

# Oil and Gas Division

Lynn D. Helms - Director

Bruce E. Hicks - Assistant Director

**Department of Mineral Resources**

Lynn D. Helms - Director

**North Dakota Industrial Commission**

[www.dmr.nd.gov/oilgas/](http://www.dmr.nd.gov/oilgas/)

August 30, 2019

**DELIVERED VIA EMAIL**

Ms. Vonette J. Richter  
Legal Division Director  
North Dakota Legislative Council  
State Capitol  
600 E. Boulevard, 2nd Floor  
Bismarck, ND 58505-0360  
[vrichter@nd.gov](mailto:vrichter@nd.gov)

**RE: Adopted and Amended Rules**

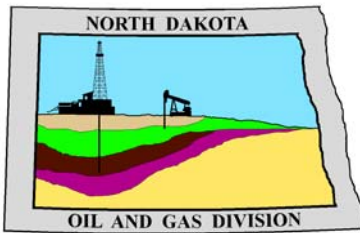
Dear Ms. Richter:

The Full Notice of Intent to Adopt and Amend Administrative Rules and a copy of the proposed rules are enclosed as required by North Dakota Century Code § 28-32-10.

If you have any questions or comments, do not hesitate to contact this office.

Sincerely,

Bruce E. Hicks  
Assistant Director



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## FULL NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-05 (Underground Injection Control), and Chapter 43-02-06 (Royalty Statements):

