

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 24957
ORDER NO. 27349

IN THE MATTER OF A HEARING CALLED ON
A MOTION OF THE COMMISSION TO
CONSIDER ADOPTING NEW RULES AND
AMENDMENTS TO THE "GENERAL RULES
AND REGULATIONS FOR THE
CONSERVATION OF CRUDE OIL AND
NATURAL GAS" CODIFIED AS ARTICLE 43-02
NORTH DAKOTA ADMINISTRATIVE CODE.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This cause came on for hearing at 9:00 a.m. on the 11th, 12th, 13th, and 14th day of April, 2016.
- (2) The record of this case was open for more than ten (10) days after the hearing to receive written comments on the proposed additions and amendments to the rules. The record closed April 25, 2016.
- (3) The Commission is authorized to adopt, and from time to time amend or repeal, reasonable rules in conformity with the provisions of any statute administered or enforced by the agency.
- (4) It is necessary to adopt new rules and amend existing rules codified in North Dakota Administrative Code (NDAC) Chapters 43-02-03, 43-02-05, and 43-02-08 to implement, administer, and enforce the provisions of North Dakota Century Code Chapter 38-08.
- (5) Pursuant to NDCC Sections 28-32-14 and 28-32-15, the new and amended rules shown in the appendix to this order will become effective October 1, 2016, but only upon the Attorney General determining their legality and after approval of the Administrative Rules Committee.
- (6) The amendment of existing rules are in the public interest.

IT IS THEREFORE ORDERED:

- (1) New and amended sections to NDAC Chapters 43-02-03, 43-02-05, and 43-02-08 as shown in the appendix to this order, are hereby approved and adopted.
- (2) Existing regulations not specifically amended by this order shall remain in full force and effect.
- (3) This order shall be effective pursuant to the applicable statutes and laws of this state and shall remain in full force and effect until further order of the Commission.

Dated this 29th day of June, 2016.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

/s/ Jack Dalrymple, Governor

/s/ Wayne Stenehjem, Attorney General

/s/ Doug Goehring, Agriculture Commissioner

APPENDIX TO COMMISSION ORDER NO. 27349

NORTH DAKOTA INDUSTRIAL COMMISSION

RULES AND REGULATIONS—NORTH DAKOTA ADMINISTRATIVE CODE

2016 RULE CHANGES

**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)**

**GENERAL RULES AND REGULATIONS
CHAPTER 43-02-03**

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. "Commercial injection well" means one that only receives fluids produced from wells operated by a person other than the principal on the bond.
- ~~10~~11. "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~~12. "Common purchaser for oil" means every person now engaged or hereafter engaging in the business of purchasing oil in this state.
- ~~12~~13. "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~~14. "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~~15. "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~~16. "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~~17. "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~~18. "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.

~~18-19.~~ "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.

20. "Flow line" means a pipe or conduit of pipes used for the transportation, gathering or conduct of a mineral from a wellhead to a separator, treater, dehydrator, tank battery or surface reservoir.

~~19-21.~~ "Gas lift" means any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

~~20-22.~~ "Gas-oil ratio" means the ratio of the gas produced in cubic feet to a barrel of oil concurrently produced during any stated period.

~~21-23.~~ "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.

~~22-24.~~ "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.

~~23-25.~~ "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the commission.

~~24-26.~~ "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.

~~25-27.~~ "Injection or input well" means any well used for the injection of air, gas, water, or other fluids into any underground stratum.

28. "Injection pipeline" means a pipe or conduit of pipes used for the transportation of fluids, typically via an injection pump, from a storage tank or tank battery directly to an injection well.

~~26-29.~~ "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~~.30. "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~~.31. "Multiple completion" means the completion of any well so as to permit the production from more than one common source of supply.
- ~~29~~.32. "Natural gas or gas" means and includes all natural gas and all other fluid hydrocarbons not herein defined as oil.
- ~~30~~.33. "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~~.34. "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~~.35. "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~~.36. "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~~.37. "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~~.38. "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~~.39. "Potential" means the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the commission.
- ~~37~~.40. "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~~.41. "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.

- ~~39.42.~~ "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.
- 40.43. "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.
- 41.44. "Proration unit for gas" consists of such geographical area as may be prescribed by special pool rules issued by the commission.
- 42.45. "Recomplete" means the subsequent completion of a well in a different pool.
- 43.46. "Reservoir" means pool or common source of supply.
- 44.47. "Saltwater handling facility" means and includes any container ~~such as a pit, tank, or pool, whether covered or uncovered,~~ and site used for the handling, storage, disposal of ~~deleterious~~ substances obtained, or used, in connection with ~~the drilling or operation of wells~~ oil and gas exploration, development, and production and can be a stand-alone site or an appurtenance to a well or treating plant.
- 45.48. "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.
- 46.49. "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.
- 47.50. "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.
- 48.51. "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.
- 49.52. "Treating plant" means any plant permanently constructed or portable used for the purpose of wholly or partially reclaiming, treating, processing, or recycling tank bottoms, waste oils, drilling mud, waste from drilling operations, produced water, and other wastes 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, treating mud or cuttings at a well site during drilling operations, or treating flowback water during completion operations at a well site.

History: Amended effective January 1, 1983; May 1, 1992; July 1, 1996; December 1, 1996; September 1, 2000; July 1, 2002; January 1, 2008; April 1, 2014; ____.

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, or engaged in pipeline 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; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-14. ACCESS TO SITES AND 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, pipelines, injection wells, or treating plants shall permit the commission, director, and their representatives to come upon any lease, property, pipeline right-of-way, 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; April 1, 2014; ____.

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, or source well for use in enhanced recovery operations, shall submit to the commission, and obtain its approval, a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of such well shall be the principal on the bond covering the well. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.
2. Bond amounts and limitations. The bond shall be in the amount of fifty thousand dollars when applicable to one well only. Wells drilled to a total depth of less than two thousand feet [609.6 meters] may be bonded in a lesser amount if approved by the director. When the principal on the bond is drilling or operating a number of wells within the state or proposes to do so, the principal may submit a bond conditioned as provided by law. Wells utilized for commercial ~~disposal~~ injection 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 subsection 1 of North Dakota Century Code section 38-08-04 or section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed.

