

**ARTICLE 85-01  
GENERAL ADMINISTRATION**

Chapter  
85-01-01            Definitions and General Provisions

**CHAPTER 85-01-01  
DEFINITIONS AND GENERAL PROVISIONS**

Section  
85-01-01-01        Definitions  
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**85-01-01-01. Definitions.**

The following definitions, in addition to the definitions in North Dakota Century Code chapters 15-05, 15-06, 15-07, 15-08, 15-08.1, 38-09, 47-06, ~~47-30.1~~47-30.2, and 57-62, apply to this title:

1. "Acquired lands" includes all property defined as "nongrant" and "other than original grant lands" in North Dakota Century Code section 15-07-01.
2. "Arm's length transaction" means a transaction between parties with adverse economic interests in which each party to the transaction is in a position to distinguish its economic interest from that of the other party and does not mean a transaction made by a corporation or other entity with itself, or a parent, subsidiary, or interrelated corporation or entity, or between partners or co-joint venturers, or between corporations or other entities having interlocking directorships or close business relationships that may compromise their individual interests.
3. "Agricultural use" includes the use of trust lands for the purpose of grazing, cropping, haying, and honey bee pasture or meadow.
4. "Board" means the board of university and school lands.
5. "Bonus" means the monetary consideration paid by a lessee for the execution of a lease by the board.
6. "Certified appraiser" means a certified general appraiser or a certified residential appraiser who holds a valid permit issued by the North Dakota real estate appraiser qualifications and ethics board.
7. "Coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal, in both oxidized and nonoxidized forms, and leonardite, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials.
8. "Coal lease" means a contract entered between the board and a third party for a coal mining operation on trust lands.
9. "Coal leased premises" means the land subject to a given coal lease.
10. "Coal mining operation" means any type of activity conducted to discover, or prospect for, the presence of coal, or to remove the coal so discovered from its original position on or in the land by any means whatsoever.
11. "Commercial quantities" means whether:

- a. The well yields a profit exceeding operating costs over a reasonable period of time; and
  - b. A reasonably prudent operator would continue operating a well in the manner being operated under the facts and circumstances.
12. "Commissioner" means the commissioner of university and school lands.
  13. "Construction aggregate" means gravel, sand, scoria, road material, building stone, colloidal or other clays, and cement materials.
  14. "Construction aggregate lease" means a contract entered between the board and a third party for mining of construction aggregate on trust lands.
  15. "Construction aggregate leased premises" means the land area subject to a given construction aggregate lease.
  16. "Construction aggregate mining operation" means any type of activity conducted to discover, or prospect for, the presence of construction aggregate, or to remove the construction aggregate so discovered from its original position on or in the land by any means whatsoever.
  17. "Custodial agreement" means an agreement between the lessee and a third party in which the lessee agrees to take custody of livestock not owned by the lessee for a specified period of time and to provide day-to-day care for the livestock.
  18. "Delay rental" means the annual minimum payment given to maintain a lease in the absence of production in commercial quantities during the primary term.
  19. "Department" means the office of the commissioner and the department of trust lands.
  20. "Disturbed" means any alteration of the surface or subsurface of any lands subject to a lease or encumbrance with the board.
  21. "Encumbrance" means a right other than an ownership interest in real property. The term includes easements, permits, surface damage agreements and any other restrictions, encroachments, licenses, mortgages, and liens that relate to trust lands, and specifically excludes leases ~~for agricultural use, construction aggregate, sodium sulfate, chemical substances, metallic ores, uranium ores, and oil, gas, and coal~~ which are administered separately.
  22. "Fair market value" means the price set by the commissioner after an analysis of prices paid for similar products or services in the local area under article 85-04.
  23. "F.O.B." means free on board.
  24. "Gas" means all natural gas and all other gaseous or fluid hydrocarbons not defined as oil, but does not include coal, lignite, oil shale, or similar hydrocarbons.
  25. "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the North Dakota industrial commission, other than from coalbed methane.
  26. "Gross proceeds" means the sum of all consideration in whatever form or forms, paid for the gas attributable to the lease.
  27. "Invasive species" means a species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

