RULES AND REGULATIONS
NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 43-02-03 (OIL & GAS)
CHAPTER 43-02-05 (UNDERGROUND INJECTION CONTROL)
CHAPTER 43-02-08 (STRIPPER WELL PROPERTY DETERMINATION)
CHAPTER 43-02-12 (GEOPHYSICAL EXPLORATION)

GENERAL RULES AND REGULATIONS
CHAPTER 43-02-03

A. DEFINITIONS

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

1. "Adjusted allowable" means the allowable production a proration unit receives after all adjustments are applied.

2. "Allocated pool" is one in which the total oil or natural gas production is restricted and allocated to various proration units therein in accordance with proration schedules.

3. "Allowable production" means that number of barrels of oil or cubic feet of natural gas authorized to be produced from the respective proration units in an allocated pool.

4. "Barrel" means forty-two United States gallons [158.99 liters] measured at sixty degrees Fahrenheit [15.56 degrees Celsius] and fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter].

5. "Barrel of oil" means forty-two United States gallons [158.99 liters] of oil after deductions for the full amount of basic sediment, water, and other impurities present, ascertained by centrifugal or other recognized and customary test.

6. "Bottom hole or subsurface pressure" means the pressure in pounds per square inch gauge under conditions existing at or near the producing horizon.

7. "Bradenhead gas well" means any well capable of producing gas through wellhead connections from a gas reservoir which has been successfully cased off from an underlying oil or gas reservoir.

8. "Casinghead gas" means any gas or vapor, or both gas and vapor, indigenous to and produced from a pool classified as an oil pool by the commission.

9. "Certified or registered mail" means any form of service by the United States postal service, federal express, Pitney Bowes, and any other commercial, nationwide delivery service that provides the mailer with a document showing the date of delivery or refusal to accept delivery.

10. "Common purchaser for natural gas" means any person now or hereafter engaged in purchasing, from one or more producers, gas produced from gas wells within each common source of supply from which it purchases, for processing or resale.

11. "Common purchaser for oil" means every person now engaged or hereafter engaging in the business of purchasing oil in this state.

12. "Common source of supply" is synonymous with pool and is a common accumulation of oil or gas, or both, as defined by commission orders.

13. "Completion" means an oil well shall be considered completed when the first oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run. A gas well shall be considered complete when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after casing has been run. A dry hole shall be considered complete when all provisions of plugging are complied with as set out in this chapter.

14. "Condensate" means the liquid hydrocarbons recovered at the surface that result from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

15. "Cubic foot of gas" means that volume of gas contained in one cubic foot [28.32 liters] of space and computed at a pressure of fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter] at a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius].

16. "Director" means the director of oil and gas of the industrial commission, the assistant director of oil and gas of the industrial commission, and their designated representatives.

17. "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool, which artificial means or application includes pressuring, cycling, pressure maintenance, or injection to the pool of a substance or form of energy but does not include the injection in a well of a substance or form of energy for the sole purpose of (a) aiding in the lifting of fluids in the well, or (b) stimulation of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.

18. "Exception well location" means a location which does not conform to the general spacing requirements established by the rules or orders of the commission but which has been specifically approved by the commission.

19. "Gas lift" means any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

20. "Gas-oil ratio" means the ratio of the gas produced in cubic feet [cubic meters] to a barrel of oil concurrently produced during any stated period.

21. "Gas-oil ratio adjustment" means the reduction in allowable of a high gas-oil ratio proration unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

22. "Gas transportation facility" means a pipeline in operation serving one or more gas wells for the transportation of natural gas, or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported.

23. "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the commission.

24. "High gas-oil ratio proration unit" means a proration unit with a producing oil well with a gas-oil ratio in excess of the limiting gas-oil ratio for the pool.

25. "Injection or input well" means any well used for the injection of air, gas, water, or other fluids into any underground stratum.

26. "Limiting gas-oil ratio" means the gas-oil ratio assigned by the commission to a particular oil pool to limit the volumes of casinghead gas which may be produced from the various oil-producing units within that particular pool.

27. "Log or well log" means a systematic, detailed, and correct record of formations encountered in the drilling of a well, including commercial electric logs, radioactive logs, dip meter logs, and other related logs.

28. "Multiple completion" means the completion of any well so as to permit the production from more than one common source of supply.

29. "Natural gas or gas" means and includes all natural gas and all other fluid hydrocarbons not herein defined as oil.

30. "Occupied dwelling" or “permanently occupied dwelling” means a residence which is lived in by a person at least six months throughout a calendar year.

31. "Official gas-oil ratio test" means the periodic gas-oil ratio test made by order of the commission and by such method and means and in such manner as prescribed by the commission.

32. "Offset" means a well drilled on a forty-acre [16.19-hectare] tract cornering or contiguous to a forty-acre [16.19-hectare] tract having an existing oil well, or a well drilled on a one hundred sixty-acre [64.75-hectare] tract cornering or contiguous to a one hundred sixty-acre [64.75-hectare] tract having an existing gas well; provided, however, that for wells subject to a fieldwide spacing order, "offset" means any wells

located on spacing units cornering or contiguous to the spacing unit or well which is the subject of an inquiry or a hearing.

33. "Oil well" means any well capable of producing oil or oil and casinghead gas from a common source of supply as determined by the commission.

34. "Operator" is the principal on the bond covering a well and such person shall be responsible for drilling, completion, and operation of the well, including plugging and reclamation of the well site.

35. "Overage or overproduction" means the amount of oil or the amount of natural gas produced during a proration period in excess of the amount authorized on the proration schedule.

36. "Potential" means the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the commission.

37. "Pressure maintenance" means the injection of gas or other fluid into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

38. "Proration day" consists of twenty-four consecutive hours which shall begin at seven a.m. and end at seven a.m. on the following day.

39. "Proration month" means the calendar month which shall begin at seven a.m. on the first day of such month and end at seven a.m. on the first day of the next succeeding month.

40. "Proration schedule" means the periodic order of the commission authorizing the production, purchase, and transportation of oil or of natural gas from the various units of oil or of natural gas proration in allocated pools.

41. "Proration unit for gas" consists of such geographical area as may be prescribed by special pool rules issued by the commission.

42. "Recomplete" means the subsequent completion of a well in a different pool.

43. "Reservoir" means pool or common source of supply.

44. "Saltwater handling facility" means and includes any container such as a pit, tank, or pool, whether covered or uncovered, used for the handling, storage, disposal of deleterious substances obtained, or used, in connection with the drilling or operation of wells.

45. "Shut-in pressure" means the pressure noted at the wellhead when the well is completely shut in, not to be confused with bottom hole pressure.

46. "Spacing unit" is the area in each pool which is assigned to a well for drilling, producing, and proration purposes in accordance with the commission's rules or orders.

47. "Stratigraphic test well" means any well or hole, except a seismograph shot hole, drilled for the purpose of gathering information in connection with the oil and gas industry with no intent to produce oil or gas from such well.

48. "Tank bottoms" means that accumulation of hydrocarbon material and other substances which settle naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains basic sediment and water in an amount rendering it unsaleable to an ordinary crude oil purchaser; provided, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet thereto.

49. "Treating plant" means any plant permanently constructed or portable used for the purpose of wholly or partially reclaiming, treating, processing, or ~~in any manner making~~ recycling tank bottoms~~, or any other~~ waste oils ~~marketable~~, drilling mud, waste from drilling operations, produced water, and other waste related to crude oil and natural gas exploration and production. This is not to be construed as to include saltwater handling and disposal operations which typically recover skim oil from their operations.