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. The director may refuse to transfer any treating plant from a bond if the treating plant is in violation of a statute, rule, or order.
7. Saltwater handling facility bond. Prior to the commencement of operations, any person proposing to operate a saltwater handling facility, that is not already bonded as an appurtenance, 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 saltwater handling facility 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 43-02-03-53.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond. Transfer of property does not release the bond. The director may refuse to transfer any saltwater handling facility from a bond if the saltwater handling facility is in violation of a statute, rule, or order.
8. Crude oil and produced water underground gathering pipeline bond. The bonding requirements for crude oil and produced water underground gathering pipelines are not to be construed to be required on flow lines, injection pipelines, pipelines operated by

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

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

- (1) The name of the pipeline gathering system and other separately named portions thereof;
- (2) The type of fluid transported;
- (3) The pipeline composition;
- (4) Burial depth; and
- (5) Approximate in-service date.

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

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

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

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

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

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

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

Notice of underground gathering pipeline transfer. The principal shall submit, as provided by the director, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of all associated above ground equipment and the pipeline centerline from the point of origin to the termination point of all underground gathering pipelines to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form 15pl signed by a party duly authorized to sign on behalf of the principal.

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

- (2) When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor shall be released from the responsibility of abandoning the underground gathering pipelines and right-of-way reclamation. If such underground gathering pipelines include all underground gathering pipeline systems within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any underground gathering pipeline from a bond if the underground gathering pipeline is in violation of a statute, rule, or order.
- (3) The transferee (new owner) of any underground gathering pipeline shall be responsible for the abandonment and right-of-way reclamation of any such underground gathering pipeline. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such underground gathering pipeline. The original or prior bond shall not be released as to the abandonment and right-of-way reclamation responsibility of any such transferor until the transferee shall submit to the commission an acceptable bond to cover such underground gathering pipeline. All liability on bonds shall continue until the abandonment and right-of-way reclamation of such underground gathering pipeline is completed and approved by the director.

7-9. 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.

8-10. Director's authority. The director is vested with the power to act for the commission as to all matters within this section, except requests for alternative forms of security, which may only be approved by the commission.

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

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 latitude and longitude of the proposed well location to the nearest tenth of a second, the ground elevation, ~~confirmation that a legal street address has been requested for the well site, and well facility if separate from the well site,~~ 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 comment from the dwelling owner. 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; April 1, 2014; _____.

General Authority
NDCC 38-08-05

Law Implemented
NDCC 38-08-05

43-02-03-17. SIGN ON WELL OR FACILITY. Every well or facility associated with the production, transportation, purchasing, storage, treating or processing of oil, ~~and gas, and water~~ except plugged wells shall be identified by a sign. The sign shall be of durable construction and the lettering thereon shall be kept in a legible condition. 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 facility name or well name and number (which shall be different or distinctive for each well or facility), the name of the operator, file or facility number (if applicable), and the location by quarter-quarter, section,

township, and range. ~~For all wells and associated facilities, the sign shall also include the legal street address, if available.~~

~~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; April 1, 2014; _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-19. SITE CONSTRUCTION. In the construction of a well site, saltwater handling facility, treating plant, 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~~ twelve inches [20.3230.48 centimeters] of soil or deeper than the depth of cultivation, whichever is greater. Soil stabilization ~~additives materials,~~ liners, fabrics, and other materials to be used onsite, on access roads or associated facilities, must be reported on a sundry notice (form 4) to the director within thirty days after application. The reclamation plan for such materials shall also be included.

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

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

Within six months after the completion of a well or construction of a saltwater handling facility or treating plant, the portion of the well site not used for well operations shall be reclaimed, unless waived by the director. Operators shall file a sundry notice (form 4) detailing the work that was performed and a current site diagram, which identifies the stockpiled topsoil location and its volume. ~~Well sites and all associated facilities~~ Sites 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; April 1, 2014; _____.

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.

The director may permit portable-collapsible receptacles used solely for storage of fluids used in completion and well servicing operations although no flowback fluids shall be allowed. Permits for such receptacles shall be valid for a period of one year but may be reauthorized upon application. Such receptacles must utilize a sealed inner bladder, erected to conform to American petroleum institute standards and shall not be wholly or partially constructed on fill dirt unless approved by the director. Such receptacles shall have signage on all sides accessible to vehicular traffic clearly identifying the fluid contained within.

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

43-02-03-28. 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, electric 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 spark or 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 or injection 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 nor saltwater handling facility or treating plant constructed 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.

~~The operator of any well approved after March 31, 2014, shall submit the legal street address of the well site, and well facility if separate from the well site, to the commission on a sundry notice (form 4) immediately upon receiving the legal street address.~~

Subsurface pressure must be controlled during all drilling, completion, and well-servicing operations with appropriate fluid weight and pressure control equipment. The operator conducting any well stimulation shall give prior written notice, up to ~~seven~~ ten days and not less than ~~three~~ seven business days, to any operator of a well completed in the same pool, if publicly available information indicates or if the operator is made aware, if the completion intervals are within one thousand three hundred twenty feet [402.34 meters] of one another.

History: Amended effective January 1, 1983; May 1, 1990; September 1, 2000; January 1, 2006; January 1, 2008; April 1, 2012; April 1, 2014; _____.