28. "Market value" means the price a willing buyer would pay a willing seller in an arm's length transaction in which the buyer is not compelled to buy or the seller is not compelled to sell.
29. "Net construction aggregate interest" means the undivided portions of the total construction aggregate estate on a given tract of land.
30. "Offset drainage" means the drainage of oil or gas to an adjoining tract of land on which a well is being drilled or is already in production.
31. "Offset well" means any well drilled opposite another well on adjoining property with the specific purpose of preventing drainage to the adjoining property.
32. "Oil" means crude petroleum oil and other hydrocarbons regardless of gravity produced in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
33. "Oil and gas lease" means a contract entered between the board and a third party for oil and gas production.
34. "Oil and gas leased premises" means the land subject to a given oil and gas lease.
35. "Oil well" means a well capable of producing oil and which is not a gas well as defined herein.
36. "Original grant lands" means all those lands granted to the state of North Dakota by virtue of the Enabling Act of 1889, as further defined in North Dakota Century Code section 15-06-01.
37. "Payor" means either the lessee or an entity other than the lessee who assumes, or agrees to perform, any of the lessee's rights and responsibilities under a lease.
38. "Pest" means any insect, rodent, nematode, fungus, weed, any form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organisms, except viruses, bacteria, or other micro-organisms, whose presence causes or is likely to cause economic or environmental harm or harm to human health.
39. "Surface land lease" means a contract entered between the board and a third party for agricultural use on trust lands.
40. "Surface land leased premises" means the land area subject to a given surface land lease.
41. "Terminate," unless otherwise provided, has the same meaning as the word "cancel."
42. "Trust lands" means any property owned by the state of North Dakota and managed by the board.
43. "Trusts" means permanent trusts and other funds managed or controlled by the board.
- ~~44. "Vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway or trail, except devices moved by human power.~~
4544. "Vertical oil and gas well" means a well, the wellbore of which is drilled on a vertical or directional plane into a non-shale formation and is not turned or curved horizontally to allow the wellbore additional access to the oil and gas reserves in the formation.
4645. "When run" means that point in the time when the production from a well is removed or sold from the leased premises and delivered to the purchaser or user of such production; for purposes of computing royalties, that point in time must be considered to be 7:00 a.m., on the day the production is delivered, using central standard time, to the purchaser or user regardless of the actual time delivered.

**History:** Effective January 1, 2019; amended effective January 1, 2020; January 1, 2021; \_\_\_\_\_.

**General Authority:** NDCC 15-05-05, 15-07-20, 15-08.1-06, 28-32, 61-33-06

**Law Implemented:** NDCC 4.1-47-04, 15-01, 15-04, 15-05, 15-07, 15-08, 15-08.1

**ARTICLE 85-03  
UNCLAIMED PROPERTY**

Chapter	
85-03-01	Definitions
85-03-02	Reporting Abandoned Property
85-03-03	Claiming Property
<u>85-03-04</u>	<u>Examinations</u>

**CHAPTER 85-03-01  
DEFINITIONS**

Section	
85-03-01-01	Definitions

**85-03-01-01. Definitions.**

The following definitions, in addition to the definitions in North Dakota Century Code chapter ~~47-30.1-47-30.2~~, apply to this article:

1. "Claim" means the formal filing that initiates the process of returning unclaimed property to the rightful owner.
2. "Claimant" means the individual submitting the claim form for unclaimed property.
3. "Claim form" means the form prescribed by the administrator by which a claim can be initiated.
4. "Due diligence" means the holder's efforts to contact the owner prior to remitting property to the administrator, as required under North Dakota Century Code ~~section 47-30.1-17~~sections 47-30.2-26 and 47-30.2-27.
5. "Heir finder" means an individual or business that assists owners in locating unclaimed property for a fee.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-47-30.2~~