History: Amended effective January 1, 1983; May 1, 1992; July 1, 1996; December 1, 1996; September 1, 2000; July 1, 2002; January 1, 2008; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-11. ORGANIZATION REPORTS. Every person acting as principal or agent for another or independently engaged in the drilling of oil or gas wells, or in the production, storage, transportation, refining, reclaiming, treating, marketing, or processing of crude oil or natural gas, engaged in the disposal of produced water, or engaged in treating plant operations in North Dakota shall immediately file with the director the name under which such business is being conducted or operated; and name and post-office address of such person, the business or businesses in which the person is engaged; the plan of organization, and in case of a corporation, the law under which it is chartered; and the names and post-office addresses of any person acting as trustee, together with the names and post-office addresses of any officials thereof on an organization report (form 2). In each case where such business is conducted under an assumed name, such organization report shall show the names and post-office addresses of all owners in addition to the other information required. A

new organization report shall be filed when and if there is a change in any of the information contained in the original report.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-14. ACCESS TO RECORDS. The commission, director, and their representatives shall have access to all well records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, producing, operation, or servicing oil and gas wells, injection wells, or treating plants shall permit the commission, director, and their representatives 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 such wells, and to have access at all times to any and all records of wells. If requested, copies of such records must be filed with the commission. The confidentiality of any data submitted which is confidential pursuant to subsection 6 of North Dakota Century Code section 38-08-04 and section 43-02-03-31 must be maintained.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; _____.

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 drilling operations, any person who proposes to drill a well for oil, gas, or injection 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 disposal operations must be bonded in the amount of fifty 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; and

c. A well that is abandoned pursuant to section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed.

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 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.

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.

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 the well is in violation of a statute, rule, or order.

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 the commencement of operations, 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.

7. 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.

8. 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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-16. APPLICATION FOR PERMIT TO DRILL AND RECOMPLETE.

Before any person shall begin any well-site preparation for the drilling of any well other than surveying and staking, such person shall file an application for permit to drill (form 1) with the director, together with a permit fee of one hundred dollars. Verbal approval may be given for site preparation by the director in extenuating circumstances. No drilling activity shall commence until such application is approved and a permit to drill is issued by the director. The application must be accompanied by the bond pursuant to section 43-02-03-15 or the applicant must have previously filed such bond with the commission, otherwise the application is incomplete. An incomplete application received by the commission has no standing and will not be deemed filed until it is completed.

The application for permit to drill shall be accompanied by an accurate plat certified by a registered surveyor showing the location of the proposed well with reference to true north and the nearest lines of a governmental section~~. The plat shall also include~~, the latitude and longitude of the proposed well location to the nearest tenth of a second, the ground elevation, the legal street address, and the proposed road access to the nearest existing public road. Information to be included in such application shall be the proposed depth to which the well will be drilled, estimated depth to the top of important markers, estimated depth to the top of objective horizons, the proposed mud program, the proposed casing program, including size and weight thereof, the depth at which each casing string is to be set, the proposed pad layout, including cut and fill diagrams, and the proposed amount of cement to be used, including the estimated top of cement.

For wells permitted on new pads built after July 31, 2013, permit conditions imposed by the commission may include, upon request of the owner of a permanently occupied dwelling within one thousand feet of the proposed well, requiring the location of all flares, tanks, and treaters utilized in connection with the permitted well be located at a greater distance from the occupied dwelling than the oil and gas well head, if the location can be reasonably accommodated within the proposed pad location. If the facilities are proposed to be located farther from the dwelling than the well bore, the director can issue the permit without landowner comment. The applicant shall give any such owners written notice of the proposed facilities personally or by certified mail, return receipt requested, and addressed to their last known address listed with the county property tax department. The commission must receive written comments from such owner within five business days of the owner receiving said notice. An application for permit must include an affidavit from the applicant identifying each owner's name and address, and the date written notice was given to each owner. The owner's notice must include:

1. A copy of North Dakota Century Code section 38-08-05.

2. The name, telephone number, and if available the electronic mail address of the applicant's local representative.

3. A sketch of the area indicating the location of the owner's dwelling, the proposed well, and location of the proposed flare, tanks, and treaters.

4. A statement indicating that any such owner objecting to the location of the flare, tanks, or treaters, must notify the Commission within five business days of receiving the notice.

Prior to the commencement of recompletion operations or drilling horizontally in the existing pool, an application for permit shall be filed with the director. Included in such application shall be the notice of intention (form 4) to reenter a well by drilling horizontally, deepening, or plugging back to any source of supply other than the producing horizon in an existing well. Such notice shall include the name and file number and exact location of the well, the approximate date operations will begin, the proposed procedure, the estimated completed total depth, the anticipated hydrogen sulfide content in produced gas from the proposed source of supply, the weight and grade of all casing currently installed in the well unless waived by the director, the casing program to be followed, and the original total depth with a permit fee of fifty dollars. The director may deny any application if it is determined, in accordance with the latest version of ANSI/NACE MR0175/ISO 15156, that the casing currently installed in the well would be subject to sulfide stress cracking.

The applicant shall provide all information, in addition to that specifically required by this section, if requested by the director. The director may impose such terms and conditions on the permits issued under this section as the director deems necessary.

The director shall deny an application for a permit under this section if the proposal would cause, or tend to cause, waste or violate correlative rights. The director of oil and gas shall state in writing to the applicant the reason for the denial of the permit. The applicant may appeal the decision of the director to the commission.

A permit to drill automatically expires one year after the date it was issued, unless the well is drilling or has been drilled below surface casing. A permit to recomplete or to drill horizontally automatically expires one year after the date it was issued, unless such project has commenced.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; September 1, 2000; July 1, 2002; April 1, 2010; April 1, 2012; _____.

General Authority
NDCC 38-08-05

Law Implemented
NDCC 38-08-05

43-02-03-16.1. DESIGNATION AND RESPONSIBILITIES OF OPERATOR. The principal on the bond covering a well or a treating plant is the operator ~~of the well~~. The operator is responsible for compliance with all applicable laws ~~relating to the well and well site~~. A dispute over designation of the operator ~~of a well~~ 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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-16.3. RECOVERY OF A RISK PENALTY. The following govern the recovery of the risk penalty pursuant to subsection 3 of North Dakota Century Code section 38-08-08 and subsection 3 of North Dakota Century Code section 38-08-09.4:

1. An owner may recover the risk penalty under the provisions of subsection 3 of North Dakota Century Code section 38-08-08, provided the owner gives, to the owner from whom the penalty is sought, a written invitation to participate in the risk and cost of drilling a well, including reentering a plugged and abandoned well, or the risk and cost of reentering an existing well to drill deeper or a horizontal lateral. If the nonparticipating owner's interest is not subject to a lease or other contract for development, an owner seeking to recover a risk penalty must also make a good-faith attempt to have the unleased owner execute a lease.

    a. The invitation to participate in drilling must contain the following:

        (1) The approximate surface location of the proposed or existing well, ~~and its~~ proposed completion and total depth, ~~and~~ objective zone, and completion location if other than a vertical well.

        (2) An itemization of the estimated costs of drilling and completion.

(3) The approximate date upon which the well was or will be spudded or reentered.

(4) A statement indicating the invitation must be accepted within thirty days of receiving it.

(5) Notice that the participating owners plan to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty, or if no such petition has been filed, by filing an application or request for hearing with the commission.

(6) Drilling or spacing unit description.

b. An election to participate must be in writing and must be received by the owner giving the invitation within thirty days of the participating party's receipt of the invitation.

c. An invitation to participate and an election to participate must be served personally, by mail requiring a signed receipt, or by overnight courier or delivery service requiring a signed receipt. Failure to accept mail requiring a signed receipt constitutes service.

d. An election to participate is only binding upon an owner electing to participate if the well is spudded or reentry operations are commenced on or before ninety days after the date the owner extending the invitation to participate sets as the date upon which a response to the invitation is to be received. It also expires if the permit to drill or reenter expires without having been exercised. If an election to participate lapses, a risk penalty can only be collected if the owner seeking it again complies with the provisions of this section.

2. An owner may recover the risk penalty under the provisions of subsection 3 of North Dakota Century Code section 38-08-09.4, provided the owner gives, to the owner from whom the penalty is sought, a written invitation to participate in the unit expense. If the nonparticipating owner's interest is not subject to a lease or other contract for development, an owner seeking to recover a risk penalty must also make a good-faith attempt to have the unleased owner execute a lease.

a. The invitation to participate in the unit expense must contain the following:

(1) A description of the proposed unit expense, including the location, objectives, and plan of operation.

(2) An itemization of the estimated costs.

(3) The approximate date upon which the proposal was or will be commenced.

(4) A statement indicating the invitation must be accepted within thirty days of receiving it.