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 external corrosion and to the effects of transported fluids. All such pipelines installed in a trench must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, the possibility of damage to the pipe, and tracer wire shall be buried with any nonconductive pipe installed. When a trench for an 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.~~

- ~~1. The operator of any underground gathering pipeline placed into service on August 1, 2011, to June 30, 2013, shall file with the director, by January 1, 2015, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline. The operator of any underground gathering pipeline placed into service after June 30, 2013, shall file with the director, within one hundred eighty days of placing into service, a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline. An affidavit of completion shall accompany each layer containing the following information:
 - ~~a. A statement that the pipeline was constructed and installed in compliance with section 43-02-03-29.~~
 - ~~b. The outside diameter, minimum wall thickness, composition, internal yield pressure, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.~~
 - ~~c. The anticipated operating pressure of the pipeline.~~
 - ~~d. The type of fluid that will be transported in the pipeline and direction of flow.~~
 - ~~e. Pressure to which the pipeline was tested prior to placing into service.~~
 - ~~f. The minimum pipeline depth of burial.~~
 - ~~g. In-service date.~~
 - ~~h. Leak detection and monitoring methods that will be utilized after in-service date.~~
 - ~~i. Pipeline name.~~
 - ~~j. Accuracy of the geographical information system layer.~~~~
- ~~2. When an oil and gas underground gathering pipeline or any part of such pipeline is abandoned, the operator shall leave such pipeline in a safe condition by conducting the following:~~

- a. ~~Disconnect and physically isolate the pipeline from any operating facility or other pipeline.~~
 - b. ~~Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.~~
 - c. ~~Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.~~
 - d. ~~Remove cathodic protection from the pipeline.~~
 - e. ~~Permanently plug or cap all open ends by mechanical means or welded means.~~
3. ~~Within one hundred eighty days of completing the abandonment of an underground gathering pipeline the operator of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the pipeline centerline and an affidavit of completion containing the following information:~~
- a. ~~A statement that the pipeline was abandoned in compliance with section 43-02-03-29.~~
 - b. ~~The type of fluid used to purge the pipeline.~~

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

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

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-29.1. UNDERGROUND GATHERING PIPELINES.

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

The requirements in this section are not applicable to flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit

operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment on the production facility.

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

- a. “Crude oil or produced water underground gathering pipeline” means an underground gathering pipeline designed or intended to transfer crude oil or produced water from a production facility for disposal, storage, or sale purposes.
- b. “Underground gas gathering pipeline” means an underground gathering pipeline designed or intended to transfer associated or non-associated gas from a production facility to a gas processing facility; or an underground gathering pipeline designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility for artificial lift; or an underground gathering pipeline designed or intended to transfer carbon dioxide to or within an enhanced recovery project.

3. Notifications.

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

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

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

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

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

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

ii. The type of fluid to be transported.

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

iv. Proposed burial depth of the pipeline.

- v. The location and type of all road crossings (i.e. bored and cased or bored only).
- vi. The location of all environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies that the pipeline may traverse, if applicable.

(2) The notice of intent to construct an underground gas gathering pipeline must include the following:

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

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

b. The underground gathering pipeline owner shall notify the commission of any underground gathering pipeline system or portion thereof that has been removed from service for more than one year.

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

4. Design and construction.

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

The following applies to newly constructed crude oil and produced water underground gathering pipelines:

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

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

- c. Installation crews must be trained in all installation practices for which they are tasked to perform.
- d. Underground gathering pipelines must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses and the possibility of damage to the pipe. Tracer wire shall be buried with any nonconductive pipe installed.
- e. Unless the manufacturer's installation procedures and practices provide guidance, pipeline trenches must be constructed to allow for the pipeline to rest on undisturbed native soil and provide continuous support along the length of the pipe. Trench bottoms must be free of rocks greater than two inches in diameter, debris, trash, and other foreign material not required for pipeline installation. If a trench bottom is over excavated, the trench bottom must be backfilled with appropriate material and compacted prior to installation of the pipe to provide continuous support along the length of the pipe.

The width of the trench must provide adequate clearance on each side of the pipe. Trench walls must be excavated to ensure minimal sluffing of sidewall material into the trench. Subsoil from the excavated trench shall be stockpiled separately from previously stripped topsoil.
- f. Underground gathering pipelines that cross a township, county, or state graded road must be bored unless the responsible governing agency specifically permits the owner to open cut the road.
- g. No pipe or other component may be installed unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.
- h. The pipe shall be handled in a manner that minimizes stress and avoids physical damage to the pipe during stringing, joining, or lowering in. During the lowering in process the pipe string must be properly supported so as not to induce excess stresses on the pipe or the pipe joints or cause weakening or damage to the outer surface of the pipe.
- i. When a trench for an underground gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material. Sufficient backfill material must be placed in the haunches of the pipe to provide long-term support for the pipe. Backfill material that will be within two feet of the pipe must be free of rocks greater than two inches in diameter and foreign debris. Backfilling material must be compacted as appropriate during placement in a manner that provides support for the pipe and reduces the potential for damage to the pipe and pipe joints.

- j. Cover depths must be a minimum of four feet [1.22 meters] from the top of the pipe to the finished grade. The cover depth for an undeveloped governmental section line must be a minimum of six feet [1.83] from the top of the pipe to the finished grade.
- k. Underground gathering pipelines that traverse environmentally sensitive areas, such as wetlands, streams, or other surface waterbodies, shall be installed in a manner that minimizes impacts to these areas. Any horizontal directional drilling plan prepared by the owner or required by the director, shall be filed with the commission, prior to the commencement of horizontal directional drilling.

5. Pipeline Reclamation.

- a. When utilizing excavation for pipeline installation, repair, or abandonment, topsoil must be stripped, segregated from the subsoils, and stockpiled for use in reclamation. "Topsoil" means the suitable plant growth material on the surface; however, in no event shall this be deemed to be more than the top twelve inches [30.48 centimeters] of soil or deeper than the depth of cultivation, whichever is greater.
- b. The pipeline right-of-way shall be reclaimed as closely as practicable to original condition. All stakes, temporary construction markers, cables, ropes, skids, and any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of.
- c. During right-of-way reclamation all subsoils and topsoils must be returned in proper order to as close to the original depths as practicable.
- d. The reclaimed right-of-way soils shall be stabilized to prevent excessive settling, sluffing, cave-ins, or erosion.
- e. The underground gas gathering pipeline owner is responsible for their right-of-way reclamation and maintenance until the pipeline has been abandoned and the right-of-way, including all associated above ground equipment, has been reclaimed as provided in subsection 15 of this section.
- f. The crude oil and produced water underground gathering pipeline owner is responsible for their right-of-way reclamation and maintenance until such pipeline is released by the commission from the pipeline bond pursuant to section 43-02-03-15.

