well authorized by permit issued under this chapter, is prohibited. The construction of any well or site or access road is prohibited until the permit authorizing construction of the well or site or access road has been issued.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-02.5. EXISTING WELL CONVERSION. Storage facility operators seeking to convert an existing well to an injection well for the purpose of geological storage of oil or gas must demonstrate to the commission that the well is constructed in a manner that will ensure the protection of underground sources of drinking water.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-03. BOOKS AND RECORDS TO BE KEPT TO SUBSTANTIATE REPORTS. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall make and keep appropriate books and records until dissolution of the storage facility, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-04. ACCESS TO RECORDS. The commission and the commission's authorized agents shall have access to all storage facility records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, operating, or servicing storage facilities shall permit the commission, or its authorized agents, to come upon any lease, property, well, or drilling rig operated or controlled by them, complying with state safety rules and to inspect the records and operation of wells and to conduct sampling and testing. Any information so obtained shall be public information. If requested, copies of storage facility records must be filed with the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05. GEOLOGICAL STORAGE FACILITY PERMIT HEARING.

1. At least thirty days prior to the scheduled hearing, the applicant shall give notice of the hearing to persons outlined in North Dakota Century Code 38-25-04.

2. Notice given by the applicant must contain the following:

   a. A legal description of the land within the oil or gas facility area.

   b. The date, time, and place the commission will hold a hearing on the permit application.

   c. A statement of purpose of the application.

   d. A statement that a digital copy (.pdf format) of the permit may be obtained from the commission.

   e. A statement that all comments regarding the geological storage facility permit application must be in writing and submitted to the commission by five p.m. on the last business day prior to the hearing date or presented at the hearing.

   f. Storage in an oil and gas reservoir must contain:

      (1) A statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of oil and gas minerals and oil and gas leases within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent, unless otherwise provided for as outlined in North Dakota Century Code section 38-25-05, of the oil and gas minerals and oil and gas leases, and a statement that the commission may require the oil and gas minerals and oil and gas leases owned by nonconsenting owners to be included in the geological storage facility.

g. Storage in a saline reservoir must contain a statement that amalgamation of the pore space within the geological storage reservoir is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

h. Storage in a salt cavern must contain

(1) A statement that amalgamation of the pore space within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least sixty percent of the pore space, and a statement that the commission may require the pore space owned by nonconsenting owners to be included in the geological storage facility.

(2) A statement that unitization of salt minerals and salt leases within the salt cavern is required to operate the geological storage facility, which requires consent of persons who own at least fifty-five percent of the salt minerals and salt leases, and a statement that the commission may require the salt minerals and salt leases owned by nonconsenting owners to be included in the geological storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-05.1. AREA OF REVIEW AND CORRECTIVE ACTION.

1. The storage facility operator shall prepare, maintain, and comply with a plan to delineate the area of review for a proposed storage facility, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this section and is acceptable to the commission. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the storage facility permit application, the storage facility operator shall submit an area of review and corrective action plan that includes the following:

a. The method for delineating the area of review, results of the reservoir or geomechanical modeling and simulation, inputs that will be made, and the site characterization data on which the model will be based.

b. A description of:

(1) The reevaluation date, not to exceed five years, at which time the storage facility operator shall reevaluate the area of review.

(2) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation date.

(3) How monitoring and operational data will be used to inform an area of review reevaluation.

(4) How corrective action will be conducted to meet requirements of this section, and how corrective action will be adjusted if there are changes in the area of review.

2. The storage facility operator shall perform the following actions to delineate the area of review and identify all wells that require corrective action:

a. Applicable to oil and gas and saline reservoirs. Predict, using existing site characterization, monitoring and operational data, and reservoir modeling and simulation, the projected lateral and vertical migration of the injectate in the subsurface from the commencement of injection activities until the oil or gas movement ceases, or until the end of a fixed time as determined by the director:

(1) Be based on detailed geologic data collected to characterize the injection zone, confining zones, and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the storage project.

(2) Consider any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions.

(3) Consider potential migration through faults, fractures, and artificial penetrations.

b. Applicable to salt caverns. Using site specific geology, cavern construction data acquired during dissolution mining, and geomechanical modeling, determine necessary buffers as setbacks for the following:

(1) Future drilling in the proximity of the cavern.

(2) Additional caverns.

3. The storage facility operator shall perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of injectate or fluid into or between underground sources of drinking water or other unauthorized zones.

4. At the reevaluation date, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, the storage facility operator shall:

   a. Reevaluate the area of review in the same manner specified in subdivision a of subsection 2 or subdivision b of subsection 2, whichever is applicable.

   b. Identify all wells or caverns in the reevaluated area of review in the same manner specified in subsection 2.

   c. Perform corrective action on wells requiring action in the reevaluated area of review in the same manner specified in subsection 3.

   d. Submit an amended area of review and corrective action plan or demonstrate to the commission through monitoring data and modeling results that no amendment to the plan is needed. Any amendments to the plan are subject to the director's approval and must be incorporated into the permit.

5. All modeling inputs and data used to support area of review delineations and reevaluations must be retained until project completion. Upon project completion, the storage facility operator shall deliver the records to the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-06. PERMIT REQUIREMENTS – STORAGE IN OIL AND GAS RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

b. An affidavit of mailing, including the name and address of each owner, certifying that all mineral lessees, mineral owners of record, pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of mineral lessees and mineral owners of record within the storage reservoir and one-half mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface

bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area and its delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1.