**CHAPTER 85-03-02  
REPORTING ABANDONED PROPERTY**

Section	
85-03-02-01	Electronic Reporting of Abandoned Property
85-03-02-02	Information Contained in Reports
85-03-02-03	<del>Due Diligence</del> <u>Repealed</u>
85-03-02-04	Mineral Proceeds
85-03-02-05	<del>Early Reporting</del> <u>Repealed</u>
85-03-02-06	<u>Holder Notice to Apparent Owner</u>

**85-03-02-01. ~~Electronic reporting~~Reporting of abandoned property.**

A holder shall report abandoned property ~~electronically~~ to the administrator in the standard national association of unclaimed property administrators' format.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-17, 47-30.1-27~~47-30.2-21, 47-30.2-22, 47-30.2-23, 47-30.2-32, 47-30.2-37

**85-03-02-02. Information contained in reports.**

In addition to the requirements in North Dakota Century Code section ~~47-30.1-17~~47-30.2-22, a holder shall submit the following information in the report, if available:

- ~~1. Owner social security number;~~
- ~~2. Identifying check, account, or policy number;~~
- ~~3.2. Owner date of birth; and~~
- ~~4. Payee and remitter information for all cashier's checks, money orders, and traveler's checks; and~~
- ~~5.3. For mineral proceeds, a legal land description, well number, recording information, and any other information to adequately describe the lease.~~

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-17, 47-30.1-27~~47-30.2-21, 47-30.2-22, 47-30.2-23

**85-03-02-03. ~~Due diligence.~~Repealed**

~~Holder due diligence, including written or electronic communication, must include:~~

- ~~1. A deadline for owner response to holder;~~
- ~~2. Property type;~~
- ~~3. Property value; and~~
- ~~4. Unclaimed property division contact information.~~

**History:** Effective January 1, 2019.

**General Authority:** NDCC ~~47-30.1-38~~

**Law Implemented:** NDCC ~~47-30.1-17~~

**85-03-02-04. Mineral proceeds.**

A holder shall accumulate mineral proceeds and submit an annual lump sum report to the administrator ~~by~~before November first for the amount due through June thirtieth.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-16.1, 47-30.1-17, 47-30.1-~~47-30.2-04, 47-30.2-21, 47-30.2-22, 47-30.2-23, 47-30.2-32

**85-03-02-05. Early reporting.--Repealed**

~~— A holder may report property before it is deemed abandoned if the holder:~~

~~— 1. Has been granted prior written approval by the administrator; and~~

~~— 2. Demonstrates to the satisfaction of the administrator that due diligence has been performed.~~

**History:** Effective January 1, 2019.

**General Authority:** NDCC ~~47-30.1-38~~

**Law Implemented:** NDCC ~~47-30.1-17, 47-30.1-27~~

**85-03-02-06. Holder notice to apparent owner.**

For instances of automatic re-investment of dividends and interest accounts and accounts with automatic withdrawals or deposits, holders shall provide notice via certified mail to the apparent owner at a minimum of once every three years in a format substantially similar to that required in North Dakota Century Code section 47-30.2-27. A return of a certified mail return receipt signed by the apparent owner shall constitute evidence of indication of apparent owner interest in the subject property as required by North Dakota Century Code section 47-30.2-12. The holder shall retain all valid return receipts as records of indication of apparent owner interest. A return to sender as undeliverable or not signed by the apparent owner shall cause the property to be subject to due diligence procedures pursuant to North Dakota Century Code sections 47-30.2-26 and 47-30.2-27. A deceased individual cannot demonstrate an ownership interest in property.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03