6. Inspection.

All newly constructed crude oil and produced water underground gathering pipelines must be inspected by third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the requirements of this section. A list of all third-party independent inspectors and

a description of each independent inspector's qualifications, certifications, experience, and specific training shall be provided to the commission upon request. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

7. Associated pipeline facility.

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

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

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

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

8. Underground gathering pipeline as built.

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

- (1) A statement that the pipeline was constructed and installed in compliance with section 43-02-03-29.1.
 - (2) The outside diameter, minimum wall thickness, composition, internal yield pressure, and maximum temperature rating of the pipeline, or any other specifications deemed necessary by the director.
 - (3) The maximum allowable operating pressure of the pipeline.
 - (4) The specified minimum yield strength of the pipeline.
 - (5) The type of fluid that will be transported in the pipeline.
 - (6) Pressure and duration to which the pipeline was tested prior to placing into service.
 - (7) The minimum pipeline depth of burial from the top of the pipe to the finished grade.
 - (8) In-service date.
 - (9) Leak protection, detection, and monitoring methods that will be utilized after in-service date.
 - (10) The name of the pipeline gathering system and any other separately named portions thereof.
 - (11) Accuracy of the geographical information system layer.
- b. The requirement to submit a geographical information system layer is not to be construed to be required on flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit operations, or on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

9. Operating requirements.

The maximum operating pressure for all crude oil and produced water underground gathering pipelines shall not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The crude oil or produced water underground gathering pipeline must be equipped with adequate controls and protective equipment to prevent the pipeline from operating above the maximum operating pressure.

10. Leak protection, detection, and monitoring.

All crude oil and produced water underground gathering pipeline owners must file with the commission any leak protection, detection, and monitoring plan prepared by

the owner or required by the director, pursuant to North Dakota Century Code section 38-08-27.

All crude oil or produced water underground gathering pipeline owners must develop and maintain a data sharing plan. The plan must provide for real-time sharing of data between the operator of the production facility, the crude oil or produced water underground gathering pipeline owner, and the operator at the point or points of disposal, storage, or sale. If a discrepancy in the shared data is observed, the party observing the data discrepancy shall notify all other parties and action shall be taken to determine the cause. A record of all data discrepancies shall be retained by the crude oil or produced water underground gathering pipeline owner. If requested, copies of such records must be filed with the commission.

11. Spill response.

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

12. Corrosion control.

- a. Underground gathering pipelines must be designed to withstand the effects of external corrosion and maintained in a manner that mitigates internal corrosion.
- b. All metallic underground gathering pipelines installed must have sufficient corrosion control.
- c. All coated pipe shall be electronically inspected prior to placement using coating deficiency (i.e. holiday) detectors to check for any faults not observable by visual examination. The holiday detector shall be operated in accordance with manufacturer's instructions and at a voltage level appropriate for the electrical characteristics of the pipeline system being tested. During installation all joints, fittings, and tie-ins shall be coated with materials compatible with the coatings on the pipe. Coating materials must:
 - (1) Be designed to mitigate corrosion of the buried pipeline;
 - (2) Have sufficient adhesion to the metal surface to prevent under film migration of moisture;
 - (3) Be sufficiently ductile to resist cracking;
 - (4) Have enough strength to resist damage due to handling and soil stress;

(5) Support any supplemental cathodic protection; and

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

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

e. If internal corrosion is anticipated or detected, the underground gathering pipeline owner must take prompt remedial action to correct any deficiencies, such as increased pigging, use of corrosion inhibitors, internal coating of the pipeline (e.g. an epoxy paint or other plastic liner), or a combination of these methods.

(1) Corrosion inhibitors must be used in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect.

13. Pipeline integrity.

No crude oil or produced water underground gathering pipeline owner may operate a pipeline unless it has been pressure tested and demonstrated integrity. In addition, no owner may return to service a portion of pipeline that has been repaired, replaced, relocated, or otherwise changed until it has demonstrated integrity.

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

b. An independent inspector's certificate of hydrostatic or pneumatic testing of a crude oil or produced water underground gathering pipeline shall be submitted within sixty days of the underground gathering pipeline being placed into service and include the following:

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

(2) The date of the test;

(3) The duration of the test;

(4) The length of pipeline that was tested;

(5) The maximum and minimum test pressure;

- (6) The starting and ending pressure;
 - (7) A copy of the chart recorder results; and
 - (8) A geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the centerline of the portion of the pipeline that was tested.
- c. All crude oil and produced water underground gathering pipeline owners must maintain a pipeline integrity demonstration plan during the service life of any crude oil or produced water underground gathering pipeline. The director may, for good cause, require a pipeline integrity demonstration on any crude oil or produced water underground gathering pipeline.

14. Pipeline repair.

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

No owner may use any pipe, valve, or fitting, for replacement or repair of an underground gathering pipeline, unless it is designed to meet the maximum operating pressure.

- a. At least forty-eight hours prior to any underground gathering pipeline repair or replacement, the underground gathering pipeline owner must notify the commission, as provided by the director, except in an emergency.
- b. Within one hundred eighty days of repairing or replacing any underground gathering pipeline the owner of the pipeline shall file with the director a geographical information system layer utilizing North American datum 83 geographic coordinate system (GCS) and in an environmental systems research institute (Esri) shape file format showing the location of the centerline of the repaired or replaced pipeline and an affidavit of completion containing the following information:
 - (1) A statement that the pipeline was repaired in compliance with section 43-02-03-29.1.
 - (2) The reason for the repair or replacement.
 - (3) The length of pipeline that was repaired or replaced.
 - (4) Pressure and duration to which the pipeline was tested prior to returning to service.

- c. Clamping or squeezing as a method of repair for any produced water underground gathering pipeline is prohibited, except in an emergency. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is returned to service.