(5) Notice that the participating owners plan to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty, or if no such petition has been filed, by filing an application or request for hearing with the commission.

b. An election to participate must be in writing and must be received by the owner giving the invitation within thirty days of the participating party's receipt of the invitation.

c. An invitation to participate and an election to participate must be served personally, by mail requiring a signed receipt, or by overnight courier or delivery service requiring a signed receipt. Failure to accept mail requiring a signed receipt constitutes service.

d. An election to participate is only binding upon an owner electing to participate if the unit expense is commenced within ninety days after the date the owner extending the invitation request to participate sets as the date upon which a response to the request invitation is to be received. If an election to participate lapses, a risk penalty can only be collected if the owner seeking it again complies with the provisions of this section.

e. An invitation to participate in a unit expense covering monthly operating expenses shall be effective for all such monthly operating expenses for a period of five years if the unit expense identified in the invitation to participate is first commenced within ninety days after the date set in the invitation to participate as the date upon which a response to the invitation to participate must be received. An election to participate in a unit expense covering monthly operating expenses is effective for five years after operations are first commenced. If an election to participate in a unit expense comprised of monthly operating expenses expires or lapses after five years, a risk penalty may only be assessed and collected if the owner seeking the penalty once again complies with this section.

3. Upon its own motion or the request of a party, the commission may include in a pooling order requirements relating to the invitation and election to participate, in which case the pooling order will control to the extent it is inconsistent with this section.

History: Effective December 1, 1996; amended effective May 1, 2004; January 1, 2006; January 1, 2008; April 1, 2010; April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
38-08-08

43-02-03-17. SIGN ON WELL OR FACILITY. Every well or facility associated with the production, transportation, purchasing, or processing of oil and gas except plugged wells shall be identified by a sign ~~posted on the derrick or not more than twenty feet [6.10 meters] from the well~~. The sign shall be of durable construction and the lettering thereon shall be kept in a legible condition ~~and shall be large enough to be legible under normal conditions at a distance of fifty feet [15.24 meters]~~. The wells on each lease or property shall be numbered in nonrepetitive sequence, unless some other system of numbering was adopted by the owner prior to the adoption of this chapter. Each sign must show the well name and number (which shall be different or distinctive for each well), the name of the operator, file number, and the location by quarter-quarter, section, township, and range.

Existing well identification signs that are otherwise in accord with this section except that well locations are shown by quarter section rather than quarter-quarter section or show the permit number rather than the file number shall be allowed to remain.

History: Amended effective January 1, 1983; May 1, 1992; September 1, 2000; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-19. SITE CONSTRUCTION. In the construction of a ~~drill~~ site, access road, and all associated facilities, the topsoil shall be removed, stockpiled, and stabilized or otherwise reserved for use when the area is reclaimed. "Topsoil" means the suitable plant growth material on the surface; however, in no event shall this be deemed to be more than the top eight inches [20.32 centimeters] of soil. Soil stabilization additives, liners, fabrics, and other materials to be used onsite, access roads, or associated facilities must have approval on a sundry notice (form 4) from the director before application.

When necessary to prevent pollution of the land surface and freshwaters, the director may require the ~~drill~~ site to be sloped and diked.

Well sites and associated facilities shall not be located in, or hazardously near, bodies of water, nor shall they block natural drainages. Sites and associated facilities shall be designed to divert surface drainage from entering the site.

Well sites and associated facilities or appropriate parts thereof shall be fenced if required by the director.

Within six months after the completion of a well, the portion of the well site not used for well operations shall be reclaimed, unless waived by the director. Well sites and all associated facilities shall be stabilized to prevent erosion.

History: Amended effective March 1, 1982; January 1, 1983; May 1, 1992; July 1, 2002; January 1, 2008; April 1, 2010; April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-19.3. EARTHEN PITS AND OPEN RECEPTACLES. Except as otherwise provided in sections 43-02-03-19.4 and 43-02-03-19.5, no saltwater, drilling mud, crude oil, waste oil, or other waste shall be stored in earthen pits or open receptacles except in an emergency and upon approval by the director.

A lined earthen pit or open receptacle may be temporarily used to retain oil, water, cement, solids, or fluids generated in well completion, servicing, or plugging operations. A pit or receptacle used for this purpose must be sufficiently impermeable to provide adequate temporary containment of the oil, water, or fluids. The contents of the pit or receptacle must be removed within seventy-two hours after operations have ceased and must be disposed of at an authorized facility in accordance with section 43-02-03-19.2. Within thirty days after operations have ceased, the earthen pit shall be reclaimed and the open receptacle shall be removed. ~~The director may grant an extension of the thirty-day time period to no more than one year for good reason.~~

The director may permit pits or receptacles used solely for the purpose of flaring casinghead gas. A pit or receptacle used for this purpose must be sufficiently impermeable to provide adequate temporary containment of fluids. Permission for such pit or receptacle shall be conditioned on locating the pit not less than one hundred fifty feet [45.72 meters] from the vicinity of wells and tanks and keeping it free of any saltwater, crude oil, waste oil, or other waste. Saltwater, drilling mud, crude oil, waste oil, or other waste shall be removed from the pit or receptacle within twenty-four hours after being discovered and must be disposed of at an authorized facility in accordance with section 43-02-03-19.2.

The director may permit pits used solely for storage of freshwater used in completion and well servicing operations. Permits for freshwater pits shall be valid for a period of one year but may be reauthorized upon application. Freshwater pits shall be lined and no pit constructed for this purpose shall be wholly or partially constructed in fill dirt unless approved by the director. The director may approve chemical treatment to municipal drinking water standards upon application.

The freshwater pit shall have signage on all sides accessible to vehicular traffic clearly identifying the usage as freshwater only.

History: Effective September 1, 2000; amended effective April 1, 2010; April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-19.4. DRILLING PITS. A pit may be utilized to bury drill cuttings and solids generated during well drilling and completion operations, providing the pit can be constructed, used, and reclaimed in a manner that will prevent pollution of the land surface and freshwaters. In special circumstances, the director may prohibit construction of a cuttings pit or may impose more stringent pit construction and reclamation requirements. Reserve and circulation of mud system through earthen pits are prohibited unless a waiver is granted by the director. All pits shall be inspected by an authorized representative of the director prior to lining and use. Under no circumstances shall pits be used for disposal, dumping, or storage of fluids, wastes, and debris other than drill cuttings and solids recovered while drilling and completing the well.

Drill cuttings and solids must be stabilized in a manner approved by the director prior to placement in a cuttings pit. Any liquid accumulating in the cuttings pit shall be promptly removed. The pit shall be diked in a manner to prevent surface water from running into the pit.

A small lined pit can be authorized by the director for the temporary containment of incidental fluids such as trench water and rig wash, if emptied and covered prior to the rig leaving the site.

Pits shall not be located in, or hazardously near, bodies of water, nor shall they block natural drainages. No pit shall be wholly or partially constructed in fill dirt unless approved by the director.

When required by the director, the drilling pit or appropriate parts thereof shall be fenced.

Within thirty days after the drilling of a well or expiration of a drilling permit, drilling pits shall be reclaimed. The director may grant an extension of the thirty-day time period to no more than one year for good reason. Prior to reclaiming the pit, the operator or the operator's agent shall ~~file a sundry notice (form 4) with~~ obtain approval from the director ~~and obtain approval~~ of a pit reclamation plan.

~~Verbal approval to reclaim~~ A subsequent sundry notice (form 4) shall be filed detailing the pit ~~may be given. The notice~~ reclamation and shall include:

1. The name and address of the reclamation contractor;

2. The name and address of the surface owner; and

~~3. The location and name of the disposal site for the pit water when applicable; and~~

~~4.~~3. A description of the ~~proposed~~ work completed, including details on treatment and disposition of the drilling waste.

Any water or oil accumulated on the pit must be removed prior to reclamation. Drilling waste shall be encapsulated in the pit and covered with at least four feet [1.22 meters] of backfill and topsoil and surface sloped, when practicable, to promote surface drainage away from the reclaimed pit area.