- October 7<sup>th</sup>, 2019 at 8 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 7<sup>th</sup>, 2019 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 8<sup>th</sup>, 2019 at 8:00 a.m. at Clarion Hotel and Suites, 1505 15<sup>th</sup> Ave West, Williston, North Dakota
- October 8<sup>th</sup>, 2019 at 1:30 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-10 is to promote the relationship we have with tribal authorities so the Commission can enter into agreements. The proposed amendment clarifies the Commission can enter into agreements with tribal authorities relating to conservation of oil and gas. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-14.2 is to ensure metering systems are accurately measuring crude oil volumes. The proposed amendments require the owner of metering equipment to discontinue use of a failed meter until it has been repaired, set oil custody transfer meter factors, require CTB name and number, and the report of failed meter tests. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-15 is to increase bonding amounts on commercial injection operations and certain wells with high liability. The proposed amendments clarify that a bond must be approved for the principle to commence construction of a site, appurtenance or road access, increases the amount of a commercial injection operations from \$50,000 to \$100,000, requires a well temporarily abandoned for more than seven years to be counted in the six-well limit on a blanket bond, authorizes the Director to refuse a transfer request if any well on the bond is in violation, and requires abandoned wells to be transferred to a bond in an amount equal to the cost of plugging and reclaiming the site. The proposed amendments are expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-16 is to clarify when site preparation can commence. The proposed amendment clarifies that well-site construction of a site, appurtenance, or road access, and commencement of recompletion operations requires Director approval. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-16.2 is to clarify when a permit can be suspended or revoked. The proposed amendment clarifies that a permit subject to the rule will not be suspended after operations have commenced, but can be revoked by the Commission after a hearing. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-16.3 is to require the owner, that intends to drill or recomplete a well, to give other working interest owners an opportunity to participate in a well that is not timely drilled. The proposed amendment deems an election to participate is only binding upon an owner declining to participate if operations are commenced within ninety days of the election deadline. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-19.3 is to alert the regulated community to exceptions to the rule. The proposed amendment states exceptions to the rule can be requested for 43-02-03-51.3 for treating plants. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-21 is to ensure strings of casing are properly cemented. The proposed amendments require cement additives to address compressive strength regression where high temperatures are encountered, require tail cement to reach five hundred pounds per square inch compressive strength prior conducting the required pressure test, and allow up to ten percent pressure drop during the required pressure test. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-23 is to assure adequate safety equipment on drilling and workover operations. The proposed amendments require the use of a blowout preventer on workover operations and require a pressure test on only pressure seals broken during pad drilling operations. The proposed amendment requiring the blowout preventer on workover operation is not expected to have an impact on the regulated community in excess of \$50,000 since most operators already utilize such equipment and some significant spills have occurred without the use of said equipment. The proposed amendment providing relief from pressure testing will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-27.1 is to update hydraulic fracturing regulations so they address current industry practices being conducted. The proposed amendments outline procedure requirements for all re-fracs performed, clarify where the hanger/packer is allowed to be set, and clarify when a frac string must be utilized. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000 since most operators already follow the proposed procedures. The proposed amendment providing relief from pressure testing will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-28 is to clarify the rule and ensure safety on drilling and producing locations. The proposed amendment clarifies that flares must be located no closer than one hundred fifty feet from a producing well or oil tank and requires additional notice be given prior to conducting any well stimulation. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29.1 is to regulate carbon dioxide pipelines under the rule, definite certain key phrases, clarify the role of the third-party inspectors, and address issues that have risen from the pipeline rules that were promulgated effective January 1, 2017. The proposed amendments require underground gathering pipelines designed for transporting carbon dioxide for storage or enhanced oil recovery to comply with this section, defines new construction, pipeline repair, gathering system, and in-service date, requires verbal notification prior to commencing certain procedures, clarifies that clamping and squeezing operations conducted on produced water pipelines need prior Director approval, requires the third party inspector to be independent from the pipeline owner or contractor, clarifies integrity test reporting, and requires removal of pipelines less than three feet in depth during pipeline abandonment. The proposed amendments are expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30 is to clarify certain spills that must be reported to the Commission. The proposed amendment clarifies spills and leaks on pipeline associated above ground equipment must be reported to the Commission. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-31 is to clarify reporting and well confidentiality. The proposed amendment clarifies that a completion report, which currently is submitted on the Commission's Form 6, could be changed in the future (since the Commission will be migrating to "NorthSTAR" in the near future) and clarifies that the confidentiality period for a newly permitted wells. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-34.1 is to protect the environment. The proposed amendment requires all pipelines to be purged and abandoned pursuant to section 43-02-03-29.1, which are the crude oil and produced water underground gathering pipeline regulations. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-38.1 is to assure quality samples will be collected while drilling wells. The proposed amendment requires a well site geologist or mudlogger on location for the first well drilled on a multi-well pad to collect sample cuttings so an accurate mudlog and geologic report can be created. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-40 is to clarify reporting. The proposed amendment clarifies that a completion report, which currently is submitted on the Commission's Form 6, could be changed in the future (since the Commission will be migrating to "NorthSTAR" in the near future). The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-48.1 is to clarify information to be submitted to the Commission and define common and diverse ownership. The proposed amendments clarify the Director can request and impose such terms and conditions as deemed necessary, define common ownership as production from wells that do not have diverse ownership, and define diverse ownership as production from wells in different drilling/spacing units that have different mineral ownership. The proposed amendment relating to the Director's terms and conditions is not expected to have an impact on the regulated community in excess of \$50,000. The proposed amendment relating to the definitions of common and diverse ownership will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-49 is to protect the environment. The proposed amendment requires berms to be maintained and Director approval to remove a berm. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-51 is to clarify when site preparation can commence. The proposed amendment clarifies that treating plant construction of a site, appurtenance, or road access requires Director approval. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-51.1 is to clarify information necessary for the Director to consider a treating plant application. The proposed amendments outline information currently requested to be submitted in the treating plant application, but not yet codified in a rule. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000 since the information is currently requested to complete a treating plant application.