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the unrecoverable injected oil or gas.

22. Address enrichment of the injected gas by hydrocarbons native to the oil and gas reservoir.

23. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

24. An emergency and remedial response plan pursuant to section 43-02-14-15.

25. A corrosion monitoring and prevention plan for all wells and surface facilities.

26. A leak detection and monitoring plan for all surface facilities.

27. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, and its delineated area of review.

28. A time frame for extraction of injected oil or gas and expected recovery percentages.

29. Address associated water recovery and a plan for disposal.

30. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-07. PERMIT REQUIREMENTS – STORAGE IN SALINE RESERVOIR. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface and pore space ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the storage reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all pore space owners and pore space lessees of record within the storage

reservoir and one-half mile adjacent have been notified of the proposed geological storage project.

c. Legal descriptions of surface ownership of record within the storage reservoir and one-half mile adjacent.

d. Legal descriptions of pore space owners and pore space lessees of record within the storage reservoir and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing the following:

a. Application for permit to drill filed on a form provided by the director pursuant to chapter 43-02-03; and

b. Application for permit to inject filed on a form provided by the director including at least the following:

(1) The name and address of the operator of the injection well.

(2) The estimated bottom hole fracture pressure of the upper confining zone.

(3) Average maximum daily rate of oil or gas to be injected.

(4) Average and maximum requested surface injection pressure.

(5) Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

(6) Existing or proposed casing, tubing, and packer data.

(7) Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

(8) A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

(9) A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

(10) Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

(11) List identifying all source wells or sources of injectate.

(12) All logging and testing data on the well which has not been previously submitted.

(13) Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

(14) A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

(15) A detailed description of the proposed completion or conversion procedure, including any proposed well stimulation.

(16) Any other information required by the director to evaluate the proposed well.

4. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

5. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

6. Structural and stratigraphic cross sections that describe the geologic conditions of the geological storage reservoir.

7. A structure map of the top and base of the geological storage reservoir.

8. An isopach map of the geological storage reservoir.

9. Identification of all structural spill points or stratigraphic discontinuities controlling the isolation of stored oil or gas and associated fluids within the geological storage reservoir.

10. Geomechanical information sufficient to demonstrate that the confining zone is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected oil or gas stream.

11. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

12. A method for delineating the area of review, including the computational model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

13. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface structures within the oil or gas facility area and its delineated area of review.

14. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the geological storage reservoir.

15. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

16. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the oil or gas facility area and its delineated area of review. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

17. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

18. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

19. Corrective action plan pursuant to section 43-02-14-05.1

20. Identify whether the area of review extends across state jurisdiction boundary lines.

21. Address the migration of unrecoverable injected oil or gas.

22. The stimulation plan for all geological storage facility wells, if any, including a description of the stimulation fluids to be used, and a determination that the stimulation will not interfere with containment.

23. An emergency and remedial response plan pursuant to section 43-02-14-15.

24. A corrosion monitoring and prevention plan for all wells and surface facilities.

25. A leak detection and monitoring plan for all surface facilities.

26. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the geological storage reservoir. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area, its delineated area of review.

27. A time frame for extraction of injected oil or gas and expected recovery percentages.

28. Address associated water recovery and a plan for disposal.

29. Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-08. PERMIT REQUIREMENTS – STORAGE IN SALT CAVERN. An application for a geological storage facility permit must include at least the following:

1. The name and address of the operator of the storage facility.

2. Address surface, pore space, and salt mineral ownership by filing the following:

   a. An affidavit of mailing, including the name and address of each owner, certifying that all surface owners of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   b. An affidavit of mailing, including the name and address of each owner, certifying that all salt mineral lessees, salt mineral owners of record, pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent have been notified of the proposed geological storage project.

   c. Legal descriptions of surface ownership of record within the salt cavern and one-half mile adjacent.

d. Legal descriptions of salt mineral lessees and salt mineral owners of record within the salt cavern and one half-mile adjacent.

e. Legal descriptions of pore space owners and pore space lessees of record within the salt cavern and one-half mile adjacent.

3. Applicant shall request a permit for all oil or gas injection wells, monitoring wells, and surface facilities by filing an application for permit to inject filed on a form provided by the director including at least the following:

a. The name and address of the operator of the injection well.

b. The estimated bottom hole fracture pressure of the upper confining zone.

c. Average maximum daily rate of oil or gas to be injected.

d. Average and maximum requested surface injection pressure.

e. Current capacity and geometry of the cavern.

f. Tools used to confirm capacity and geometry of cavern.

g. Current thickness of remaining salt at top and bottom of cavern.

h. Geologic name and depth to base of the lowermost underground source of drinking water which may be affected by the injection.

i. Existing or proposed casing, tubing, and packer data.

j. Existing or proposed cement specifications, including amounts and actual or proposed top of cement.

k. A plat and maps depicting the area of review, based on the associated geological storage facility permit, and detailing the location, well name, and operator of all wells in the area of review. The plat and maps must include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, permitted wells, water wells, surface bodies of water, and other pertinent surface features, such as occupied dwellings and roads.

l. A review of the surficial aquifers within one mile of the proposed injection well site or surface facilities.

m. Proposed injection program, including method of transportation of the oil or gas to the injection facility and the injection well.

n. List identifying all source wells or sources of injectate.

o. All logging and testing data on the well which has not been previously submitted.

p. Schematic or other appropriate drawings and tabulations of the wellhead and surface facilities, including the size, location, construction, and purpose of all tanks, the height and location of all dikes and containment, including a calculated containment volume, all areas underlain by a synthetic liner, the location of all flow lines and a tabulation of any pressurized flow line specifications. It must also include the proposed road access to the nearest existing public road and the authority to build such access.

q. A schematic drawing of the well detailing the proposed well bore construction, including the size of the borehole; the total depth and plug back depth; the casings and tubing sizes, weights, grades, and top and bottom depths; the perforated interval top and bottom depths; the packer depth; the injection zone and upper and lower confining zones top and bottom depths.

r. A detailed description of the proposed completion or conversion procedure.

s. Any other information required by the director to evaluate the proposed well.

