Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017

HOUSE BILL NO. 1151
(Representatives Streyle, Dockter, Lefor)
(Senators O. Larsen, Schaible, Unruh)

AN ACT to amend and reenact section 38-08-04 of the North Dakota Century Code, relating to the reporting of well pad or oil and gas production facility fluid spills.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04. Jurisdiction of commission.

1. The commission has continuing jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission. The commission has the authority:

~~1.~~ a. To require:

~~a.~~ (1) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas.

~~b.~~ (2) The making and filing with the industrial commission of all resistivity, radioactivity, and mechanical well logs and the filing of directional surveys, if taken, and the filing of reports on well location, drilling, and production.

~~c.~~ (3) The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of freshwater supplies by oil, gas, or saltwater, and to prevent blowouts, cavings, seepages, and fires.

~~d.~~ (4) The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter, and the rules and orders of the industrial commission, including without limitation a bond covering the operation of any underground gathering pipeline transferring oil or produced water from a production facility for disposal, storage, or sale purposes, except that if the commission requires a bond to be furnished, the person required to furnish the bond may elect to deposit under such terms and conditions as the industrial commission may prescribe a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which an operator assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.

~~e.~~ (5) That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by such means and upon such standards as may be prescribed by the commission.

~~f.~~ (6) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios.

~~g.~~ (7) Certificates of clearance in connection with the transportation or delivery of oil, gas, or any product.

~~h.~~ (8) Metering or other measuring of oil, gas, or product related to production in pipelines, gathering systems, storage tanks, barge terminals, loading racks, refineries, or other places, by meters or other measuring devices approved by the commission.

~~i.~~ (9) Every person who produces, sells, purchases, acquires, stores, transports, refines, disposes of, or processes oil, gas, saltwater, or other related oilfield fluids in this state to keep and maintain within this state complete and accurate records of the quantities thereof, which records must be available for examination by the commission or its agents at all reasonable times, and to file with the commission reports as the commission may prescribe with respect to oil or gas or the products thereof. An oil and gas production report need not be notarized but must be signed by the person submitting the report.

~~j.~~ (10) The payment of fees for services performed. The amount of the fee shall be set by the commission based on the anticipated actual cost of the service rendered. Unless otherwise provided by statute, all fees collected by the commission must be deposited in the general fund of this state, according to procedures established by the state treasurer.

~~k.~~ (11) The filing free of charge of samples and core chips and of complete cores when requested in the office of the state geologist within six months after the completion or abandonment of the well.

~~l.~~ (12) The placing of wells in abandoned-well status which have not produced oil or natural gas in paying quantities for one year. A well in abandoned-well status must be promptly returned to production in paying quantities, approved by the commission for temporarily abandoned status, or plugged and reclaimed within six months. If none of the three preceding conditions are met, the industrial commission may require the well to be placed immediately on a single-well bond in an amount equal to the cost of plugging the well and reclaiming the well site. In setting the bond amount, the commission shall use information from recent plugging and reclamation operations. After a well has been in abandoned-well status for one year, the well's equipment, all well-related equipment at the well site, and salable oil at the well site are subject to forfeiture by the commission. If the commission exercises this authority, section 38-08-04.9 applies. After a well has been in abandoned-well status for one year, the single-well bond referred to above, or any other bond covering the well if the single-well bond has not been obtained, is subject to forfeiture by the commission. A surface owner may request a review of the temporarily abandoned status of a well that has been on temporarily abandoned status for at least seven years. The commission shall require notice and hearing to review the temporarily abandoned status. After notice and hearing, the surface owner may request a review of the temporarily abandoned status every two years.

~~2.~~ b. To regulate:

~~a.~~ (1) The drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil or gas.

~~b.~~ (2) The shooting and chemical treatment of wells.

~~c.~~ (3) The spacing of wells.

~~d.~~ (4) Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations.

~~e.~~ (5) Disposal of saltwater and oilfield wastes.

~~(1)~~ (a) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.

~~(2)~~ (b) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities.

~~f.~~ (6) The underground storage of oil or gas.

~~3.~~ c. To limit and to allocate the production of oil and gas from any field, pool, or area and to establish and define as separate marketing districts those contiguous areas within the state which supply oil and gas to different markets, and to limit and allocate the production of oil and gas for each separate marketing district.

~~4.~~ d. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter, to classify and determine the status and depth of wells that are stripper well property as defined in section 57-51.1-01, to certify to the tax commissioner which wells are stripper wells as defined in section 57-51.1-01 and the depth of those wells, and to certify to the tax commissioner which wells involve secondary or tertiary recovery operations as defined in section 57-51.1-01, and the date of qualification for the oil extraction tax exemption for secondary and tertiary recovery operations.

~~5.~~ e. To adopt and to enforce rules and orders to effectuate the purposes and the intent of this chapter and the commission's responsibilities under chapter 57-51.1. When adopting a rule, issuing an order, or creating a policy, the commission shall give due consideration to the effect of including locations within this state which may also be under the jurisdiction of the federal government or a tribal government. When reporting information resulting from adopting a rule, issuing an order, or creating a policy that affects locations within this state which may also be under the jurisdiction of the federal government or a tribal government, the commission shall provide sufficient information to indicate the effect of including locations that may also be under the regulatory jurisdiction of the federal government or a tribal government.

~~6.~~ f. To provide for the confidentiality of well data reported to the commission if requested in writing by those reporting the data for a period not to exceed six months. However, the commission may release:

~~a.~~ (1) Volumes injected into a saltwater injection well.

~~b.~~ (2) Information from the spill report on a well on a site at which more than ten barrels of fluid, not contained on the well site, was released for which an oilfield environmental incident report is required by law.

2. A person controlling or operating a well, pipeline, receiving tank, storage tank, treating plant, or other receptacle or production facility associated with oil and gas, or with water production, injection, processing, or well servicing, shall report to the commission any leak, spill, or release of fluid. A report to the commission is not required if the leak, spill, or release is crude oil, produced water, or natural gas liquids in a quantity of less than ten barrels cumulative over a fifteen-day time period, remains on the site or facility, and is on a well site where the well was spud after September 1, 2000, or on a facility, other than a well site, constructed after September 1, 2000.

3. Any written violation notice issued by the commission regarding the notification of a fire, leak, spill, blowout, or leak and spill cleanup must be placed in the well file or facility file and the files must be available for review by the surface owner.

_____	_____
Speaker of the House	President of the Senate
_____	_____
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1151.

House Vote:	Yeas 83	Nays 8	Absent 3
Senate Vote:	Yeas 31	Nays 14	Absent 2

_____
Chief Clerk of the House

Received by the Governor at _____M. on _____, 2017.

Approved at _____M. on _____, 2017.

_____
Governor

Filed in this office this _____day of _____, 2017,

at _____ o'clock _____M.

_____
Secretary of State