

**ARTICLE 85-01
GENERAL ADMINISTRATION**

Chapter
85-01-01 Definitions and General Provisions

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DEFINITIONS AND GENERAL PROVISIONS**

Section
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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, 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.
45. "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.
46. "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

85-01-01-02. Exception.

The board may grant an exception to articles 85-03, 85-04, and 85-06, when such exception is in the best interests of the trusts.

History: Effective January 1, 2019; amended effective January 1, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15-01-02