4. Anticipated capacity and geometry of the cavern.

5. Minimum and maximum capacity of the cavern to be utilized.

6. Tools used to confirm capacity and geometry of the cavern.

7. Current thickness of remaining salt at the top and bottom of the cavern.

8. Description and schematics for brine management at the surface.

9. Description of measures in place to prevent unintended flow back.

10. A map showing the extent of the pore space that will be occupied by the injection and geological storage of oil or gas over the life of the project.

11. A map showing the outside boundary of the oil or gas facility area, its delineated area of review, and the surface and bottom hole location of all proposed injection wells, monitoring wells, cathodic protection boreholes, and surface facilities.

12. Structural and stratigraphic cross sections that describe the geologic conditions of the salt cavern.

13. A structure map of the top and base of the salt formation being utilized.

14. An isopach map of the salt formation being utilized.

15. Geomechanical analysis of the cavern used to determine cavern stability, using, but not limited to the following:

    a. Geologic characteristics.

    b. Petrophysical properties.

    c. Rock mechanical properties.

    d. In situ stresses.

    e. Any other input data acquired and utilized.

16. Address the following cavern stability issues at minimum:

    a. Salt creep and mitigation measures.

    b. Minimum salt roof thickness.

    c. Roof collapse.

    d. Maximum cavern diameter.

    e. Spacing between offsetting caverns.

    f. Minimum setback for drilling in the vicinity.

    g. Salt thinning due to any stratigraphic change.

    h. Any dissolution zones in the salt.

    i. Minimum operating pressures and capacity volumes, roof geometry, and height/diameter ratios used to prevent any of the above or other pertinent stability issues.

17. Any known regional or local faulting. If faults are known or suspected, a cross section that includes a depiction of the fault at depth.

18. A method for delineating the area of review, including the geomechanical model to be used, assumptions that will be made, and the site characterization data on which the model will be based.

19. A map of all wells, including all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, water wells, and other subsurface

structures within the oil or gas facility area and its delineated area of review.

20. A determination that all abandoned wells have been properly plugged and all operating wells have been constructed in a manner that prevents the oil or gas or associated fluids from escaping the salt cavern.

21. A tabular description and well bore diagram of each well's type, construction, date drilled, location, depth, record of plugging, and completion.

22. Quantitative analysis from a state-certified laboratory of freshwater from all available freshwater wells within the geological storage facility. The location of all wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

23. Quantitative analysis from a third party laboratory of a representative sample of the oil or gas to be injected. A compatibility analysis with the receiving formation may also be required.

24. A map showing all occupied dwellings within the oil or gas facility area, including the delineated area of review.

25. Corrective action plan pursuant to section 43-02-14-05.1.

26. Identify whether the area of review extends across state jurisdiction boundary lines.

27. An emergency and remedial response plan pursuant to section 43-02-14-15.

28. A corrosion monitoring and prevention plan for all wells and surface facilities.

29. A leak detection and monitoring plan for all surface facilities.

30. A leak detection and monitoring plan to monitor any movement of the oil or gas outside of the salt cavern. This may include monitoring wells and the collection of baseline information of oil or gas background concentrations in ground water, surface soils, and chemical composition of in situ waters within the oil or gas facility area and its delineated area of review.

31 Any additional information the director may require.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-09. SITING. All injection wells shall be sited in such a fashion that they inject into a formation which has confining zones that are free to known open faults or fractures within the facility area and its delineated area of review.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-10. CONSTRUCTION REQUIREMENTS.

1. All injection wells shall be cased and cemented to prevent movement of fluids into or between underground sources of drinking water or into an unauthorized zone. The casing and cement used in construction of each new injection well shall be designed for the life expectancy of the well. All wells used for injection into a storage reservoir or salt cavern must have surface casing set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. In determining and specifying casing and cementing requirements, all the following factors shall be considered:

   a. Depth to the injection zone and lower confining zone, or salt cavern specifics. Long string casing must be set at least to the top of the injection zone and cemented as approved by the director.

   b. Depth to the bottom of all underground sources of drinking water.

   c. Estimated minimum, maximum, and average injection pressures.

   d. Fluid pressure.

   e. Estimated fracture pressures.

   f. Physical and chemical characteristics of the injection zone.

2. Appropriate logs and other tests shall be conducted during the drilling and construction of injection wells. Any well drilled or converted to an injection well shall have a cement bond log from which a presence of channels and micro-annulus can be determined radially. Cement bond logs shall contain elements approved by the director.

3. After an injection well has been completed, approval must be obtained on a sundry notice filed on a form provided by the director prior to any subsequent perforating.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-11. MECHANICAL INTEGRITY.