History: Effective April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-19.5. RESERVE PIT FOR DRILLING MUD AND DRILL CUTTINGS FROM SHALLOW WELLS. For wells drilled to a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, a container or reserve pit of sufficient size to contain said material or fluid, and the accumulation of drill cuttings may be utilized to contain solids and fluids used and generated during well drilling and completion operations, providing the pit can be constructed, used and reclaimed in a manner that will prevent pollution of the land surface and freshwaters. A reserve pit may be allowed by an order of the commission after notice and hearing, provided the reserve pit can be constructed, used, and reclaimed in a manner that will prevent pollution of the land surface and freshwaters, for (a) wells drilled within a specified field and pool more than five thousand feet [1524 meters] below the surface and below the top of the Rierdon formation provided the proposed well or wells utilize a low sodium content water-based mud system~~, and the reserve pit can be constructed, used, and reclaimed in a manner that will prevent pollution of the land surface and freshwaters~~ or (b) for wells drilled and completed outside the Bakken and Three Forks formation development areas when separate reserve pits will be utilized to segregate each mud system and associated drill cuttings. In special circumstances, based on site-specific conditions, the director or authorized representative may prohibit construction of a reserve pit or may impose more stringent pit construction and reclamation requirements, including reserve pits previously authorized by a commission order within a specified field and pool. Under no circumstances shall reserve pits be used for disposal, dumping, or storage of fluids, wastes, and debris other than drill cuttings and fluids used or recovered while drilling and completing the well.

Reserve pits shall not be located in, or hazardously near, bodies of water, nor shall they block natural drainages. No reserve pit shall be wholly or partially constructed in fill dirt unless approved by the director.

Within a reasonable time, but not more than one year after the completion of a shallow well, or prior to drilling below the surface casing shoe on any other well, the reserve pit shall be reclaimed. Prior to reclaiming the pit, the operator or the operator's agent shall file a sundry

notice (form 4) with the director and obtain approval of a pit reclamation plan. Verbal approval to reclaim the pit may be given. The notice shall include:

1. The name and address of the reclamation contractor;

2. The name and address of the surface owner;

3. The location and name of the disposal site for the pit water; and

4. A description of the proposed work, including details on treatment and disposition of the drilling waste.

All pit water must be removed prior to reclamation. Drilling waste should be encapsulated in the pit and covered with at least four feet [1.22 meters] of backfill and topsoil and surface sloped, when practicable, to promote surface drainage away from the reclaimed pit area.

History: Effective April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-22. DEFECTIVE CASING OR CEMENTING. In any well that appears to have defective casing or cementing, the operator shall report the defect to the director on a sundry notice (form 4). Prior to attempting remedial work on any casing, the operator must obtain approval from the director and proceed with diligence to conduct tests, as approved or required by the director, to properly evaluate the condition of the well bore and correct the defect. The director is authorized to require a pressure test to verify casing integrity if its competence is questionable. The director may allow the well bore condition to remain if the casing can be adequately protected from external corrosion and correlative rights can be protected without endangering potable waters. The well shall be properly plugged if requested by the director.

Any well with open perforations above a packer shall be considered to have defective casing.

History: Amended effective January 1, 1983; May 1, 1992; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2008; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-27.1 HYDRAULIC FRACTURE STIMULATION.

1. For hydraulic fracture stimulation performed through a frac string run inside the intermediate casing string:

a. The frac string must be either stung into a liner or run with a packer set at a minimum depth of one hundred feet [30.48 meters] below the top of cement or 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.

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.

e. The surface casing ~~valve~~ 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 ~~between the treating line and the wellhead~~ at the top of the christmas tree and must be remotely operated from the edge of the location or other safe distance.

g. 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. For hydraulic fracture stimulation performed 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 intermediate casing.

b. Casing evaluation tools to verify adequate wall thickness of the intermediate casing 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.

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 intermediate casing 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 top of cement behind the intermediate casing is below the top of the Mowry formation, a frac string shall be run inside the intermediate casing.

d. The intermediate casing and 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. 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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-28. SAFETY REGULATION. During drilling operations all oil wells shall be cleaned into a pit or tank, not less than forty feet [12.19 meters] from the derrick floor and one hundred fifty feet [45.72 meters] from any fire hazard.

All flowing oil wells must be produced through an approved oil and gas separator or emulsion treater of ample capacity and in good working order. No boiler, ~~portable~~ electric ~~lighting~~ generator, or treater shall be placed nearer than one hundred fifty feet [45.72 meters] to any producing well or oil tank. Placement as close as one hundred twenty-five feet [38.10 meters] may be allowed if a flame arrestor is utilized on the equipment. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred fifty feet [45.72 meters] from the vicinity of wells and tanks. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard. All vegetation must be removed to a safe distance from any production equipment to eliminate a fire hazard.

The director may require remote operated or automatic shutdown equipment to be installed on, or shut in for no more than forty days, any well that is likely to cause a serious threat of pollution or injury to the public health or safety.

No well shall be drilled nor production or injection equipment 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.

Subsurface pressure must be controlled during all drilling, completion, and well-servicing operations with appropriate fluid weight and pressure control equipment. <u>The operator conducting any well stimulation shall give at least twenty-four hours' notice to any operator of a well completed in the same pool if the completion intervals are within one thousand three hundred twenty feet of one another.</u>

History: Amended effective January 1, 1983; May 1, 1990; September 1, 2000; January 1, 2006; January 1, 2008; April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29. WELL AND LEASE EQUIPMENT. 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 gathering pipelines must be devoid of leaks and constructed of materials resistant to the effects of transported fluids. All such pipelines installed in a trench must be installed in a manner that minimizes interference with agricultural, road, and utility construction, the introduction of secondary stresses, and the possibility of damage to the pipe. When a trench for an oil and gas 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.

Within one hundred eighty days of placing an underground gathering pipeline into service, the operator of the pipeline shall file with the director a geographical information system layer utilizing North American Datum 83 North Dakota State Plane North projection 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 constructed and installed in compliance with section 43-02-03-29.

2. The outside diameter of the pipeline.

3. The anticipated operating pressure of the pipeline.

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

5. The material from which the pipeline is constructed.

6. The pipeline depth of burial.

When an oil and gas underground gathering pipeline or part of such a pipeline is abandoned the operator shall do the following:

1. Disconnect and physically isolate the pipeline from any operating facility 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.

4. Remove cathodic protection from the pipeline.

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

6. Leave in a safe condition.

Within one hundred eighty days of completing the abandonment of an underground gathering pipeline the operator of the pipeline shall file with the director a geographical information system layer utilizing North American Datum 83 North Dakota State Plane North projection 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.

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

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

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, receiving tank, storage tank, or production facility into which oil, gas, or water is produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported, shall verbally notify the director within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. 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 shall not apply to any leak, spill, or release of fluid that is less than one barrel total volume and remains onsite of a facility. The verbal 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~~ all 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, cause of the accident, and action taken to prevent reoccurrence~~ pursuant to North Dakota Century Code section 37-17.1-07.1. The signature, 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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-34. METHOD OF PLUGGING. All wells shall be plugged in a manner which will confine permanently all oil, gas, and water in the separate strata originally containing them. This operation shall be accomplished by the use of mud-laden fluid, cement, and plugs, used singly or in combination as may be approved by the director. All casing strings shall be cut off at least three feet [91.44 centimeters] below the final surface contour, and a cap shall be welded thereon. Core or stratigraphic test holes drilled to or below sands containing freshwater shall be plugged in accordance with the applicable provisions recited above. After plugging, the site must be reclaimed pursuant to section 43-02-03-~~19~~34.1.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; July 1, 2002; _____.

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 is decommissioned, the ~~well~~ site, access road, and other associated facilities constructed ~~for the well~~ shall be reclaimed as closely as practicable to original condition. 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. Flow lines shall be purged in a manner approved by the director. 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 well site, access road, and other associated facilities constructed for the well 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. Within thirty days after completing any reclamation, the operator shall file a sundry notice with the director reporting the work performed.

5. 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 and shall record the waiver with the recorder of the county in which the site or road is located.

History: Effective April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-38.1 PRESERVATION OF CORES AND SAMPLES. Sample cuttings of formations, taken at ~~regular~~ intervals prescribed by the state geologist, in all wells drilled for oil or gas 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 ~~geologist~~ core and sample library within thirty days after completion of drilling operations.