**Law Implemented:** NDCC 47-30.2-12, 47-30.2-26, 47-30.2-27

**CHAPTER 85-03-03  
CLAIMING PROPERTY**

Section

85-03-03-01	<del>Claims</del> <u>Repealed</u>
85-03-03-02	Required Documentation
85-03-03-03	Payment of Claim
85-03-03-04	Heir Finder Requests
85-03-03-05	Claims Submitted by Heir Finder

**85-03-03-01. ~~Claims~~Repealed**

~~—A claim must be submitted on a claim form and signed under penalty of perjury.~~

**History:** Effective January 1, 2019.

**General Authority:** NDCC ~~47-30.1-38~~

**Law Implemented:** NDCC ~~47-30.1-24, 47-30.1-24.1, 47-30.1-25~~

**85-03-03-02. Required documentation.**

A claimant shall provide adequate documentation to establish ownership of the abandoned property, including photo identification and documentation of social security number.

1. The following additional documentation is required when a claim is submitted on behalf of:
  - a. Deceased individuals: Copy of death certificate and documentation providing legal claim authority.
  - b. Business claims: Federal employer identification number and documentation providing legal claim authority.
  - c. Incapacitated individuals: Copy of documentation providing legal claim authority.
2. If there are multiple owners, all reported owners or the legal representative shall submit a claim form.
3. The administrator may request additional documentation necessary to support a claim.
4. If a claimant chooses to donate the property to the common schools trust fund, required documentation remains the same.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-24, 47-30.1-24.1, 47-30.1-25~~ 47-30.2-50, 47-30.2-51, 47-30.2-52

**85-03-03-03. Payment of claim.**

Upon approval of a claim, payment must be issued:

1. In the name of the reported owner;
2. In accordance with a court order; or
3. In the name of the rightful owner, as determined by the administrator, based on the records of the holder and other information available to the administrator.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-24, 47-30.1-25~~47-30.2-50, 47-30.2-51, 47-30.2-52

**85-03-03-04. Heir finder requests.**

1. An electronic list of owners must be provided upon request. The list includes:
  - a. Property held by the unclaimed property division as of the date of the request;
  - b. Owner's name;
  - c. Owner's last known address;
  - d. Holder information;
  - e. Date of last activity; and
  - f. Type of property.
2. A paper copy of the list must be provided upon request for a fee to be set by the administrator.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-19, 144-04,~~ 47-30.2-03

**85-03-03-05. Claims submitted by heir finder.**

An approved claim submitted by an heir finder must be paid in the name of the original owner.

**History:** Effective January 1, 2019, amended effective \_\_\_\_\_.

**General Authority:** NDCC ~~47-30.1-38~~47-30.2-03

**Law Implemented:** NDCC ~~47-30.1-24, 47-30.1-35~~47-30.2-50, 47-30.2-51, 47-30.2-52, 47-30.2-68, 47-30.2-69, 47-30.2-70

**CHAPTER 85-03-04**  
**EXAMINATIONS**

<u>Section</u>	
<u>85-03-04-01</u>	<u>Contract Auditors</u>
<u>85-03-04-02</u>	<u>Notice of Examination</u>
<u>85-03-04-03</u>	<u>Entrance Conference</u>
<u>85-03-04-04</u>	<u>Examination Refusal</u>
<u>85-03-04-05</u>	<u>Examination Guidelines</u>
<u>85-03-04-06</u>	<u>Estimation</u>
<u>85-03-04-07</u>	<u>Multistate Examinations</u>
<u>85-03-04-08</u>	<u>Bankruptcy</u>
<u>85-03-04-09</u>	<u>Audit Resolution Agreements</u>
<u>85-03-04-10</u>	<u>Voluntary Disclosure Agreement Program</u>

**85-03-04-01. Contract auditors.**

1. The administrator may contract with a person to conduct unclaimed property examinations to determine compliance with the North Dakota Century Code chapter 47-30.2.
2. A contract to conduct an examination may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee.
3. An auditor shall not engage in any unclaimed property examination to determine compliance with North Dakota Century Code chapter 47-30.2 without written authorization from the administrator.
4. An auditor shall report in writing to the administrator at least monthly on the status of all unclaimed property examinations the auditor has been authorized to perform by the administrator.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-55