1. An injection well has mechanical integrity if:

   a. There is no significant leak in the casing, tubing, or packer; and

   b. There is no significant fluid movement into an underground source of drinking water through channels adjacent to the well bore.

2. One of the following methods must be used to evaluate the absence of significant leaks:

   a. Pressure test with liquid or gas.

   b. Monitoring of positive annulus pressure following a valid pressure test.

   c. Radioactive tracer survey.

3. On a schedule determined by the commission, the storage facility operator shall use one or more of the following methods to determine the absence of significant fluid or gas movement:

   a. A cement bond log from which a presence of channels and micro-annulus can be determined radially.

   b. A temperature log.

   c. Any alternative testing method that provides equivalent or better information and that the director requires or approves.

4. The operator of an injection well immediately shall shut-in the well if mechanical failure indicates fluids are, or may be, migrating into an underground source of drinking water or an unauthorized zone, or if so directed by the director.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-12. PLUGGING OF INJECTION WELLS. The proper plugging of an injection well requires the well be plugged with cement or other types of plugs, or both, in a manner which will not allow movement of fluids into an underground source of drinking water. The operator shall file a notice of intention to plug on a form provided by the director and shall obtain the director's approval of the plugging method prior to the commencement of plugging operations.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-13. PRESSURE RESTRICTIONS.

1. The following applies to geological storage in an oil and gas reservoir or saline reservoir: Injection pressure at the wellhead shall not exceed a maximum authorized injection pressure which shall be calculated to assure that the pressure in the storage reservoir during injection does not initiate new fracture or propagate existing fractures in the confining zones. In no case shall injection pressure initiate fractures in the confining zones or cause the movement of injection or formation fluids into an unauthorized zone or underground source of drinking water.

2. The following applies to geological storage in a salt cavern:

   a. A minimum operating pressure protective of the cavern's integrity must be maintained.

   b. A maximum allowable operating pressure must be established based on the casing seat or the highest elevation of the cavern's roof, whichever is higher in elevation.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

Filed with Legislative Council 8/31/2021

43-02-14-13.1. SALT CAVERN INTEGRITY. The operator shall execute the emergency and remedial response plan pursuant to section 43-02-14-15 in the event of loss of integrity in the storage cavern for any reason.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-14. BONDING REQUIREMENTS. All storage facilities, injection wells, and monitoring wells must be bonded as provided in section 43-02-03-15.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-15. EMERGENCY AND REMEDIAL RESPONSE PLAN. The storage facility operator shall maintain a commission-approved emergency and remedial response plan. This plan must include emergency response and security procedures. The plan, including revision of the list of contractors and equipment vendors, must be updated as necessary or as the commission requires. Copies of the plans must be available at the storage facility and at the storage facility operator's nearest operational office.

1. The emergency and remedial response plan requires a description of the actions the storage facility operator shall take to address movement of the injection or formation fluids that may endanger an underground source of drinking water during any phase of the project. The requirement to maintain and implement a commission-approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The plan must also detail:

    a. The safety procedures concerning the facility and residential, commercial, and public land use within the facility area and its delineated area of review.

    b. Contingency plans for addressing oil or gas leaks from any well, flow lines, or other facility, and loss of containment from the storage reservoir or salt cavern and identify specific contractors and equipment vendors capable of providing necessary services and equipment to respond to such leaks or loss of containment.

2. If the storage facility operator obtains evidence that the injected oil or gas stream, or displaced fluids may endanger an underground source of drinking water, the storage facility operator shall:

a. Immediately cease injection.

b. Take all steps reasonably necessary to identify and characterize any release.

c. Notify the director immediately and submit a subsequent sundry notice filed on a form provided by the director within twenty-four hours.

d. Implement the emergency and remedial response plan approved by the director.

3. The commission may allow the operator to resume injection prior to remediation if the storage facility operator demonstrate that the injection operation will not endanger underground sources of drinking water.

4. The storage facility operator shall review annually the emergency and remedial response plan developed under subsection 1. Any amendments to the plan are subject to the commission's approval, must be incorporated into the storage facility permit, and are subject to the permit modification requirements. Amended plans or demonstrations that amendments are not needed shall be submitted to the commission as follows:

a. With the area of review reevaluation.

b. Following any significant changes to the facility, such as addition of injection or monitoring wells, or on a schedule determined by the commission.

c. When required by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-16. REPORTING, MONITORING, AND OPERATING REQUIREMENTS.

1. The operator of a storage facility shall meter or use an approved method to keep records and shall report monthly to the director, the volume and nature of the injected hydrocarbons, the average, minimum, and maximum injection pressures, the maximum injection rates, and such other information as the director may require. The operator of each storage facility shall, on or before the fifth day of the second month succeeding the month in which the well is capable of injection, file with the director the aforementioned information for the storage facility in a format provided by the director.

2. Immediately upon the commencement or recommencement of injection, the operator shall notify the director of the injection date verbally and in writing.

3. The operator shall place accurate gauges on the tubing and the tubing-casing annulus of all injection wells utilized in the storage facility. Accurate gauges shall also be placed on any other annuluses deemed necessary by the director.

4. The operator of a storage facility shall keep the wells, surface facilities, and injection system under continuing surveillance and conduct such monitoring, testing, and sampling as the director may require verifying the integrity of the surface facility, gathering system, and injection wells to protect surface and subsurface waters. Prior to commencing operations, the injection pipeline must be pressure tested. All existing injection pipelines where the pump and the wellhead are not located on the same site are required to be pressure tested annually.