The operator of any well drilled for oil or gas in North Dakota, during the drilling of or immediately following the completion of any well, shall inform the ~~state geologist or the geologist's representative~~ director of all intervals that are to be cored, or have been cored. ~~All~~ Unless specifically exempted by the director, all cores taken shall be preserved ~~and~~, placed in a standard core box and the entire core forwarded to the state ~~geologist~~ core and sample library, free of cost, within ~~ninety~~ one-hundred eighty days after completion of drilling operations~~, unless specifically exempted by the state geologist~~. 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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-48. MEASUREMENT OF OIL. Oil production may not be transported from a well premises or central production facility until its volume has been determined through the use of properly calibrated meter measurements or tank measurements. All meter and tank measurements, and volume determinations must conform to American petroleum institute standards and be corrected to a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius] and fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter].

History: Amended effective April 30, 1981; March 1, 1982; January 1, 1983; May 1, 1992; May 1, 1994; July 1, 1996; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-51. TREATING PLANT. No treating plant may be constructed without obtaining a permit from the commission after notice and hearing. A ~~Before construction of a treating plant and upon~~ written application for a treating plant permit shall ~~stating~~ state in detail the location, type, capacity of the plant contemplated, method of processing proposed, and the plan of operation for all plant waste~~, the commission shall set such application for hearing to determine whether the proposed plant and method of processing will actually and efficiently process, treat, and reclaim tank bottom emulsion and other waste oils, and whether there is need for such a plant. The operator of any portable treating plant shall notify the director as to all changes in location of said plant. No treating plant shall operate except by order of the commission. The disposition of all products and waste must be reported monthly on form 5p. Upon approval of a treating plant and before construction begins, the permittee shall file with the commission a surety bond or cash bond conditioned upon compliance with all laws, rules and regulations, and orders of the commission. The bond amount shall be specified in the commission order authorizing the treating plant and shall be based upon the location, type, and capacity of the plant, processing method, and plan of operation for all plant waste approved in the commission order and shall be payable to the industrial commission of North Dakota. In no case shall the bond amount be set lower than fifty thousand~~

~~dollars.~~ The commission shall give at least fifteen-day notice prior to the hearing to the county auditor of any application in which a request for a treating plant is received.

History: Amended effective January 1, 1983; May 1, 1990; May 1, 1992; September 1, 2000; April 1, 2012; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-51.1 TREATING PLANT PERMIT REQUIREMENTS.

1. The treating plant permit application shall be submitted on form 1tp and shall include at least the following information:

   a. The name and address of the operator.

   b. An accurate plat certified by a registered surveyor showing the location of the proposed treating plant and the center of the site with reference to true north and the nearest lines of a governmental section. The plat shall also include the latitude and longitude of the center of the proposed treating plant location to the nearest tenth of a second, the ground elevation, and the legal street address. The plat shall also depict the outside perimeter of the treating plant and verification that the site is at least five hundred feet from an occupied dwelling.

   c. A schematic drawing of the proposed treating plant site, drawn to scale, detailing all facilities and equipment including the size, location, and purpose of all tanks, the height and location of all dikes, the location of all flowlines, and the location of the topsoil stockpile. It shall also include the proposed road access to the nearest existing public road and the authority to build such access.

   d. Cut and fill diagrams.

   e. An affidavit of mailing identifying each owner of any permanently occupied dwelling within one-quarter mile of the proposed treating plant and certifying that such owner has been notified of the proposed treating plant.

   f. Appropriate geological data on the surface geology.

   g. Schematic drawings of the proposed diking and containment including all areas underlain by a synthetic liner.

   h. Monitoring plans and leak detection for all buried or partially buried structures.

   i. The capacity and operational capacity of the treating plant.

2. Permits may contain such terms and conditions as the commission deems necessary.

3. Any permit issued under this section may be revoked by the commission after notice and hearing if the permittee fails to comply with the terms and conditions of the permit, any directive of the commission, or any applicable rule or statute. Any permit issued under this section may be suspended by the director for cause.

4. Permits are transferable only with approval of the commission.

5. Permits may be modified by the commission.

6. A permit shall automatically expire one year after the date it was issued, unless dirtwork operations have commenced to construct the site.

7. If the treating plant is abandoned and reclaimed, the permit shall expire and be of no further force and effect.

History: Effective _____

General Authority Law Implemented

_____ _____

43-02-03-51.2. TREATING PLANT SITING. All treating plants shall be sited in such a fashion that they are not located in a geologically or hydrologically sensitive area.

History: Effective _____

General Authority Law Implemented

_____ _____

43-02-03-51.3. TREATING PLANT CONSTRUCTION AND OPERATION REQUIREMENTS.

1. Before construction of a treating plant begins, the operator shall file with the commission a surety bond or cash bond conditioned upon compliance with all laws, rules and regulations, and orders of the commission. The bond amount shall be specified in the commission order authorizing the treating plant and shall be based upon the location, type, and capacity of the plant, processing method, and plan of operation for all plant waste approved in the commission order and shall be payable to the industrial commission. In no case shall the bond amount be set lower than fifty thousand dollars.

2. Treating plant sites and associated facilities or appropriate parts thereof shall be fenced if required by the director. All fences installed within or around any facility must be constructed in a manner that promotes emergency ingress and egress.

3. All storage tanks shall be kept free of leaks and in good condition. Storage tanks for saltwater shall be constructed of, or lined with, materials resistant to the effects of saltwater.

4. All waste, recovered solids, and recovered fluids shall be stored and handled in such a manner to prevent runoff or migration off site.

5. Dikes of sufficient dimension to contain the total capacity of the maximum volume stored must be erected and maintained around all storage and processing tanks. 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. All processing equipment shall be underlain by a synthetic impermeable material, unless waived by the director. A perimeter dike of sufficiently impermeable material shall be erected and maintained around the treating plant site. The site shall be sloped and diked to divert surface drainage away from the site. The operations of the treating plant shall be conducted in such a manner as to prevent leaks, spills, and fires. All accidentally discharged fluids and wastes shall be promptly and properly removed and shall not be allowed to remain standing within the diked area or on the treating plant premises. All such incidents shall be properly cleaned up, subject to approval by the director. All such incidents shall be promptly reported to the director and a detailed account of any such incident must be filed with the director in accordance with section 43-02-03-30.

6. Immediately upon the commencement of treatment operations, the operator shall notify the commission in writing of such date.

7. The operator of a treating plant shall provide continuing surveillance and conduct such monitoring and sampling as the commission may require.

8. Storage pits, waste pits, or other earthen storage areas shall be prohibited unless authorized by an appropriate regulatory agency. A copy of said authorization shall be filed with the commission.

9. Burial of waste at any treating plant site shall be prohibited. All residual water and waste, fluid or solid, shall be disposed of in an authorized facility.

10. The operator shall take steps to minimize the amount of residual waste generated and the amount of residual waste temporarily stored on site. Solid waste shall not be stockpiled on site unless authorized by an appropriate regulatory agency. A copy of said authorization shall be filed with the commission.

11. If deemed necessary by the director, the operator shall cause to be analyzed any waste substance contained on site. Such chemical analysis shall be performed by a certified laboratory and shall adequately determine if chemical constituents exist which would categorize the waste as hazardous by state department of health standards.

12. Treating plants shall be constructed and operated so as not to endanger surface or subsurface water supplies or cause degradation to surrounding lands and shall comply with section 43-02-03-28 concerning fire hazards.

13. The beginning of month inventory, the amount of waste received and the source of such waste, the volume of oil sold, the amount and disposition of water, the amount and disposition of residue waste, fluid or solid, and the end of month inventory for each treating plant shall be reported monthly on Form 5p with the director on or before the first day of the second succeeding month, regardless of the status of operations.

14. Records necessary to validate information submitted on Form 5P shall be maintained in North Dakota.

15. An annual report for each treating plant shall be submitted to the commission, due on June 1 of each year. Said report shall include at least the following:

    a. A schematic drawing or drawings of the treating plant site, drawn to scale, detailing all facilities and equipment including the size, location, and purpose of all tanks, the height and location of all dikes, all areas underlain by a synthetic liner, the location of all flowlines, and the location of the topsoil stockpile. It shall also include the road access to the nearest existing public road.

    b. Present inventory of fluids and solids on location.

    c. Future plans for the next year.

    d. Any other information requested by the director.