15. Pipeline abandonment.

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

- (1) Disconnect and physically isolate the pipeline from any operating facility, associated above ground equipment, or other pipeline.
- (2) Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.
- (3) Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all fluid.
- (4) Remove cathodic protection from the pipeline.
- (5) Permanently plug or cap all open ends by mechanical means or welded means.
- (6) The site of all associated above ground equipment shall be reclaimed pursuant to section 43-02-03-34.1.

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

- (1) A statement that the pipeline was abandoned in compliance with section 43-02-03-29.1.
- (2) The type of fluid used to purge the pipeline.
- (3) The date of pipeline abandonment.
- (4) The length of pipeline abandoned.

History: Effective _____.

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, treating plant, or any other receptacle or facility into which associated with oil, gas, or water is ~~produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported,~~ production, injection, processing, or well servicing, shall verbally notify the director immediately and follow up utilizing the online initial notification report within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. The initial report must include the name of the reporting party, including telephone number and address, date and time of the incident, location of the incident, type and cause of the incident, estimated volume of release, containment status, waterways involved, immediate potential threat, and action taken. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section 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 or to any leak or spill involving freshwater. The initial notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, ~~root~~ cause of the accident ~~incident unless deemed unnecessary by the director,~~ and action taken to prevent reoccurrence, and if applicable, any additional information pursuant to subdivision e of subsection 1 of North Dakota Century Code section 37-17.1-07.1. The signature, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.

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

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008; April 1, 2010; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-30.1. LEAK AND SPILL CLEANUP. At no time shall any spill or leak be allowed to flow over, pool, or rest on the surface of the land or infiltrate the soil. Discharged fluids must be properly removed and may not be allowed to remain standing within or outside of diked areas, although the remediation of such fluids may be allowed onsite if approved by the director. Operators and responsible parties must respond with appropriate resources to contain and clean up spills.

History: Effective April 1, 2012; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-31. WELL LOG, COMPLETION, AND WORKOVER REPORTS. After the plugging of a well, a plugging record (form 7) shall be filed with the director. After the completion of a well, recompletion of a well in a different pool, or drilling horizontally in an existing pool, a completion report (form 6) shall be filed with the director. In no case shall oil or gas be transported from the lease prior to the filing of a completion report unless approved by the director. The operator shall cause to be run an open hole electrical, radioactivity, or other similar log, or combination of open hole logs, of the operator's choice, from which formation tops and porosity zones can be determined. The operator shall cause to be run a gamma ray log from total depth to ground level elevation of the well bore. ~~Prior~~ Within six months of reaching total depth and prior to completing the well, the operator shall cause to be run a log from which the presence and quality of bonding of cement can be determined in every well in which production or intermediate casing has been set. The obligation to log may be waived or postponed by the director if the necessity therefor can be demonstrated to the director's satisfaction. Waiver will be contingent upon such terms and conditions as the director deems appropriate. All logs run shall be available to the director at the well site prior to proceeding with plugging or completion operations. All logs run shall be submitted to the director free of charge. Logs shall be submitted as one digital TIFF (tagged image file format) copy and one digital LAS (log ASCII) formatted copy, or a format approved by the director. In addition, operators shall file two copies of drill stem test reports and charts, formation water analyses, core analyses, geologic reports, and noninterpretive lithologic logs or sample descriptions if compiled by the operator.

All information furnished to the director on ~~new~~ permits, except the operator name, well name, location, permit date, confidentiality period, spacing or drilling unit description, spud date, rig contractor, central tank battery number, ~~and~~ any production runs, or volumes injected into an injection well, shall be kept confidential for not more than six months if requested by the operator in writing. The six-month period shall commence on the date the well is completed or the date the written request is received, whichever is earlier. If the written request accompanies the application for permit to drill or is filed after permitting but prior to spudding, the six-month period shall commence on the date the well is spudded. The director may release such confidential completion and production data to health care professionals, emergency responders, and state, federal, or tribal environmental and public health regulators if the director deems it necessary to protect the public's health, safety, and welfare.

All information furnished to the director on recompletions or reentries, except the operator name, well name, location, permit date, confidentiality period, spacing or drilling unit description, spud date, rig contractor, ~~and~~ any production runs, or volumes injected into an injection well, shall be kept confidential for not more than six months if requested by the operator in writing. The six-month period shall commence on the date the well is completed or the date the well was approved for recompletion or reentry, whichever is earlier. Any information furnished to the director prior to approval of the recompletion or reentry shall remain public.

Approval must be obtained on a sundry notice (form 4) from the director prior to perforating or recompleting a well in a pool other than the pool in which the well is currently permitted.

After the completion of any remedial work, or attempted remedial work such as plugging back or drilling deeper, acidizing, shooting, formation fracturing, squeezing operations, setting liner, perforating, reperforating, or other similar operations not specifically covered herein, a report on the operation shall be filed on a sundry notice (form 4) with the director. The report shall present a detailed account of all work done and the date of such work; the daily production of oil, gas, and water both prior to and after the operation; the shots per foot, size, and depth of perforations; the quantity of sand, crude, chemical, or other materials employed in the operation; and any other pertinent information or operations which affect the original status of the well and are not specifically covered herein.

Upon the installation of pumping equipment on a flowing well, or change in type of pumping equipment designed to increase productivity in a well, the operator shall submit a sundry notice (form 4) of such installation. The notice shall include all pertinent information on the pump and the operation thereof including the date of such installation, and the daily production of the well prior to and after the pump has been installed.

All forms, reports, logs, and other information required by this section shall be submitted within thirty days after the completion of such work, although a completion report shall be filed immediately after the completion or recompletion of a well in a pool or reservoir not then covered by an order of the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; September 1, 2000; July 1, 2002; January 1, 2006; January 1, 2008; April 1, 2010; April 1, 2012; ____.