The purpose of the proposed amendments to NDAC § 43-02-03-51.3 is to clarify when construction can commence and clarify the role of the Director/Commission. The proposed amendments clarify that construction of a treating plant site, appurtenance, or road access requires a bond, clarify open tanks can be approved by the Director, and clarify information to be sent to the Director. The proposed amendment relating to construction is not expected to have an impact on the regulated community in excess of \$50,000. The proposed amendment relating to the allowance of open tanks will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-53 is to clarify the role of the Director/Commission. The proposed amendments clarify information to be sent to the Director. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-53.1 is to clarify when construction can commence, clarify information necessary for the Director to consider a saltwater handling facility application, and clarify the role of the Director/Commission. The proposed amendments clarify that construction of a saltwater handling facility, appurtenance, or road access requires Director approval and clarify information to be sent to the Director. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-53.3 is to clarify when construction can commence and clarify the role of the Director/Commission. The proposed amendments clarify that construction of a saltwater handling facility, appurtenance, or road access requires a bond, and clarify information to be sent to the Director. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to require justification to initially temporarily abandon a well. The proposed amendment allows Director consideration for temporary abandonment only for wells that are to be used for purposes related to the production of oil and gas within the next seven years. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-66 is to clarify reporting. The proposed amendment clarifies that a completion report, which currently is submitted on the Commission's Form 6, could be changed in the future (since the Commission will be migrating to "NorthSTAR" in the near future). The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-04 is to clarify when construction can commence, clarify information necessary for the Director to consider an underground injection well application, and clarify the role of the Director/Commission. The proposed amendments clarify that construction of an underground injection well site, appurtenance, or road access requires Director approval, require proof of service for notices, and clarify information to be sent to the Director. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-06 is to clarify construction and reporting requirements, and clarify the role of the Director/Commission. The proposed amendments clarify that casing must be set into the injection zone, that the sundry notice, which currently is submitted on the Commission's Form 4, could be changed in the future (since the Commission will be migrating to "NorthSTAR" in the near future), and clarify the role of the Director. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-07 is to clarify the mechanical integrity regulations for an injection well. The proposed amendments clarify how to prove mechanical integrity and clarify injection well must cease injection if mechanical failure indicates fluids are not contained in the authorized injection zone. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-08 is to clarify reporting. The proposed amendment clarifies that a sundry notice, which currently is submitted on the Commission's Form 4, could be changed in the future (since the Commission will be migrating to "NorthSTAR" in the near future). The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-09 is to clarify injection well operating pressure limitations. The proposed amendment clarifies pressure maximum and permitted injection zone. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-10 is to clarify when corrective action is necessary and clarify the role of the Director/Commission. The proposed amendments clarify injection must not enter an unauthorized zone and clarify the role of the Director. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-12 is to clarify injection well operating and reporting requirements and clarify the role of the Director/Commission. The proposed amendments clarify reporting requirements, requires reporting of first date of injection, and clarify certain reporting forms could be changed in the future (since the Commission will be migrating to “NorthSTAR” in the near future). The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-13 is to clarify the role of the Director/Commission. The proposed amendment clarifies information is to be sent to the Director. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-14 is to clarify area permit requirements and clarify the role of the Director/Commission. The proposed amendments clarify that information needed to complete an area permit application, require proof of service for notices, and clarify information to be sent to the Director. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-06-01 is clarify information required on a royalty information statement. The proposed amendments clarify how to calculate producer’s net value, clarify owner deductions, adjustments, and corrections must be identified, and how to calculate owner’s share of total value of sales, and owner’s share of sales. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-06-01.1 is to assure mineral owners are notified when their decimal interest changes. The proposed amendment requires an operator or payor to provide the mineral owner with an ownership interest information statement when the mineral owner’s decimal interest changes. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at [www.dmr.nd.gov/oilgas](http://www.dmr.nd.gov/oilgas). A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to [brkadrmas@nd.gov](mailto:brkadrmas@nd.gov) and received by 5pm, October 18<sup>th</sup>, 2019, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than September 23, 2019.

Dated this 30<sup>th</sup> day of August, 2019.

*Bruce E. Hicks*

Bruce E. Hicks  
Assistant Director