5. The operator of a storage facility shall report any noncompliance with regulations or permit conditions to the director verbally within twenty-four hours followed by a written explanation within five days. The operator shall cease injection operations if so directed by the director.

6. Within ten days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reason therefor.

7. Upon the completion or recompletion of an injection well or the completion of any remedial work or attempted remedial work such as plugging back, deepening, acidizing, shooting, formation fracturing, squeezing operations, setting liner, perforating, reperforating, tubing repairs, packer repairs, casing repairs, or other similar operations not specifically covered herein, a report on the operation shall be filed with the director within thirty days. The report shall present a detailed account of all work done including the reason for the work, the date of such work, the shots per foot and size and depth of perforations, the quantity of sand, crude, chemical, or other materials employed in the operation, the size and type of tubing, the type and location of packer, the result of the packer pressure test, and any other pertinent information or operations which affect the status of the well and are not specifically covered herein.

8. Annular injection of fluids is prohibited.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-17. LEAK DETECTION AND REPORTING.

1. Leak detectors must be integrated, where applicable and must be inspected and tested on a semiannual basis and, if defective, shall be repaired or replaced within ten days. Each repaired or replaced detector must be retested if required by the commission. An extension of time for repair or replacement of a leak detector may be granted upon a showing of good cause by the storage facility operator. A record of each inspection must include the inspection results and be maintained by the operator at least until project completion, and must be made available to the commission upon request.

2. Pursuant to section 43-02-03-30 the storage facility operator shall immediately report to the commission any leak detected at any well or surface facility.

3. The storage facility operator shall immediately report to the commission any pressure changes or other monitoring data from subsurface observation wells or injection wells that indicate the presence of leaks in the storage reservoir or salt cavern.

4. The storage facility operator shall immediately report to the commission any other indication that the storage facility is not containing oil, gas, or brine, whether the lack of containment concerns the storage reservoir or salt cavern, surface equipment, or any other aspect of the storage facility.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-18. STORAGE FACILITY PERMIT TRANSFER.

1. The storage operator and proposed transferee shall notify the commission in writing of any proposed permit transfer. The notice must contain the following:

   a. The name and address of the person to whom the permit is to be transferred.

   b. The name of the permit subject to transfer and location of the storage facility and a description of the land within the facility area.

   c. The date that the storage operator desires the proposed transfer to occur.

   d. Meet the bonding requirements of section 43-02-14-14.

2. A transfer may only take place after notice and hearing. The transferee must demonstrate that all requirements of chapter 43-02-14 are complied with. The transferee must outline necessary permit modifications based on operational changes, if any.

3. Commission review. The commission shall review the proposed transfer to ensure that the purposes of North Dakota Century Code chapter 38-25 are not compromised but are promoted. For good cause, the commission may deny a transfer request, delay on acting on it, and place conditions on its approval.

4. Commission approval required. A permit transfer can occur only upon the commission's written order. The transferor of a permit shall receive notice from the commission that the approved new storage facility operator has met the bonding requirements of section 43-02-14-14.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19. MODIFICATION, REVOCATION, AND REISSUANCE OR TERMINATION OF PERMITS.

1. Permits are subject to review by the commission. Any interested person (i.e., the storage operator, local governments having jurisdiction over land within the area of review, and any person who has suffered or will suffer actual injury or economic damage) may request that the commission review permits issued under this chapter for one of the reasons set forth below. All requests must be in writing and must contain facts or reasons supporting the request. If the commission determines that the request may have merit or at the commission's initiative for one or more of the reasons set forth below, the commission may schedule a hearing to review the permit and thereafter issue an order modifying or revoking the permit. Permits, after notice and hearing, may be modified or revoked and reissued when the commission determines one of the following events has occurred:

   a. Changes to the facility area.

   b. Area of review or corrective action reevaluations pursuant to section 43-02-14-05.1.

   c. Operating outside of parameters of the permit of sections 43-02-14-06, 43-02-14-07, or 43-02-14-08, whichever is applicable.

   d. Amendment to the emergency and remedial response plan of section 43-02-14-15.

   e. Amendment to the leak detection plan of section 43-02-14-17.

   f. Review of monitoring and testing results conducted in accordance with injection well permit requirements.

g. The commission receives information that was not available at the time of permit issuance. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified application of different permit conditions at the time of the issuance.

h. The standards or regulations on which the storage facility permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued.

i. The commission determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the storage operator has little or no control and for which there is no reasonably available remedy.

j. There are material and substantial additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2. If the commission tentatively decides to modify or revoke and reissue a permit, the commission shall incorporate the proposed changes to the original permit. The commission may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit, the commission shall require the submission of a new permit application.

3. In a permit modification under this section, only those conditions to be modified shall be reopened when a revised permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the storage operator shall comply with all conditions of the existing permit until a new final permit is reissued.

4. Suitability of the storage facility location will not be considered at the time of a permit modification or revocation unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

5. The following are causes for terminating an injection well permit during its term:

a. Noncompliance by the storage operator with any permit condition.

b. Failure by the storage operator to fully disclose all relevant facts or misrepresentation of relevant facts to the commission.

c. A determination that the permitted activity endangers human health or the environment.