16. All proposed changes to any treating plant are subject to approval by the commission. Updated schematics shall be furnished to the commission within thirty days following any changes to the treating plant.

17. The operator shall comply with all applicable rules and orders of the commission. All rules in this chapter governing oil well sites shall also apply to any treating plant site.

History: Effective _____

General Authority _____ Law Implemented _____

43-02-03-51.4. TREATING PLANT ABANDONMENT AND RECLAMATION REQUIREMENTS.

1. Notice of intention to abandon. The operator or the operator's agent shall file a notice of intention (form 4) to abandon and obtain the approval of the director, prior to the commencement of abandonment operations. The notice shall state the name of the

operator, the name and location of the treating plant, and a detailed account of proposed work. Within thirty days after the abandonment of any treating pant has been accomplished, the owner or operator thereof shall file a detailed account of the abandonment procedures on a sundry notice (form 4), and if requested, a copy of any job receipt setting forth in detail the method and operations used in abandoning the treating plant.

2. After abandonment, the site must be reclaimed pursuant to section 43-02-03-34.1.

History: Effective _____

General Authority _____ Law Implemented _____

43-02-03-55. ABANDONMENT OF WELLS OR TREATMENT PLANTS AND - SUSPENSION OF DRILLING.

1. The removal of production equipment or the failure to produce oil or gas, or 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. An abandoned well must be plugged and its site must be reclaimed and an abandoned treating plant must be removed and its site must be reclaimed, pursuant to sections 43-02-03-34 and 43-02-03-34.1.

2. The director may waive for one year the requirement to plug and reclaim an abandoned well by giving the well temporarily abandoned status. This status may only be given to wells that are to be used for purposes related to the production of oil and gas. 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 ~~beyond one year~~ 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.

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; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-60.2. FLARING EXEMPTION. The connection of a well to a natural gas gathering line is "economically infeasible" under North Dakota Century Code section 38-08-06.4, if the direct costs of connecting the well to the line and the direct costs of operating the facilities connecting the well to the line during the life of the well, are greater than the amount of money the operator is likely to receive for the gas, less production taxes and royalties, should the well be connected. In making this calculation, the applicant may add ten percent to the amount of the cost of connecting the well and of operating the connection facilities used to determine whether a connection is economically infeasible. This ten percent may be added in consideration of the cost of money and other overhead costs that are not figured in the direct costs of connecting the well and operating the connecting facilities.

An applicant for an exemption under North Dakota Century Code section 38-08-06.4 must, at the minimum, present evidence covering the following areas:

1. Basis for the gas price used to determine whether it is economically infeasible to connect the well to a natural gas gathering line;

2. Cost of connecting the well to the line and operating the facilities connecting the well to the line;

3. Current daily rate of the amount of gas flared; ~~and~~

4. The amount of gas reserves and the amount of gas available for sale~~.~~,

5. Documentation that it is economically infeasible to equip the well with an electrical generator to produce electricity from gas; and

6. Documentation that it is economically infeasible to equip the well with a system that intakes seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels,

and separating and collecting over fifty percent of the propane and heavier hydrocarbons.

History: Effective May 1, 1994; _____.

General Authority
NDCC 38-07-04

Law Implemented
NDCC 38-08-06.4

43-02-03-60.3. APPLICATION TO CERTIFY WELL FOR TEMPORARY GAS TAX EXEMPTION. Any operator desiring to certify a well for purposes of eligibility for the gas tax incentive provided in North Dakota Century Code chapter 57-51 shall submit to the director an application for certification as an oil or gas well employing a system to avoid flaring. The operator has the burden of establishing entitlement to certification and shall submit all data necessary to enable the commission to determine whether a well is entitled to the tax exemption.

An application for a temporary gas tax exemption under North Dakota Century Code chapter 57-51 must, at the minimum, include the following information:

1. Name and address of the applicant and name and address of the person operating the well, if different.

2. Name and number of the well and the legal description of the location of the well for which a certification is requested.

3. If gas is collected and used at a well or facility site to power an electrical generator, the following information must be included:

   a. Name and manufacturer of the electrical generator.

   b. Date electrical generation commenced.

   c. Volume of gas consumed by the electrical generator during a minimum seven-day test period and the volume of gas produced by the well during such test period.

4. If gas is collected at a well or facility site by a system that compresses gas and natural gas liquids for beneficial consumption, the following information must be included:

   a. Name and manufacturer of the compression equipment.

   b. Date compression commenced.

   c. Destination of the compressed products (i.e. fuel use, processing facility, fertilizer plant, etc.).

   d. Volume of gas compressed during a minimum seven-day test period and the amount of gas produced by the well during such test period.

e. Analysis of a representative gas sample produced from the well.

5. If gas is collected at a well or facility site for a value-added process that will reduce the volume or intensity of a flare by more than sixty percent, the following information must be included:

   a. Name and manufacturer of the process equipment.

   b. Date processing commenced.

   c. Volume of gas processed during a minimum seven-day test period and the amount of gas produced by the well during such test period.

   d. Analysis of a representative gas sample produced from the well, detailing the BTU value of the unprocessed gas and volume or mass as well as BTU value of each component removed from the flared gas stream for value added use.

If the application does not contain sufficient information to make a determination, the director may require the applicant to submit additional information.

History: Effective April 1, 2014; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51-02.6

43-02-03-80. REPORTS OF PURCHASERS AND TRANSPORTERS OF CRUDE OIL. On or before the first day of the second month succeeding that in which oil is removed, purchasers and transporters, including truckers, shall file with the director the appropriate monthly reporting forms. The purchaser shall file on form 10 and the transporter on form 10a the amount of all crude oil removed and purchased by them from each well or central production facility during the reported month. The transporter shall report the disposition of such crude oil on form 10b. All meter and tank measurements, and volume determinations of crude oil removed and purchased from a well or central production facility must conform to American petroleum institute standards and corrected to a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius] and fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter].

Prior to removing any oil from a well or central production facility, purchasers and transporters shall obtain an approved copy of a producer's authorization to purchase and transport oil from a well or central production facility (form 8) from either the producer or the director.

The operator of any oil rail facility shall report the amount of oil received and shipped out of such facility on form 10rr.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; September 1, 2000; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-81. AUTHORIZATION TO TRANSPORT OIL FROM A WELL, TREATING PLANT, OR CENTRAL PRODUCTION FACILITY. Before any crude oil is transported from a well, treating plant, or central production facility, the operator ~~of the well or central production facility~~ shall file with the director, and obtain the director's approval, an authorization to purchase and transport oil ~~from a well or central production facility~~ (form 8).

Oil transported ~~from a well or central production facility~~ before the authorization is obtained or if such authorization has been revoked shall be considered illegal oil.

The director may revoke the authorization to purchase and transport oil ~~from a well or central production facility~~ for failure to comply with any rule, regulation, or order of the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; September 1, 2000; _____.

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

~~2.~~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 no later than five p.m. on the last business day prior to the hearing date. Such submissions may be part of the record in the case if allowed by the hearing examiner.

~~3.~~4. The director is authorized, on behalf of the commission, to grant or deny the applications referred to in subsection 1.

~~4.~~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.

~~5.~~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 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 2, is accorded due process.

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

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

UNDERGROUND INJECTION CONTROL
CHAPTER 43-02-05

43-02-05-04. PERMIT REQUIREMENTS.

1. No underground injection may be conducted without obtaining a permit from the commission after notice and hearing. The application shall be on a form 14 provided by the commission and shall include at least the following information:

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

b. The surface and bottom hole location.

c. Appropriate geological data on the injection zone and the top and bottom confining zones including geologic names, lithologic descriptions, thicknesses, and depths.

d. The estimated bottom hole fracture pressure of the top confining zone.

e. Average and maximum daily rate of fluids to be injected.

f. Average and maximum requested surface injection pressure.