**85-03-04-02. Notice of examination.**

1. All unclaimed property examinations begin with an official notice of examination.
2. A notice of examination shall notify the person subject to examination that:
  - a. Its books and records, including those belonging to subsidiary and related entities or maintained by a third party that has contracted with the person, are subject to examination;
  - b. Identify the assigned auditor; and
  - c. Include auditor contact information.
3. A notice of examination may either be sent directly to the person subject to examination

by the administrator or to the auditor assigned to the examination for delivery to the person subject to examination.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-55

**85-03-04-03. Entrance conference.**

1. Once an examination is assigned and written notice of examination is provided to the person subject to examination, an entrance conference will be scheduled with the auditor and representatives of the person subject to examination. A representative of the administrator may participate in an entrance conference.
2. During the entrance conference, the auditor shall, to the extent practicable:
  - a. Identify the types of property that will be subject to the examination and the time period covered by the examination;
  - b. Discuss an examination work plan, a tentative schedule, and the scope of work;
  - c. Provide contact information for both the auditor and the administrator;
  - d. Notify the person subject to examination of his or her ability to request an informal conference with the administrator pursuant to North Dakota Century Code section 47-30.2-61;
  - e. Advise the person subject to examination that the administrator and not the auditor makes determinations concerning that person's liability under North Dakota Century Code chapter 47-30.2 and that interpretations of that chapter are made by the administrator;
  - f. Request records and materials necessary to proceed with the next steps of the examination;
  - g. Explain the requirement to provide a due diligence notice to the apparent owner of property presumed abandoned; and
  - h. Explain that, unless otherwise agreed to in writing by the administrator, the person subject to examination shall remit to the auditor any unclaimed property identified during the examination that is owed to the State of North Dakota.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-55, 47-30.2-57, 47-30.2-58, 47-30.2-61, 47-30.2-62

**85-03-04-04. Examination refusal.**

If the person subject to examination refuses to adhere to the rules and laws, the auditor shall inform the administrator of the refusal and the commissioner may bring action to enforce the rules and laws as outlined in North Dakota Century Code chapter 47-30.2, including issuing an administrative subpoena.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2

#### **85-03-04-05. Examination guidelines.**

1. The auditor and the person subject to examination shall act in good faith to conduct the examination under the terms and within the time frame established in the entrance conference.
2. During the examination, the auditor may make subsequent requests, to the person subject to examination, for additional books and records required to complete the examination.
  - a. The auditor shall submit record requests to the person subject to examination in writing or, if the request is made verbally, shall follow up with written documentation of the request.
  - b. Record requests must have reasonable deadlines in order to move the examination forward and avoid unnecessary delays.
  - c. The auditor shall provide a reasonable timeframe for the person subject to examination to respond to the request based on the type and extent of the information requested and other relevant facts and circumstances.
  - d. The auditor shall provide confirmation of receipt with reasonable projected response times to submissions received from the person subject to examination.
3. The examination must include access to the original books, records, and other supporting documentation deemed by the administrator to be necessary to ascertain compliance with North Dakota Century Code chapter 47-30.2.
4. The auditor shall properly document the examination and make the working papers gathered during the unclaimed property examination available for review by the administrator. The working papers must include planning information and all related calculations, statistical analyses, and summarizations.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-55, 47-30.2-57, 47-30.2-58

#### **85-03-04-06. Estimation.**

Concerning estimation under North Dakota Century Code section 47-30.2-59:

1. Unless agreed to by a person subject to examination, estimation should be used only when there has been a violation of North Dakota Century Code section 47-30.2-24. The ability of the administrator to use estimation is intended as a deterrent to the intentional or negligent destruction of records that would be used in an unclaimed property examination to identify unclaimed property.
2. A payment made based on estimation under this section does not relieve a person from an obligation to report and deliver property to a state in which the holder is domiciled.
3. An auditor may use estimation in an examination if:
  - a. The person subject to examination agrees in writing to the use of estimation as part of an examination resolution agreement; or
  - b. The administrator approves in writing the use of estimation in the examination.
4. Estimation by the administrator should reasonably approximate the amount of unclaimed property that should have been reported to North Dakota if all reports had been filed and records had been maintained as required by North Dakota Century Code chapter 47-30.2.
5. Prior to the use of estimation in an examination, the administrator shall:
  - a. Notify the person subject to examination, in writing, that estimation is being considered because of a failure to maintain the records required by North Dakota Century Code section 47-30.2-24;
  - b. After considering any evidence submitted by the auditor and the person subject to examination, make a written determination that the person subject to examination has failed to maintain the records required by North Dakota Century Code section 47-30.2-24;
  - c. Provide an opportunity for the person subject to examination to submit written objections, including, but not limited to:
    - (1) Submitting evidence that the person subject to examination has maintained sufficient records to perform the examination for some or all of the years during the time period covered by the examination; or
    - (2) Proposing an estimation methodology;
  - d. Notify in writing the person subject to examination of:
    - (1) The estimation methodology to be used; and
    - (2) For which years during the time period covered by the examination estimation will be used.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

Law Implemented: NDCC 47-30.2-24, 47-30.2-55, 47-30.2-59, 47-30.2-62

**85-03-04-07. Multistate Examinations.**

1. The administrator may agree to participate in an examination of a person for compliance with unclaimed property laws of multiple states, including North Dakota Century Code chapter 47-30.2, when auditors perform examinations for more than one state.
2. As different states participating in a multistate examination will have different rules for examinations, there may be conflicts between the statutory or regulatory requirements for how the auditor should conduct the examination. When practicable, the auditor should comply with the requirements of this section when conducting a multistate examination. However, if there is a conflict between the requirements of this section and the requirements of one or more other states, the auditor may vary from the requirements of this section so long as the auditor:
  - a. Follows any requirements imposed by North Dakota Century Code chapters 44-04 and 47-30.2, including confidentiality requirements; and
  - b. Uses North Dakota Century Code chapter 47-30.2 with regards to any property for which the State of North Dakota has the superior claim.

History: Effective \_\_\_\_\_.

General Authority: NDCC 47-30.2-03, 47-30.2-56

Law Implemented: NDCC 47-30.2-55, 47-30.2-57, 47-30.2-63, 47-30.2-64

**85-03-04-08. Bankruptcy.**

If, at any time before or during an examination, the person subject to examination files for bankruptcy, that person shall give notice of the filing to the auditor. The auditor shall, within seven calendar days after receiving notice or the discovery of the event, notify the administrator of the bankruptcy filing. If the administrator so elects, the auditor shall assist the administrator to ensure that a proper proof of claim is timely filed in the bankruptcy action.

History: Effective \_\_\_\_\_.

General Authority: NDCC 47-30.2-03, 47-30.2-56

Law Implemented: NDCC 47-30.2-55, 47-30.2-58, 47-30.2-62

**85-03-04-09. Examination resolution agreements.**

1. The commissioner may resolve an examination via negotiation and settlement with the person subject to examination.
2. The commissioner shall not agree in a settlement to provide indemnification beyond that provided in North Dakota Century Code chapter 47-30.2.
3. A mutually-agreed upon settlement resolves a specific examination and does not create

any precedent on specific legal issues.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-03, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-55, 47-30.2-58, 47-30.2-62