6. If the commission tentatively decides to terminate a permit, the commission shall issue notice of intent to terminate.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

43-02-14-19.1. MINOR MODIFICATIONS OF PERMIT. Upon agreement between the storage facility operator and the commission, the commission may modify a permit to make the corrections or allowances without the storage operator filing an application to amend a permit. Any permit modification not processed as a minor modification under this section must be filed as an application to amend an existing permit under section 43-02-14-18. Minor modifications may include:

1. Correct typographical errors.

2. Require more frequent monitoring or reporting by the storage operator.

3. Change quantities or types of fluids or gases injected which are within the capacity of the facility as permitted and, in the judgement of the commission, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

4. Change construction requirements approved by the commission, provided that any such alteration shall comply with the requirements of this chapter and no such changes are physically incorporated into construction of the well prior to approval of the modification by the commission.

5. Amending any of the plans of this chapter where the modifications merely clarify or correct the plan, as determined by the commission.

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-25

CHAPTER 43-05-01
GEOLOGIC STORAGE OF CARBON DIOXIDE

43-05-01-11. INJECTION WELL CONSTRUCTION AND COMPLETION STANDARDS.

1. The storage operator shall ensure that all injection wells are constructed and completed to prevent movement of the carbon dioxide stream or fluids into underground sources of drinking water or outside the authorized storage reservoir. The injection wells must be constructed and completed in a way that allows the use of appropriate testing devices and workover tools. The casing and cement or other materials used in the construction of each new injection well must be designed for the well's life expectancy. In determining and specifying casing and cementing requirements, all of the following factors must be considered:

   a. Depth to the injection zone;

   b. Injection pressure, external pressure, internal pressure, and axial loading;

   c. Hole size;

   d. Size and grade of all casing strings (wall thickness, external diameter, nominal weight, length, joint specification, and construction material);

   e. Corrosiveness of the carbon dioxide stream and formation fluids;

   f. Down-hole temperatures;

   g. Lithology of injection and confining zone;

   h. Type or grade of cement and cement additives; and

   i. Quantity, chemical composition, and temperature of the carbon dioxide stream.

2. Surface casing in all newly drilled carbon dioxide injection and subsurface observation wells drilled below the underground source of drinking water must be set fifty feet [15.24 meters] below the base of the lowermost underground source of drinking water and cemented pursuant to section 43-02-03-21.

3. The long string casing in all injection and subsurface observation wells must be cemented pursuant to section 43-02-03-21. Sufficient cement must be used on the long string casing to fill the annular space behind the casing to the surface of the ground and a sufficient number of centralizers shall be used to assure a good cement job. The long string casing must extend to the injection zone.

4. Any liner set in the well bore must be cemented with a sufficient volume of cement to fill the annular space.

5 All cements used in the cementing of casings in injection and subsurface observation wells must be of sufficient quality to maintain well integrity in the carbon dioxide injection environment. Circulation of cement may be accomplished by staging. The commission may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the storage operator can demonstrate by using logs that the cement does not allow fluid movement behind the well bore.

6. All casings must meet the standards specified in any of the following documents, which are hereby adopted by reference:

   a. The most recent American petroleum institute bulletin on performance properties of casing, tubing, and drill pipe;

   b. Specification for casing and tubing (United States customary units), American petroleum institute specification 5CT, as published by the American petroleum institute;

   c. North Dakota Administrative Code Section 43-02-03-21; or

   d. Other equivalent casing as approved by the commission.

7. All casings used in new wells must be new casing or reconditioned casing of a quality equivalent to new casing and that has been pressure-tested in accordance with the requirements of subsection 6. For new casings, the pressure test conducted at the manufacturing mill or fabrication plant may be used to fulfill the requirements of subsection 6.

8. The location and amount of cement behind casings must be verified by an evaluation method approved by the commission. The evaluation method must be capable of evaluating cement quality radially and identifying the location of channels to ensure that underground sources of drinking water are not endangered.

9. All injection wells must be completed with and injection must be through tubing and packer. In order for the commission to determine and specify requirements for tubing and packer, the storage operator shall submit the following information:

   a. Depth of setting;

   b. Characteristics of the carbon dioxide stream (chemical content, corrosiveness, temperature, and density) and formation fluids;

   c. Maximum proposed injection pressure;

d. Maximum proposed annular pressure;

e. Proposed injection rate (intermittent or continuous) and volume and mass of the carbon dioxide stream;

f. Size of tubing and casing; and

g. Tubing tensile, burst, and collapse strengths.

10. All tubing strings must meet the standards contained in subsection 6. All tubing must be new tubing or reconditioned tubing of a quality equivalent to new tubing and that has been pressure-tested. For new tubing, the pressure test conducted at the manufacturing mill or fabrication plant may be used to fulfill this requirement.

11. All wellhead components, including the casinghead and tubing head, valves, and fittings, must be made of steel having operating pressure ratings sufficient to exceed the maximum injection pressures computed at the wellhead and to withstand the corrosive nature of carbon dioxide. Each flow line connected to the wellhead must be equipped with a manually operated positive shutoff valve located on or near the wellhead.

12. All packers, packer elements, or similar equipment critical to the containment of carbon dioxide must be of a quality to withstand exposure to carbon dioxide.

13. All injection wells must have at all times an accurate, operating pressure gauge or pressure recording device. Gauges must be calibrated as required by the commission and evidence of such calibration must be available to the commission upon request.

