

# MINING AND GAS AND OIL PRODUCTION

## CHAPTER 325

### SENATE BILL NO. 2099

(Natural Resources Committee)  
(At the request of the Industrial Commission)

## OIL AND GAS AND SUBSURFACE MINERAL REGULATION

AN ACT to amend and reenact subsection 3 of section 38-08-04.5, section 38-08-21, and subsection 7 of section 38-12-01 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund, control of gas and oil resources, and subsurface mineral regulation; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are ~~hereby~~ appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. However, when the ~~money~~ fees accumulated in the fund exceeds fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission must be deposited in the general fund.

**SECTION 2. AMENDMENT.** Subsection 3 of section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are ~~hereby~~ appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. However, when the ~~money~~ fees accumulated in the fund ~~exceeds~~ exceed two hundred fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission must be deposited in the general fund.

**SECTION 3. AMENDMENT.** Section 38-08-21 of the North Dakota Century Code is amended and reenacted as follows:

**38-08-21. Regulation of carbon dioxide and nitrogen gas.** The commission is hereby vested with the authority and duty to regulate the exploration, development, and production of carbon dioxide, coal bed methane gas, helium gas, and nitrogen gas within the state, ~~used for the development of oil and gas resources,~~ in the same manner, insofar as is practicable, as it regulates oil or gas as defined in this chapter.

**SECTION 4. AMENDMENT.** Subsection 7 of section 38-12-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, ~~helium,~~ iodine, lithium, magnesium, ~~nitrogen,~~ phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds, but does not include sand and gravel and rocks crushed for sand and gravel.

**SECTION 5. EFFECTIVE DATE.** Section 2 of this Act becomes effective on July 1, 2003.

Approved March 14, 2001  
Filed March 15, 2001

## CHAPTER 326

### SENATE BILL NO. 2120

(Natural Resources Committee)  
(At the request of the Attorney General)

## OIL AND GAS UNIT DISSOLUTION AND RATIFICATION

AN ACT to amend and reenact subsection 7 of section 38-08-09.4 and section 38-08-09.5 of the North Dakota Century Code, relating to dissolution of units and to the industrial commission's oversight of the creation of units for the further development of oil and gas and changing ratification requirements for these units.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>160</sup> **SECTION 1. AMENDMENT.** Subsection 7 of section 38-08-09.4 of the North Dakota Century Code is amended and reenacted as follows:

7. The time when and conditions under which and the method by which the unit ~~shall~~ must or may be dissolved and its affairs wound up; however, the unit may be dissolved ten years after the unit agreement becomes effective upon a petition to the commission by the royalty owners who are credited with at least eighty percent of the production and proceeds thereof or for units established after the effective date of this Act, upon a petition to the commission by the royalty owners who are credited with at least sixty percent of the production and proceeds thereof, and a subsequent hearing and order by the commission. The commission may not dissolve any unit if the dissolution would be likely to result in waste or the violation of the correlative rights of any owner. This provision does not limit or restrict any other authority which the commission has.

**SECTION 2. AMENDMENT.** Section 38-08-09.5 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**38-08-09.5. Ratification or approval of plan by lessees and owners.** At the time of filing of the petition for the approval of a unit agreement and the filing of the unit agreement, the commission shall ~~set a time and place for the~~ schedule a hearing. At least forty-five days prior to the hearing, the applicant ~~or someone under his direction and control~~, shall give notice of the ~~time and place of said~~ hearing and shall mail, postage prepaid, a copy of the application and the proposed plan of unitization to each affected person owning an interest of record in the unit outline, at such person's last-known post-office address. In addition, ~~such the~~ applicant shall file with the commission engineering, geological, and all other technical exhibits to be used at ~~said the~~ hearing, and further, the notice must ~~so~~ specify that such material is filed and is available for inspection. Service is complete in the mailing of

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<sup>160</sup> Section 38-08-09.4 was also amended by section 10 of House Bill No. 1049, chapter 55.

the notice of hearing and unit agreement to each interest owner as ~~hereinbefore prescribed at his last known address described in this section~~ and the filing of an affidavit of mailing with the commission. No order of the commission creating a unit and prescribing ~~the~~ its plan of unitization ~~applicable thereto~~ becomes effective ~~unless and~~ until the plan of unitization has been signed, or in writing ratified or approved by those persons who, under the commission's order, will be required to pay at least ~~seventy~~ sixty percent of the costs of the unit operation and ~~also~~ by the owners of at least ~~seventy~~ sixty percent of the royalty interests ~~under the commission's order~~, excluding overriding royalties, production payments, and other interests carved out of the working interest, and in addition it ~~shall be~~ is required that when there is more than one person who will be obligated to pay costs of the unit operation, at least two nonaffiliated such persons and at least two royalty interest owners, ~~shall be~~ are required as voluntary parties, and the commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest ~~in and to the unit area~~. Where the plan of unitization has not been ~~so~~ signed, ratified, or approved by lessees and royalty owners owning the required percentage interest ~~in and to the unit area~~ at the time the order creating the unit is made, the commission shall, upon petition and notice, hold such additional ~~and supplemental~~ hearings as may be requested or required to determine if and when the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest ~~in and to the unit area~~ and shall, in respect to such hearings, ~~make and~~ enter a finding of its determination in such regard. In the event lessees and royalty owners, or either, owning the required percentage interest ~~in and to the unit area~~ have not ~~so~~ signed, ratified, or approved the plan of unitization within a ~~period of~~ six months from ~~and after~~ the date on which the order creating the unit is made, the order ~~creating the unit~~ ceases to be of further force and effect and shall be revoked by the commission.

Approved April 10, 2001  
Filed April 10, 2001