**85-03-04-10. Voluntary disclosure agreement program.**

1. The administrator may establish a voluntary disclosure agreement program for persons who are not in compliance with North Dakota Century Code chapter 47-30.2.
2. Under a voluntary disclosure agreement program, the commissioner may agree to waive, in whole or in part, interest and penalties for a person who voluntarily reports and remits to the administrator property that should have been previously reported, paid or delivered to the administrator pursuant to North Dakota Century Code chapter 47-30.2. The voluntary disclosure agreement program includes property that is reportable pursuant to the transition provisions of North Dakota Century Code section 47-30.2-74. Property reportable under North Dakota Century Code chapter 47-30.2 or the previous Uniform Unclaimed Property Act may be eligible to be voluntarily reported and remitted under the voluntary disclosure agreement program.
3. A person who has been sent an official notice of examination may not participate in the voluntary disclosure agreement program.
4. Participation in the administrator's voluntary disclosure agreement program does not waive or otherwise limit the administrator's authority to order and conduct an unclaimed property examination pursuant to North Dakota Century Code section 47-30.2-55.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 47-30.2-21, 47-30.2-56

**Law Implemented:** NDCC 47-30.2-22, 47-30.2-55, 47-30.2-58, 47-30.2-59, 47-30.2-62, 47-30.2-65, 47-30.2-66, 47-30.2-67, 47-30.2-74

**CHAPTER 85-04-05  
PUBLIC ACCESS AND USE**

Section

- 85-04-05-01 — Vehicular Access
- 85-04-05-02 — Public Access
- 85-04-05-03 — Prohibited Activities
- 85-04-05-04 — Organized Event

~~85-04-05-01. Vehicular access.~~

~~The use of vehicles on trust lands is prohibited, except:~~

- ~~1. Within thirty three feet [10.06 meters] of section lines;~~
- ~~2. As allowed by the terms of a lease, permit, or easement issued by the board;~~
- ~~3. When used for travel on a public road easement issued by the board;~~
- ~~4. When used by government personnel in the performance of official duties; or~~
- ~~5. When hunting under a special permit issued by the director of the North Dakota game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.~~

**History:** Effective January 1, 2020.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15-01-02, 20.1-02-05(10)

~~85-04-05-02. Public access.~~

- ~~1. Nonvehicular public access to leased and unleased trust lands is allowed, if in the best interests of the trusts, unless:
  - ~~a. Specifically prohibited by the commissioner; or~~
  - ~~b. The lessee posts the land with signage issued by the department, which:
    - ~~(1) Requires notification to the lessee before entry by the public; or~~
    - ~~(2) Closes the trust lands to all public access.~~~~~~
- ~~2. Lessee may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.~~

**History:** Effective January 1, 2020.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15-01-02, 15-02-05

~~85-04-05-03. Prohibited activities.~~

~~The following activities and items are prohibited on trust lands:~~

- ~~1. Target shooting, explosives, and exploding targets;~~
- ~~2. Camping, picnicking, or campfires;~~
- ~~3. Unattended hunting blinds, tree stands, and screw in steps;~~

- ~~4. Baiting to attract, lure, feed, or habituate wildlife for any purpose. Bait includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds. Bait does not include the use of lures, scents, or liquid attractants for hunting;~~
- ~~5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board;~~
- ~~6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;~~
- ~~7. Dog training;~~
- ~~8. Metal detecting;~~
- ~~9. Guiding and outfitting;~~
- ~~10. Collecting plant parts for sale or other commercial purposes;~~
- ~~11. Trapping, unless authorized in writing by the commissioner;~~
- ~~12. Tree cutting and firewood gathering, unless authorized in writing by the commissioner; and~~
- ~~13. Beehives, unless specifically authorized in a surface land lease.~~

**History:** Effective January 1, 2020.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15-01-02, 15-02-05, 15-04-18, 15-04-20, 20-1-03-42, 55-02-07, 55-10-09

~~**85-04-05-04. Organized event.**~~

~~Upon written request, the commissioner may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:~~

- ~~1. Is an appropriate use of trust lands;~~
- ~~2. Does not damage trust lands;~~
- ~~3. Does not negatively impact the value or financial return of the trust lands in violation of the board's fiduciary duty to the applicable trusts as determined by the commissioner;~~
- ~~4. Protects the state of North Dakota from liability and other claims for damage; and~~
- ~~5. Has been approved by the current surface land lessee, if leased.~~