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 with file number shall be welded thereon. Core or stratigraphic test holes drilled to or below sands containing freshwater shall be plugged in accordance with the applicable provisions recited above. After plugging, the site must be reclaimed pursuant to section 43-02-03-34.1.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; July 1, 2002; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

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

1. Within a reasonable time, but not more than one year, after a well is plugged, or if a permit expires, has been canceled or revoked, or a treating plant or saltwater handling facility is decommissioned, the site, access road, and other associated facilities constructed shall be reclaimed as closely as practicable to original condition. 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~~ pursuant to section 43-02-03-29.1. Flow lines shall be removed if buried less than three feet [91.44 centimeters] below final contour.

2. Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the ~~well~~ site, access road, and other associated facilities constructed for the well, treating plant, or saltwater handling facility, shall be reshaped as near as is practicable to original contour.
3. The stockpiled topsoil shall be evenly distributed over the disturbed area and, where applicable, the area revegetated with native species or according to the reasonable specifications of the appropriate government land manager or surface owner.
4. 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 or treating plant or saltwater handling facility is

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

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

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-40. GAS-OIL RATIO TEST. Each operator shall take a gas-oil ratio test within thirty days following the completion or recompletion of an oil well. Each test shall be conducted using standard industry practices unless otherwise specified by the director. The initial gas-oil ratio must be reported on the well completion or recompletion report (form 6). Subsequent gas-oil ratio tests shall be performed on producing wells when the producing pool appears to have reached bubble point. After the discovery of a new pool, each operator shall make additional gas-oil ratio tests as directed by the director or provided for in field rules. During tests each well shall be produced at a maximum efficient rate. The director may shut in any well for failure to make such test until such time as a satisfactory test can be made, or satisfactory explanation given. The results of all gas-oil ratio tests shall be submitted to the director on form 9, which shall be accompanied by a statement that the data on form 9 is true and correct.

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

43-02-03-48. MEASUREMENT OF OIL. Oil production may not be transported from a well premises, ~~or~~ central production facility, treating plant, or saltwater handling 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; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-49. OIL PRODUCTION EQUIPMENT, DIKES, AND SEALS. Storage of oil in underground or partially buried tanks or containers is prohibited. Surface oil tanks and production equipment must be devoid of leaks and ~~in good condition~~ constructed of materials resistant to the effects of produced fluids or chemicals that may be contained therein. Unused tanks and production equipment must be removed from the site or placed into service, within a

reasonable time period, not to exceed one year. ~~Dikes must be erected and maintained around oil tanks at any production facility built or rebuilt on or after July 1, 2000.~~

Dikes must be erected around oil tanks at any new production facility ~~within thirty days after the well has been completed~~ prior to completing any well. Dikes must be erected and maintained around oil tanks at ~~production all facilities built prior to July 1, 2000, when deemed necessary unless a waiver is granted~~ by the director. Dikes as well as the base material under the dikes and within the diked area must be constructed of sufficiently impermeable material to provide emergency containment. Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid production. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction.

A perimeter berm, at least six inches [15.24 centimeters] in height, shall be constructed of sufficiently impermeable material to provide emergency containment around all storage facilities and production sites and to divert surface drainage away from the site. The director may consider an extension of time to implement these requirements if conditions prevent timely construction; or a modification of these requirements if the site is void of tankage, if the current daily throughput is less than 100 barrels of fluid per day, if all production equipment and load lines are properly diked, or if other factors are present that provide sufficient protection from environmental impacts.

Numbered ~~metal~~ weather-resistant security seals shall be properly utilized on all oil access valves and access points to secure the tank or battery of tanks.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000; July 1, 2002; May 1, 2004; April 1, 2010; 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, and 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 [152.4 meters] 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~~ flow lines, 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 calculated containment volume and 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 good 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 April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

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 offsite.
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. A perimeter berm, at least six inches [15.24 centimeters] in height, shall be constructed of sufficiently impermeable material to provide emergency containment around the treating plant and to divert surface drainage away from the site. The director may consider an extension of time to implement these requirements if conditions prevent timely construction or a modification of these requirements if other factors are present that provide sufficient protection from environmental impacts.
- ~~6.7.~~ Immediately upon the commencement of treatment operations, the operator shall notify the commission in writing of such date.
- ~~7.8.~~ The operator of a treating plant shall provide continuing surveillance and conduct such monitoring and sampling as the commission may require.

- ~~8.9.~~ 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.
- ~~9.10.~~ 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.
- ~~10.11.~~ The operator shall take steps to minimize the amount of residual waste generated and the amount of residual waste temporarily stored onsite. Solid waste shall not be stockpiled onsite unless authorized by an appropriate regulatory agency. A copy of said authorization shall be filed with the commission.
- ~~11.12.~~ If deemed necessary by the director, the operator shall cause to be analyzed any waste substance contained onsite. 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.
- ~~12.13.~~ 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 and proximity to occupied dwellings.
- ~~13.14.~~ 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.
- ~~14.15.~~ 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 first of each year. The 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 April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-52. REPORT OF OIL PRODUCTION. The operator of each well ~~in every~~ completed in any pool shall, on or before the first day of the second month succeeding the month in which production occurs or could occur, file with the director the amount of production made by each such well upon form 5 or approved computer sheets no larger than eight and one-half by eleven inches [21.59 by 27.94 centimeters]. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included. Wells for which reports of production are not received by the close of business on said first day of the month may be shut in for a period not to exceed thirty days. The director shall notify, by certified mail, the operator and authorized transporter of the shut-in period for such wells. Any oil produced during such shut-in period shall be deemed illegal oil and subject to the provisions of North Dakota Century Code section 38-08-15.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; December 1, 1997; September 1, 2000; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-52.1. REPORT OF GAS PRODUCED IN ASSOCIATION WITH OIL. The operator of each well ~~in every~~ completed in any pool shall, on or before the fifth day of the second month succeeding the month in which production occurs or could occur, file with the director the amount of gas produced by each such well upon form 5b or approved computer sheets no larger than eight and one-half by eleven inches [21.59 by 27.94 centimeters]. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included. Wells for which reports of production are not received by the close of business on said fifth day of the month may be shut in for a period not to exceed thirty days. The director shall notify, by certified mail, the operator and authorized transporter of the shut-in period for such wells. Any gas produced during such shut-in period must be deemed illegal gas and subject to the provisions of North Dakota Century Code section 38-08-15.