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

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

i. A plat depicting the area of review, (one-quarter-mile [402.34-meter] radius) and detailing the location, well name, and operator of all wells in the area of review. The plat should include all injection wells, producing wells, plugged wells, abandoned wells, drilling wells, dry holes, and water wells. The plat should also depict faults, if known or suspected.

j. The need for corrective action on wells penetrating the injection zone in the area of review.

k. Proposed injection program.

l. Quantitative analysis from a state-certified laboratory of freshwater from the two nearest freshwater wells within a one-mile [1.61-kilometer] radius. Location of the wells by quarter-quarter, section, township, and range must also be submitted. This requirement may be waived by the director in certain instances.

m. Quantitative analysis from a state-certified laboratory of a representative sample of water to be injected. A compatibility analysis with the receiving formation may also be required.

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

o. A legal description of the land ownership within the area of review.

p. An affidavit of mailing certifying that all landowners within the area of review have been notified of the proposed injection well. If the proposed injection well is within an area permit authorized by a commission order, the notice shall inform the landowners within the area of review that comments or objections may be submitted to the commission within thirty days. If the proposed injection well is

not within an area permit authorized by a commission order, the notice shall inform the landowners within the area of review that a hearing will be held at which comments or objections may be directed to the commission. A copy of the letter sent to each landowner must be attached to the affidavit.

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

r. Schematic drawings of the injection system, including current and proposed well bore construction, ~~and proposed well bore and~~ surface facility construction including the size, location, and purpose of all tanks, the height and location of all dikes and containment including all areas underlain by a synthetic liner, and the location of all flowlines. It shall also include the proposed road access to the nearest existing public road and the authority to build such access.

s. Traffic flow diagram of the site, depicting sufficient area to contain all anticipated traffic.

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

~~s.~~u Sundry notice detailing the proposed procedure.

2. Permits may contain such terms and conditions as the commission deems necessary.

3. Any permit issued under this section may be revoked by the commission after notice and hearing if the permittee fails to comply with the terms and conditions of the permit or any applicable rule or statute. Any permit issued under this section may be suspended by the director for good cause.

4. Before a permit for underground injection will be issued, the applicant must satisfy the commission that the proposed injection well will not endanger any underground source of drinking water.

5. No person shall commence construction of an underground injection well or site without prior approval of the director.

6. Permits are transferable only with approval of the commission.

7. Permits may be modified by the commission.

8. Before injection commences in an underground injection well, the applicant must complete any needed corrective action on wells penetrating the injection zone in the area of review.

9. All injection wells permitted before November 1, 1982, shall be deemed to have a permit for purposes of this section; however, all such prior permitted wells are subject to all other requirements of this chapter.

10. A permit shall automatically expire one year after the date it was issued, unless operations have commenced to complete the well as an injection well.

11. If the permitted injection zone is plugged and abandoned, the permit shall expire and be of no further force and effect.

History: Effective November 1, 1982; amended effective May 1, 1992; May 1, 1994; July 1, 1996; May 1, 2004; January 1, 2006; _____.

General Authority NDCC 38-08-04(2)

Law Implemented NDCC 38-08-04(2)

43-02-05-05. SITING. All ~~new~~ 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 area of review.

History: Effective November 1, 1982; _____.

General Authority NDCC 38-08-04(2)

Law Implemented NDCC 38-08-04(2)

STRIPPER WELL AND STRIPPER WELL PROPERTY DETERMINATION CHAPTER 43-02-08

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

1. "Commercial quantities" means production exceeding in value current operating costs.

2. "Condensate recovered in nonassociated production" means a liquid hydrocarbon recovered from a well classified as a gas well by the commission.

3. "Maximum efficient rate" means the maximum economic rate of production of oil which can be sustained under prudent operations, using sound engineering practices, without loss of ultimate recovery.

4. "Operator" means any person who owns a fee interest or an interest in an oil and gas leasehold, and has the right to produce oil therefrom.

5. "Qualifying period" means any preceding consecutive twelve-month period beginning after December 31, 1972, that the qualified maximum total production from a well or

property did not exceed the production levels as specified in subsection 2 of section 43-02-08-03.

6. "Well depth":

   a. For a vertical or directional well means the lowest measured depth (measured in feet from the kelly bushing) producing from the pool during the qualifying period. In the event there is more than one vertical or directional well on a property producing from the same pool during the qualifying period, "well depth" means the average of the lowest measured depths producing from the pool of all vertical and directional wells in the property.

   b. For a horizontal well means the measured depth of the terminus of the horizontal lateral (measured in feet from the kelly bushing) producing from the pool during the qualifying period. In the event there is more than one horizontal well on a property producing from the same pool during the qualifying period, "well depth" means the average measured depth of the termini of the horizontal laterals producing from the pool of all of the horizontal wells on the property.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1994; May 1, 2004; _____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-02. APPLICATION FOR STRIPPER WELL OR STRIPPER WELL PROPERTY DETERMINATION. Any operator desiring to classify a well or property as a stripper well or a stripper well property for purposes of exempting production from the imposition of the oil extraction tax as provided under North Dakota Century Code chapter 57-51.1 shall file an application for stripper well or stripper well property determination with the director and obtain a determination certifying the well or property as a stripper well property. The applicant has the burden of establishing entitlement to stripper well or stripper well property status and shall submit all data necessary for a determination by the director.

The application must include the following:

1. The name and address of the applicant and the name and address of the person operating the well, if different.

2. The legal description of the well or property for which a determination is requested.

3. The well name and number and legal description of the oil-producing well or each oil-producing well on the property during the qualifying period and at the time of application.

4. The depth of all perforations (measured in feet from ground level) from the producing well or each producing well on the property during the qualifying period which produces from the same pool.

5. Designation of the well or property which the applicant requests to be certified as a stripper well or a stripper well property. Such designation must be accompanied by sufficient documentation for the director to determine (as set forth in section 43-02-08-02.1) that the well or property the applicant desires to be certified as a stripper well or a stripper well property constitutes a well or property as specified in North Dakota Century Code section 57-51.1-01.

6. The monthly production of the oil-producing well or each oil-producing well on the property during the qualifying period.

~~7. An affidavit stating that all working interest owners of the property and all purchasers of the crude oil produced from the property have been notified of the application by certified or registered mail.~~

If the application does not contain sufficient information to make a determination, the director may require the applicant to submit additional information.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; May 1, 1994; July 1, 1996; August 1, 1999; July 1, 2002; _____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-02.1. PROPERTY DETERMINATION. ~~For purposes of this chapter, property will be determined by reference to the geographical boundaries of the right to produce crude oil as such right existed on January 1, 1972, provided such right was in production in commercial quantities on that date. If such right was not in production in commercial quantities on January 1, 1972, the determination of property will be made by reference to the geographical boundaries of the right to produce crude oil when crude oil is first produced thereafter in commercial quantities. For purposes of determining what constitutes a property, the director shall recognize as separate properties the following~~ The director recognizes the following as properties:

1. A unit~~, where the unit is the aggregation of separate interests into a single right to produce. For the purposes of property determination, a unit means the total geographical area incorporated in a unitization agreement approved by order of the commission. In cases where a property has been unitized, portions of the property outside the unit boundary are separate properties~~.

2. ~~Separate and distinct reservoirs, as defined by orders of the commission~~ A spacing unit.

3. ~~Noncontiguous tracts. (Tracts abutting solely at a corner are considered noncontiguous tracts.)~~Contiguous tracts within a lease.

4. A single well~~, or any portion of a property which has been developed and produced separately~~ drilled and completed prior to July 1, 2013 is considered a single well stripper well property. A single well drilled and completed after June 30, 2013 is considered a single well stripper well.

Any well or portion of a property previously qualified as a stripper well property may not be redesignated to be included in another property unless approved by the commission after notice and hearing or unless such property lies within a unitized common source of supply.

If a well that has previously qualified as a stripper well property is reentered and recompleted as a horizontal well, the stripper well property status on that well will terminate.

All wells on the property must have been completed prior to July 1, 2013. A well completed after July 1, 2013 cannot be added to an existing property.