14. All newly drilled wells must establish internal and external mechanical integrity as specified by the commission and demonstrate continued mechanical integrity through periodic testing as determined by the commission. All other wells to be used as injection wells must demonstrate mechanical integrity as specified by the commission prior to use for injection and be tested on an ongoing basis as determined by the commission using these methods:

    a. Pressure tests. Injection wells, equipped with tubing and packer as required, must be pressure-tested as required by the commission. A testing plan must be submitted to the commission for prior approval. At a minimum, the pressure must be applied to the tubing casing annulus at the surface for a period of thirty minutes and must have no decrease in pressure greater than ten percent of the required minimum test pressure. The packer must be set at a depth at which the packer will be opposite a cemented interval of the long string casing and must be set no more than fifty feet [15.24 meters] above the uppermost perforation or open hole for the storage reservoirs, or at the location approved by the director; and

b. The commission may require additional testing, such as a bottom hole temperature and pressure measurements, tracer survey, temperature survey, gamma ray log, neutron log, noise log, casing inspection log, or a combination of two or more of these surveys and logs, to demonstrate mechanical integrity.

15. The commission has the authority to witness all mechanical integrity tests conducted by the storage operator.

16. If an injection well fails to demonstrate mechanical integrity by an approved method, the storage operator shall immediately shut in the well, report the failure to the commission, and commence isolation and repair of the leak. The operator shall, within ninety days or as otherwise directed by the commission, perform one of the following:

    a. Repair and retest the well to demonstrate mechanical integrity; or

    b. Properly plug the well.

17. All injection wells must be equipped with shutoff systems designed to alert the operator and shut in wells when necessary.

18. Additional requirements may be required by the commission to address specific circumstances and types of projects.

History: Effective April 1, 2010; amended effective April 1, 2013; _____

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

43-05-01-17. STORAGE FACILITY FEES.

1. The storage operator shall pay the commission ~~a fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.~~ as follows:

    a. Carbon dioxide sources that contribute to the energy and agriculture production economy of North Dakota:

        (1) A fee of one cent on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility administrative fund.

Filed with Legislative Council 8/31/2021

~~2.~~ (2) The storage operator shall pay the commission a fee of seven cents on each ton of carbon dioxide injected for storage. The fee must be deposited in the carbon dioxide storage facility trust fund.

b. Carbon dioxide sources that do not fall under the definition of subdivision a of subsection 1:

(1) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility administrative fund and consider:

(a) The commission's expenses during regulation of the storage facility's construction, operational, and preclosure phases.

(2) The storage operator shall pay a per ton of carbon dioxide injected commission fee determined by hearing. The fee must be deposited in the carbon dioxide storage facility trust fund and must consider:

(a) The cost of post closure emergency and remedial response associated with the storage facility.

(b) The cost of long-term monitoring post closure associated with the storage facility.

3. Moneys from the carbon dioxide storage facility trust fund, including accumulated interest, may be relied upon to satisfy the financial assurance requirements pursuant to section 43-05-01-09.1 for the postclosure period. If sufficient moneys are not available in the carbon dioxide storage facility trust fund at the end of the closure period, the storage operator shall make additional payments into the trust fund to ensure that sufficient funds are available to carry out the required activities on the date at which they may occur. The commission shall take into account project-specific risk assessments, projected timing of activities (e.g., postinjection site care), and interest accumulation in determining whether sufficient funds are available to carry out the required activities.

History: Effective April 1, 2010; amended effective April 1, 2013; _____.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 38-22

NDNA
NORTH DAKOTA NEWSPAPER ASSOCIATION

Affidavit of Publication

Colleen Park, being duly sworn, states as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of: **Oil and Gas Division – Administrative rules relating to ND Oil, Gas, Geological Storage and Carbon Dioxide Storage; 1** time(s) as required by law or ordinance.

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed: Colleen Park

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 5 day of Oct., 2021.

Sharon L. Peterson

SHARON L. PETERSON
Notary Public
State of North Dakota
My Commission Expires Nov 8, 2021

Bismarck Tribune

ABBREVIATED NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

relating to ND Oil, Gas, Geological Storage, and Carbon Dioxide Storage Administrative Rules.

North Dakota Oil and Gas Division

will hold public hearings to address proposed changes to the N.D. Admin. Code.

Oil and Gas Division
8 am CDT
Mon., Oct. 11, 2021
1000 E Calgary Ave
Bismarck, ND

Dickinson Field Office
1:00 pm MDT
Mon., Oct. 11, 2021
926 E Industrial Drive
Dickinson, ND

Clarion Hotel and Suites
8:00 am CDT
Tue., Oct. 12, 2021
1505 15th Ave W
Williston, ND

Minot Field Office
1:30 pm CDT
Tue., Oct. 12, 2021
7 Third St SE, Suite 107
Minot, ND

Copies of the proposed rules may be obtained by writing the Oil and Gas Division at 600 E. Blvd. Dept. 405, Bismarck, ND 58505-0840, or by calling (701) 328-8020. View changes at www.dmr.nd.gov/oilgas. Comment in writing by 5pm Oct 22. Submit written comments to the Oil and Gas Division (see address above) or brkadmas@nd.gov. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Oil and Gas Division at the above address or phone number by Sept 27.