History: Effective May 1, 1992; amended effective December 1, 1997; September 1, 2000; ____.

43-02-03-53. SALTWATER HANDLING FACILITIES.

1. No saltwater handling facility may be constructed without obtaining a permit from the commission. Saltwater handling facilities in existence prior to October 1, 2016, that are not currently bonded as an appurtenance to a well or treating plant, shall have ninety days from the date notified by the commission that a permit is required to submit the required information in order for the commission to approve such facility.
- ~~1.2.~~ All saltwater liquids or brines produced with oil and natural gas shall be processed, stored, and disposed of without pollution of freshwater supplies.
- ~~2.3.~~ Underground injection of saltwater liquids and brines shall be in accordance with chapter 43-02-05.
4. The permitting and bonding requirements for a saltwater handling facility set forth in sections 43-02-03-53, 43-02-03-53.1, and 43-02-03-53.3 are not to be construed to be required if the facility is bonded as a well or treating plant appurtenance. Such facilities will be considered in the permit application for the well or treating plant.
3. ~~Surface facilities are acceptable provided that:~~
 - a. ~~They are devoid of leaks and constructed of materials resistant to the effects of produced saltwater liquids, brines, or chemicals that may be contained therein. The above materials requirement may be waived by the director for tanks presently in service and in good condition. Unused tanks and injection equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year.~~
 - b. ~~Dikes must be erected and maintained around saltwater tanks at any saltwater handling facility built or rebuilt on or after July 1, 2000. Dikes must be erected around saltwater tanks at any new facility within thirty days after the well has been completed. Dikes must be erected and maintained around saltwater tanks at saltwater handling facility built prior to July 1, 2000, when deemed necessary by the director. Dikes as well as the base material under the dikes and within the diked area must be constructed of sufficiently impermeable material to provide emergency containment. Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid production. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction. Discharged saltwater liquids or brines must be properly removed and may not be allowed to remain standing within or outside of any diked areas.~~

4. ~~The operator shall take steps to minimize the amount of solids stored at the facility.~~
5. ~~Any salable crude oil recovered from a saltwater handling facility shall be reported on a form 5 SWD.~~

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

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-53.1. SALTWATER HANDLING FACILITY PERMIT REQUIREMENTS.

1. A permit for construction of a saltwater handling facility must be approved by the commission prior to construction. The saltwater handling facility permit application shall be submitted on a sundry notice (form 4) and 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 saltwater handling facility 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 saltwater handling facility location to the nearest tenth of a second and the ground elevation. The plat shall also depict the outside perimeter of the saltwater handling facility and verification that the site is at least five hundred feet [152.4 meters] from an occupied dwelling.
 - c. A schematic drawing of the proposed saltwater handling facility 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 flow lines, and the location and thickness of the stockpiled topsoil. 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. Schematic drawings of the proposed diking and containment including calculated containment volume and all areas underlain by a synthetic liner, as well as a description of all containment construction material.
 - f. The anticipated daily throughput of the saltwater handling facility.
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 good 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 saltwater handling facility is abandoned and reclaimed, the permit shall expire and be of no further force and effect.

History: Effective: _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-53.2. SALTWATER HANDLING FACILITY SITING. All saltwater handling facilities shall be sited in such a fashion that they are not located in a geologically or hydrologically sensitive area.

History: Effective: _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-53.3. SALTWATER HANDLING FACILITY CONSTRUCTION AND OPERATION REQUIREMENTS.

1. Bond requirement. Before construction of a saltwater handling facility 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 shall be in the amount of fifty thousand dollars and shall be payable to the industrial commission. The commission may, after notice and hearing, require a higher bond amount. Such additional amounts for bonds must be related to the economic value of the facility and the expected cost of decommissioning and site reclamation, as determined by the commission. The commission may refuse to accept a bond if the operator or surety company has failed in the past to comply with all laws, rules and regulations, and orders of the commission; if a civil or administrative action brought by the commission is pending against the operator or surety company; or for other good cause.

2. Saltwater handling facility sites 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 waste, recovered solids, and fluids shall be stored and handled in such a manner to prevent runoff or migration offsite.
4. Surface tanks shall not be underground or partially buried, must be devoid of leaks, and constructed of, or lined with, materials resistant to the effects of produced saltwater liquids, brines, or chemicals that may be contained therein. The above materials requirement may be waived by the director for tanks presently in service and in good condition. Unused tanks and equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year.
5. Dikes must be erected and maintained around saltwater tanks at any saltwater handling facility. Dikes must be erected around saltwater tanks at any new facility prior to introducing fluids. Dikes as well as the base material under the dikes and within the diked area must be constructed of sufficiently impermeable material to provide emergency containment. Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid throughput. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction. The operations of the saltwater handling facility shall be conducted in such a manner as to prevent leaks, spills, and fires. Discharged liquids or brines must be properly removed and may not be allowed to remain standing within or outside of any diked areas. 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. A perimeter berm, at least six inches [15.24 centimeters] in height, shall be constructed of sufficiently impermeable material to provide emergency containment around the facility and to divert surface drainage away from the site. The director may consider an extension of time to implement these requirements if conditions prevent timely construction or a modification of these requirements if other factors are present that provide sufficient protection from environmental impacts.
7. The operator shall take steps to minimize the amount of solids stored at the facility.
8. Immediately upon the commissioning of the saltwater handling facility, the operator shall notify the commission in writing of such date.
9. The operator of a saltwater handling facility shall provide continuing surveillance and conduct such monitoring and sampling as the commission may require.
10. 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.