History: Effective September 1, 1987; amended effective May 1, 1992; May 1, 2004; _____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-03. DIRECTOR SHALL DETERMINE STRIPPER WELL OR STRIPPER WELL PROPERTY STATUS.

1. Upon receipt of an application for stripper well or stripper well property determination, the director shall review the application, information, or comments submitted by any interested person and all relevant information contained in the books, files, and records of the commission.

2. Stripper well or stripper well property status will be determined on the basis of the qualified maximum total production of oil from the well or property. In order to qualify production from a well or property as maximum total production, the oil-producing well or each oil-producing well on the property must have been maintained at the maximum efficient rate of production throughout the twelve-month qualifying period.

   a. A property meets the requirements of a stripper well property if the qualified maximum total production of oil from the property excluding condensate did not exceed the following:

      ~~a~~i. Production from a well with a well depth of six thousand feet [1828.8 meters] or less did not exceed an average of ten barrels per day;

~~b~~ii. Production from a well with a well depth of more than six thousand feet [1828.8 meters] but not more than ten thousand feet [3048.0 meters] did not exceed an average of fifteen barrels per day; or

~~c~~iii. Production from a well with a well depth of more than ten thousand feet [3048.0 meters] did not exceed an average of thirty barrels per day.

b. A well meets the requirements of a stripper well if the qualified maximum total production of oil from the well excluding condensate did not exceed the following:

i. Production from a well with a well depth of six thousand feet [1828.8 meters] or less did not exceed an average of ten barrels per day;

ii. Production from a well with a well depth of more than six thousand feet [1828.8 meters] but not more than ten thousand feet [3048.0 meters] did not exceed an average of fifteen barrels per day;

iii. Production from a well outside the Bakken and Three Forks formations with a well depth of more than ten thousand feet [3048.0 meters] did not exceed an average of thirty barrels per day; or

iv. Production from a well in the Bakken or Three Forks formations with a well depth of more than ten thousand feet [3048.0 meters] did not exceed an average of thirty-five barrels per day.

~~3~~5. Within thirty days of the receipt of a complete application for stripper well or stripper well property status, or a reasonable time thereafter, the director shall either grant or deny the application.

~~4~~6. If an application for stripper well or stripper well property status is denied, the director shall enter a written determination denying the application and specify the basis for the denial. If an application for stripper well or stripper well property status is granted, the director shall enter a written determination granting the application. A copy of the determination either granting or denying the application must be forwarded by the director by mail to the applicant and all other persons submitting comments. It is the obligation of the applicant to notify and advise the state tax commissioner, all other operators in the well or property, and the purchaser of the crude oil of the determination of the director.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; July 1, 1996; May 1, 2004; _____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-04. APPLICANT ADVERSELY AFFECTED MAY SUBMIT AMENDED APPLICATION - PROCEDURE. Any applicant adversely affected by a determination of the director made under sections 43-02-08-02 through 43-02-08-03 may within thirty days after the entry of such a determination submit an amended application. If an amended application is submitted, the director shall issue a determination of stripper well or stripper well property status within thirty days of the receipt of the amended application or a reasonable time thereafter.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; ____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-05. PERSON ADVERSELY AFFECTED MAY PETITION THE COMMISSION - PROCEDURE. Any person adversely affected by a determination of the director of either an application or an amended application for stripper well or stripper well property status made under sections 43-02-08-02 through 43-02-08-03 may within thirty days after the entry of such a determination petition the commission for a hearing in accordance with the provisions of North Dakota Century Code chapter 38-08 and chapter 43-02-03.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; ____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)
57-51.1-01

43-02-08-11. BOOKS AND RECORDS TO BE KEPT TO SUBSTANTIATE REPORTS. Any operator desiring to classify a well or property as a stripper well property pursuant to this chapter shall make and keep records for a period of not less than six years, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History: Effective September 1, 2000; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

GEOPHYSICAL EXPLORATION REQUIREMENTS
CHAPTER 43-02-12

43-02-12-04. EXPLORATION PERMIT – APPLICATION - EXPIRATION.

1. Any person applying to the commission for an exploration permit must have a certificate to conduct geophysical exploration pursuant to subsection 3 of North Dakota Century Code section 38-08.1-03.1. A person may not commence geophysical exploration activities in this state without first obtaining an exploration permit from the commission. An application for an exploration permit must be submitted to the commission at least three business days before commencing operations and include the following:

    a. The name, permanent address, and telephone number of the geophysical contractor and the geophysical contractor's local representative.

    b. The name, permanent address, and telephone number of the drilling and hole plugging contractor, if different from the seismic contractor.

    c. The name and address of the resident agent for service of process of the person intending to engage in geophysical exploration.

    d. The bond number, type, and amount for the geophysical company.

    e. The geophysical exploration method (i.e., shot hole, nonexplosive, 2D, or 3D).

    f. The number, depth, and location of the seismic holes and the size of the explosive charges, if applicable.

    g. The anticipated starting date of seismic and plugging operations.

    h. The anticipated completion date of seismic and plugging operations.

    i. A description of hole plugging procedures.

    ~~j.~~ ~~A description of the identifying marks that will be on the nonmetallic plug to be used in the plugging of the seismic hole.~~

    ~~k~~j. A preplot map displaying the proposed seismic source points and receiver lines and specifically identifying all source points that do not comply with section 43-02-12-05.

    ~~l~~k. A fee of one hundred dollars.

2. The permitholder shall notify the commission at least twenty-four hours, excluding Saturdays and holidays, before commencing geophysical activity.

3. The permitholder shall immediately notify the commission of any revisions to an approved seismic permit.

4. An exploration permit expires one year after the date it was issued, unless geophysical exploration activities have commenced.

History: Effective December 1, 1997; amended effective September 1, 2000; May 1, 2004; April 1, 2010; _____.

General Authority
NDCC 38-08.1

Law Implemented
NDCC 38-08.1-04.1

43-02-12-07. DRILLING AND PLUGGING REQUIREMENTS.

1. Prior to commencement of any drilling or plugging operations, the director may require a field meeting with the geophysical contractor and subcontractors.

2. Except in those circumstances in which the director allows otherwise, all seismic shot holes must be plugged the same day as they were drilled and loaded. Any blown out shot holes must be plugged as soon as reasonably practicable, unless, upon application, the director grants an extension which may not exceed ninety days. All seismic shot holes must be temporarily capped until final plugging.

3. If the number of drilling rigs on a proposed project exceeds the director's capacity to provide appropriate inspection, the director may limit the number of drilling rigs.

4. Bentonite materials used in seismic hole plugging must be derived from naturally occurring untreated, high swelling sodium bentonite which consists principally of the mineral montmorillonite.

5. A durable nonmetallic plug, designed to fit the hole, must be set at a depth of approximately three feet [91.44 centimeters] below the surface of every shot hole. ~~The plug must be designed to fit the hole and shall be imprinted with the mark of the operator responsible for the plugging, the mark of the permitholder, and the permitted project number.~~

6. Unless the contractor can prove to the satisfaction of the commission that another method will provide better protection to ground water and long-term land stability, seismic shot hole plugging shall be conducted in the following manner:

   a. When water is used in conjunction with the drilling of seismic shot holes or when water is encountered in the hole, the shot holes are to be filled with coarse ground bentonite approximately three-fourths of one inch [19.05 millimeters] in diameter

from the top of the charge up to a depth above the final water level. Cuttings shall be added from the top of the bentonite to the surface. Only dry cuttings shall be utilized when plugging the shot hole. All cuttings added above the nonmetallic plug shall be tamped.

b. When drilling with air only, and in completely dry holes, a plugging may be accomplished by returning the cuttings to the hole. A small mound must be left over the hole for settling allowance.

c. Remaining cap leads must be cut off below ground level and any drilling fluid or cuttings which are deposited on the surface around the seismic hole will be spread out in such a manner that the growth of natural grasses or foliage will not be impaired.

d. Any markings, including lath, pin flags, flagging, or any other debris left on the project area, including the powder magazine, must be removed and lawfully disposed of.

History: Effective December 1, 1997; amended effective September 1, 2000; May 1, 2004; ____.

General Authority
NDCC 38-08.1

Law Implemented
NDCC 38-08.1-02,
38-08.1-06,
38-08.1-06.1