9/11 - 34140

Bottineau

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Burke

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Bowman

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McIntosh

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8:00 am CDT
Tue., Oct. 12, 2021
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Williston, ND

Minot Field Office
1:30 pm CDT
Tue., Oct. 12, 2021
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Minot, ND

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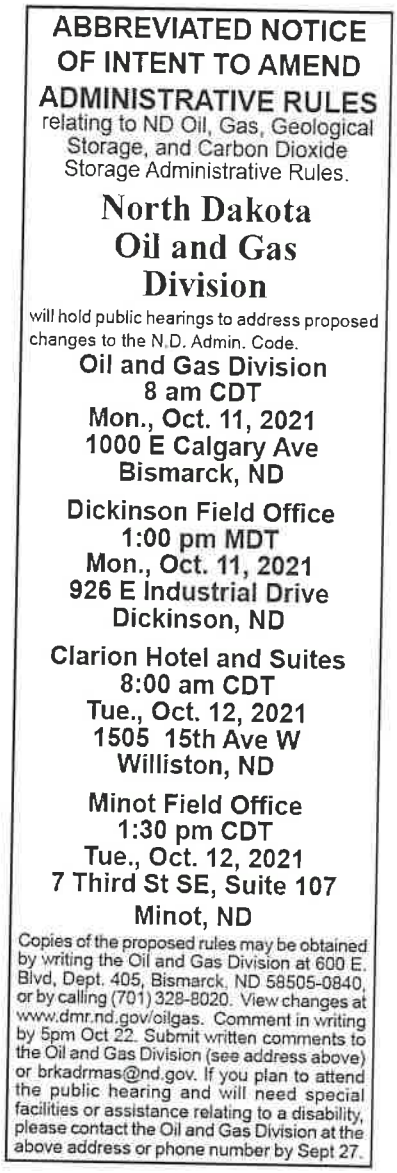
GoldenValley



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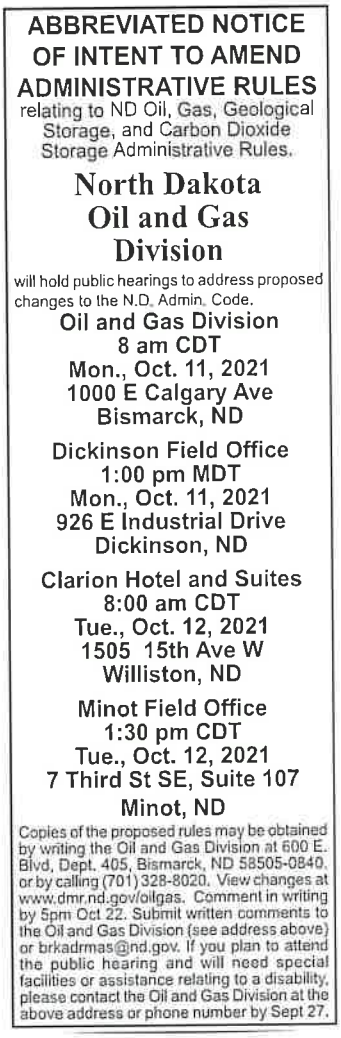
Dunn, Mercer



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Towner

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Foster

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Grant

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Pembina

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Oliver

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Griggs

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301456

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Ramsey

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Stark

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Dickey

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Cass

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Steele

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301454

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McLean

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Walsh

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Wells

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Adams

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Stutsman

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Nelson

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LaMoure

ABBREVIATED NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

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Oil and Gas Division
8 am CDT
Mon., Oct. 11, 2021
1000 E Calgary Ave
Bismarck, ND

Dickinson Field Office
1:00 pm MDT
Mon., Oct. 11, 2021
926 E Industrial Drive
Dickinson, ND

Clarion Hotel and Suites
8:00 am CDT
Tue., Oct. 12, 2021
1505 15th Ave W
Williston, ND

Minot Field Office
1:30 pm CDT
Tue., Oct. 12, 2021
7 Third St SE, Suite 107
Minot, ND

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Cavalier

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Ransom

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Morton

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Traill

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Sheridan

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Billings

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Sargent

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Benson

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Ward

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September 11, 2021

Renville

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Logan

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Hettinger

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Eddy

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Rolette

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Pierce

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Mountrail

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Kidder

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McHenry

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Barnes

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(Sept 14, 2021)

Richland

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McKenzie

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Copies of the proposed rules may be obtained by writing the Oil and Gas Division at 600 E. Blvd. Dept. 405, Bismarck, ND 58505-0840, or by calling (701) 328-8020. View changes at www.dmr.nd.gov/oilgas. Comment in writing by 5pm Oct 22. Submit written comments to the Oil and Gas Division (see address above) or brkadrmas@nd.gov. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Oil and Gas Division at the above address or phone number by Sept 27.

Williams

ABBREVIATED NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

relating to ND Oil, Gas, Geological Storage, and Carbon Dioxide Storage Administrative Rules.

North Dakota Oil and Gas Division

will hold public hearings to address proposed changes to the N.D. Admin. Code.

Oil and Gas Division
8 am CDT
Mon., Oct. 11, 2021
1000 E Calgary Ave
Bismarck, ND

Dickinson Field Office
1:00 pm MDT
Mon., Oct. 11, 2021
926 E Industrial Drive
Dickinson, ND

Clarion Hotel and Suites
8:00 am CDT
Tue., Oct. 12, 2021
1505 15th Ave W
Williston, ND

Minot Field Office
1:30 pm CDT
Tue., Oct. 12, 2021
7 Third St SE, Suite 107
Minot, ND

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Emmons

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