11. Burial of waste at any saltwater handling facility site shall be prohibited. All residual water and waste, fluid or solid, shall be disposed of in an authorized facility.
12. If deemed necessary by the director, the operator shall cause to be analyzed any waste substance contained onsite. 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.
13. Saltwater handling facilities 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 and proximity to occupied dwellings.
14. All proposed changes to any saltwater handling facility are subject to prior approval by the director.
15. Upon completion of any saltwater handling facility modification, the operator shall file a report of the modification on a sundry notice (form 4) with the director within thirty days. The report shall include details of the modification and include a schematic drawing of the saltwater handling facility 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 as well as a calculated containment volume, and the location of all flow lines.
16. Any salable crude oil recovered from a saltwater handling facility shall be reported on a form 5 SWD.
17. The operator shall comply with all laws, rules and regulations, and orders of the commission. All rules in this chapter governing oil well sites shall also apply to any saltwater handling facility site.

History: Effective: _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-53.4. SALTWATER HANDLING FACILITY 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 saltwater handling facility, and a detailed account of proposed work. Within thirty days after the abandonment of any saltwater handling facility 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 record setting forth in detail the method and operations used in abandoning the saltwater handling facility.

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

History: Effective _____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-55. ABANDONMENT OF WELLS OR, TREATING PLANTS, OR SALTWATER HANDLING FACILITIES - 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. The removal of saltwater handling facility equipment or the failure to use a saltwater handling facility for one year constitutes abandonment of the saltwater handling facility. An abandoned well must be plugged and its site must be reclaimed ~~and~~, an abandoned treating plant must be removed and its site must be reclaimed, and an abandoned saltwater handling facility must be removed and its site must be reclaimed, pursuant to sections 43-02-03-34 and 43-02-03-34.1. A well not producing oil or natural gas in paying quantities for one year may be placed in abandoned-well status pursuant to subsection 1 of North Dakota Century Code section 38-08-04.
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 and each extension may be approved for up to one year. A fee of one hundred dollars shall be submitted for each application to extend the temporary abandonment status of any well. A surface owner may request a review of a well temporarily abandoned for at least seven years pursuant to subsection 1 of North Dakota Century Code section 38-08-04.
3. In addition to the waiver in subsection 2, the director may also waive the duty to plug and reclaim an abandoned well for any other good cause found by the director. If the director exercises this discretion, the director shall set a date or circumstance upon which the waiver expires.

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

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; August 1, 1999; January 1, 2008; April 1, 2010; April 1, 2012; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

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, treating plant, or saltwater handling 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; April 1, 2014; ____.

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, OR SALTWATER HANDLING FACILITY. Before any crude oil is transported from a well, treating plant, ~~or~~ central production facility, or saltwater handling facility, the operator shall file with the director, and obtain the director's approval, an authorization to purchase and transport oil (form 8).

Oil transported 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 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; April 1, 2014; ____.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-03-90. HEARINGS - COMPLAINT PROCEEDINGS - EMERGENCY PROCEEDINGS - OTHER PROCEEDINGS.

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

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

History: Amended effective March 1, 1982; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; July 1, 2002; ____.

General Authority
NDCC 38-08-11

Law Implemented
NDCC 28-32-21,
38-08-11

43-02-03-90.2. OFFICIAL RECORD. The evidence in each case heard by the commission, unless specifically excluded by the hearing officer, includes the certified directional surveys, ~~and~~ all oil, water, and gas production records, and all injection records on file with the commission.

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

History: Effective May 1, 1992; amended effective April 1, 2010; April 1, 2012; ____.

General Authority
NDCC 28-32-06

Law Implemented
NDCC 28-32-06

**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, surface facility construction, including the size, location, and purpose of all tanks, the height and location of all dikes and containment including a calculated containment volume, all areas underlain by a synthetic liner, and the location of all ~~flowlines~~ flow lines. 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.
 - 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; April 1, 2014; _____.

General Authority
NDCC 38-08-04(2)

Law Implemented
NDCC 38-08-04(2)

43-02-05-07. MECHANICAL INTEGRITY.

1. Prior to commencing operations, the operator of a new injection well must demonstrate the mechanical integrity of the well. Prior to performing any workover project on an existing well, during which the packer or other means of annular isolation could be affected, the operator must obtain approval from the director. All existing injection wells must demonstrate continual mechanical integrity and be tested at least once every five years. An injection well has mechanical integrity if:
 - a. There is no significant leak in the casing, tubing or packer.
 - b. There is no significant fluid movement into an underground source of drinking water or an unauthorized zone through vertical channels adjacent to the injection bore.
2. One of the following methods must be used to evaluate the absence of significant leaks:
 - a. Pressure test with liquid or gas.
 - b. Monitoring of positive annulus pressure following a valid pressure test.
 - c. Radioactive tracer survey.

3. One of the following methods must be used to establish the absence of significant fluid movement:
 - a. A log from which cement can be determined or well records demonstrating the presence of adequate cement to prevent such migration.
 - b. Radioactive tracer survey, temperature log, or noise log.

History: Effective November 1, 1982; amended effective May 1, 1990; July 1, 1996; May 1, 2004; ____.

General Authority
NDCC 38-08-04(2)

Law Implemented
NDCC 38-08-04(2)

43-02-05-11. BONDING REQUIREMENTS. All injection wells, ~~except commercial injection wells,~~ must be bonded as provided in section 43-02-03-15. A commercial injection well is one that only receives fluids produced from wells operated by a person other than the principal on the bond. ~~Each commercial injection well must be bonded at the single well bond rate as provided in section 43-02-03-15.~~

History: Effective November 1, 1982; amended effective May 1, 1992; July 1, 2002; ____.

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**

43-02-08-02.1. PROPERTY DETERMINATION. The director recognizes the following as properties:

1. A unit.
2. A spacing unit.
3. Contiguous tracts within a lease.
4. A single well 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; April 1, 2014; ____.

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 or is not capable of

exceeding the production thresholds below if the well or property had 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:
 - (1) 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;
 - (2) 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
 - (3) 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:
 - (1) 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;
 - (2) 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;
 - (3) 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
 - (4) 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. 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. 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; April 1, 2014; ____.

General Authority
NDCC 38-08-04(5)

Law Implemented
NDCC 38-08-04(4)