**History:** Effective January 1, 2020.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15-01-02

**ARTICLE 85-06  
MINERALS MANAGEMENT**

Chapter	
85-06-01	Oil and Gas
85-06-02	Coal

**CHAPTER 85-06-01  
OIL AND GAS**

Section	
85-06-01-01	Oil and Gas Lease Nomination
85-06-01-02	Advertisement for Public Auction
85-06-01-03	Public Auction
85-06-01-04	Rejection of Nomination and Bids
85-06-01-05	Form and Term of Oil and Gas Lease
85-06-01-06	Assignment, Amendment, or Extension
85-06-01-07	Voluntary Release
85-06-01-08	Royalties
85-06-01-09	Disputed Title Royalty Escrow Account
85-06-01-10	Breach of Oil and Gas Lease
85-06-01-11	Board Review
85-06-01-12	Reports of Lessee - Delinquency Penalty
85-06-01-13	Audit and Examination
85-06-01-14	Request for Shut-In Status for Oil
85-06-01-15	Offset Obligations for Vertical Oil and Gas Wells

**85-06-01-12. Reports of lessee - Delinquency penalty.**

Royalty payment and reporting are due on forms prescribed by the department as follows:

1. For gas:
  - a. Within one hundred twenty-three days of the last day of the month in which initial production occurs, royalty payment and reporting are due for the first, second, and third months of production.
  - b. Successive royalty payments and reporting are due within sixty-one days of the last day of the month in which production occurs.
2. For oil:
  - a. Within ninety-two days of the last day of the month in which initial production occurs, royalty payment and reporting are due for the first, second, and third months of production.
  - b. Successive royalty payments and reporting are due within thirty days of the last day of the month in which production occurs.
3. The royalty payment and reporting deadline may be extended by the commissioner upon written request. An extension, if granted, only applies to future royalty payments and reporting.
4. Any sum, other than delay rentals, not paid when due is delinquent and is subject to a delinquency penalty of one percent of the sum for each thirty day period of delinquency or fraction of delinquency period, unless a waiver or board review is requested under subsection 6. For leases issued after July 31, 2021, any penalty must be calculated pursuant to North Dakota Century Code section 15-05-10(3).

5. Unpaid royalties bear interest under North Dakota Century Code section ~~47-16-39.1~~15-05-10(2).
6. A lessee has thirty days from the date of the receipt of a notice of a penalty and interest assessment to pay the penalty and interest, request a waiver or reduction, or to request board review.
  - a. A request for a waiver or reduction of the penalty or interest or a request for board review must be in writing and provide the grounds for the request.
  - b. The following factors may be considered when deciding to waive or reduce the penalty or interest: the reason for the late payment; the degree of control the payor had over the late payment; any unusual or mitigating circumstances involved; the loss of interest earnings to the trust involved; and any other relevant factors.
  - c. ~~The commissioner, for good cause, may waive up to twenty five thousand dollars of the penalty or reduce interest initially sought. A request for a waiver or reduction of penalty in excess of twenty five thousand dollars must be presented to the board, with the commissioner's recommendation, for review and decision.~~
  - d. A waiver or reduction of penalty and interest does not constitute a waiver of the right to seek the full amount of both penalty and interest if the initial claim for royalty payment is not paid. If a claim for unpaid royalties, penalties, and interest is settled and payment received, the amount of penalties and interest not collected is deemed waived.

**History:** Effective January 1, 2020, amended effective \_\_\_\_\_.

**General Authority:** NDCC 15-05-09, 15-05-10, 15-07-20, 15-08.1-06, 61-33-06

**Law Implemented:** NDCC 15-05-09, 15-05-10, ~~47-16-39.1~~, 47-16-39.2