CHAPTER 43-02-08
STRIPPER WELL AND STRIPPER WELL PROPERTY DETERMINATION

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43-02-08-01. Definitions.

The terms used throughout this chapter have the same meaning as in chapter 43-02-03 and North Dakota Century Code chapters 38-08 and 57-51.1, except:

1. "Commercial quantities" means production exceeding in value current operating costs.

2. "Condensate recovered in nonassociated production" means a liquid hydrocarbon recovered from a well classified as a gas well by the commission.

3. "Maximum efficient rate" means the maximum economic rate of production of oil which can be sustained under prudent operations, using sound engineering practices, without loss of ultimate recovery.

4. "Operator" means any person who owns a fee interest or an interest in an oil and gas leasehold, and has the right to produce oil therefrom.

5. "Qualifying period" means any preceding consecutive twelve-month period beginning after December 31, 1972, that the qualified maximum total production from a well or property did not exceed the production levels as specified in subsection 2 of section 43-02-08-03.

6. "Well depth":

   a. For a vertical or directional well means the lowest measured depth (measured in feet from the kelly bushing) producing from the pool during the qualifying period. In the event there is more than one vertical or directional well on a property producing from the same pool during the qualifying period, "well depth" means the average of the lowest measured depths producing from the pool of all vertical and directional wells in the property.

   b. For a horizontal well means the measured depth of the terminus of the horizontal lateral (measured in feet from the kelly bushing) producing from the pool during the qualifying period. In the event there is more than one horizontal well on a property producing from the same pool during the qualifying period, "well depth" means the average measured depth of the termini of the horizontal laterals producing from the pool of all of the horizontal wells on the property.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1994; May 1, 2004; April 1, 2014; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 38-08-04(1)(d), 57-51.1-01

43-02-08-02. Application for stripper well or stripper well property determination.

Any operator desiring to classify a well or property as a stripper well or a stripper well property for purposes of exempting production from the imposition of the oil extraction tax as provided under North Dakota Century Code chapter 57-51.1 shall file an application for stripper well or stripper well property determination with the director and obtain a determination certifying the well or property as a stripper well property. The applicant has the burden of establishing entitlement to stripper well or stripper well property status and shall submit all data necessary for a determination by the director.

The application must include the following:

1. The name and address of the applicant and the name and address of the person operating the well, if different.

2. The legal description of the well or property for which a determination is requested.

3. The well name and number and legal description of the oil-producing well or each oil-producing well on the property during the qualifying period and at the time of application.

4. The depth of all perforations (measured in feet from ground level) from the producing well or each producing well on the property during the qualifying period which produces from the same pool.

5. Designation of the well or property which the applicant requests to be certified as a stripper well or a stripper well property. Such designation must be accompanied by sufficient documentation for the director to determine (as set forth in section 43-02-08-02.1) that the well or property the applicant desires to be certified as a stripper well or a stripper well property constitutes a well or property as specified in North Dakota Century Code section 57-51.1-01.

6. The monthly production of the oil-producing well or each oil-producing well on the property during the qualifying period.

If the application does not contain sufficient information to make a determination, the director may require the applicant to submit additional information.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; May 1, 1994; July 1, 1996; August 1, 1999; July 1, 2002; April 1, 2014; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 38-08-04(1)(d), 57-51.1-01

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.

All wells on the property must have been completed prior to July 1, 2013. A well completed after July 1, 2013, may not be added to an existing property.

History: Effective September 1, 1987; amended effective May 1, 1992; May 1, 2004; April 1, 2014; October 1, 2016; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 38-08-04(1)(d), 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 must 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; October 1, 2016; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 38-08-04(1)(d), 57-51.1-01

43-02-08-04. Applicant adversely affected may submit amended application - Procedure.

Any applicant adversely affected by a determination of the director made under sections 43-02-08-02 through 43-02-08-03 may within thirty days after the entry of such a determination submit an amended application. If an amended application is submitted, the director shall issue a determination of stripper well or stripper well property status within thirty days of the receipt of the amended application or a reasonable time thereafter.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; April 1, 2014; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 38-08-04(1)(d), 57-51.1-01

43-02-08-05. Person adversely affected may petition the commission - Procedure.

Any person adversely affected by a determination of the director of either an application or an amended application for stripper well or stripper well property status made under sections 43-02-08-02 through 43-02-08-03 may within thirty days after the entry of such a determination petition the commission for a hearing in accordance with the provisions of North Dakota Century Code chapter 38-08 and chapter 43-02-03.

History: Effective August 1, 1986; amended effective September 1, 1987; May 1, 1992; April 1, 2014; April 1, 2024.
General Authority: NDCC 38-08-04(1)(e)
Law Implemented: NDCC 338-08-04(1)(d), 57-51.1-01

43-02-08-06. Expiration date.

Repealed effective September 1, 1987.

43-02-08-07. Application to certify a qualifying secondary recovery project.

Repealed effective May 1, 1992.

43-02-08-08. Commission certification of secondary recovery project.

Repealed effective May 1, 1992.

43-02-08-09. Application to certify a qualifying tertiary recovery project.

Repealed effective May 1, 1992.

43-02-08-10. Commission certification of tertiary recovery project.

Repealed effective May 1, 1992.

43-02-08-11. Books and records to be kept to substantiate reports.

Any operator desiring to classify a well or property as a stripper well property pursuant to this chapter shall make and keep records for a period of not less than six years, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History: Effective September 1, 2000; amended effective April 1, 2014.
General Authority: NDCC 38-08-04
Law Implemented: NDCC 38-08-04