

**CHAPTER 43-02-03
OIL AND GAS CONSERVATION**

Section	
43-02-03-01	Definitions
43-02-03-02	Scope of Chapter
43-02-03-03	Promulgation of Rules, Regulations, or Orders [Repealed]
43-02-03-04	Emergency Rule, Regulation, or Order [Repealed]
43-02-03-05	Enforcement of Laws, Rules, and Regulations Dealing With Conservation of Oil and Gas
43-02-03-06	Waste Prohibited
43-02-03-07	United States Government Leases
43-02-03-08	Classifying and Defining Pools [Repealed]
43-02-03-09	Forms Upon Request
43-02-03-10	Authority to Cooperate With Other Agencies
43-02-03-11	Organization Reports
43-02-03-12	Reservoir Surveys
43-02-03-13	Record of Wells
43-02-03-14	Access to Records
43-02-03-14.1	Verification of Certified Welders [Repealed]
43-02-03-14.2	Oil and Gas Metering Systems
43-02-03-15	Bond and Transfer of Wells
43-02-03-16	Application for Permit to Drill and Recomplete
43-02-03-16.1	Designation and Responsibilities of Operator
43-02-03-16.2	Revocation and Limitation of Drilling Permits
43-02-03-16.3	Recovery of a Risk Penalty
43-02-03-17	Sign on Well
43-02-03-18	Drilling Units - Well Locations
43-02-03-18.1	Exception Location
43-02-03-19	Reserve Pit for Drilling Mud and Drill Cuttings - Reclamation of Surface
43-02-03-19.1	Fencing, Screening, and Netting of Pits
43-02-03-19.2	Disposal of Waste
43-02-03-19.3	Earthen Pits and Open Receptacles
43-02-03-20	Sealing Off Strata
43-02-03-21	Casing, Tubing, and Cementing Requirements
43-02-03-22	Defective Casing or Cementing
43-02-03-23	Blowout Prevention
43-02-03-24	Pulling String of Casing
43-02-03-25	Deviation Tests and Directional Surveys
43-02-03-26	Multiple Zone Completions
43-02-03-27	Perforating, Fracturing, and Chemically Treating Wells
43-02-03-28	Safety Regulation
43-02-03-29	Well and Lease Equipment
43-02-03-30	Notification of Fires, Leaks, Spills, or Blowouts
43-02-03-31	Well Log, Completion, and Workover Reports
43-02-03-32	Stratigraphic Test or Core Holes
43-02-03-33	Notice of Intention to Plug Well
43-02-03-34	Method of Plugging

43-02-03-35	Conversion of Mineral Wells to Freshwater Wells
43-02-03-36	Liability
43-02-03-37	Slush Pits [Repealed]
43-02-03-38	Preservation of Cores and Samples [Repealed]
43-02-03-38.1	Preservation of Cores and Samples
43-02-03-39	Limiting Gas-Oil Ratio
43-02-03-39.1	Oil Production Limitation
43-02-03-40	Gas-Oil Ratio Test
43-02-03-41	Subsurface Pressure Tests
43-02-03-42	Commingling of Oil From Pools
43-02-03-43	Control of Multiply Completed Wells [Repealed]
43-02-03-44	Metered Casinghead Gas
43-02-03-45	Vented Casinghead Gas
43-02-03-46	Use of Vacuum Pumps [Repealed]
43-02-03-47	Produced Water
43-02-03-48	Measurement of Oil
43-02-03-48.1	Central Production Facility - Commingling of Production
43-02-03-49	Oil Spills, Production Equipment, Dikes, and Seals
43-02-03-50	Tank Cleaning Permit
43-02-03-51	Treating Plant
43-02-03-52	Report of Oil Production
43-02-03-52.1	Report of Gas Produced in Association With Oil
43-02-03-53	Saltwater Handling Facilities
43-02-03-54	Investigative Powers
43-02-03-55	Abandonment of Wells - Suspension of Drilling
43-02-03-56	Underground Disposal of Water [Repealed]
43-02-03-57	Determination of Gas Well Potential
43-02-03-58	Method and Time of Shut-In Pressure Tests [Repealed]
43-02-03-59	Production From Gas Wells to Be Measured and Reported
43-02-03-60	Natural Gas Utilization [Repealed]
43-02-03-60.1	Valuation of Flared Gas
43-02-03-60.2	Flaring Exemption
43-02-03-61	Storage Gas
43-02-03-62	Carbon Dioxide, Coal Bed Methane, Helium, and Nitrogen
43-02-03-63	Regulation of Pools
43-02-03-64	Rate of Producing Wells
43-02-03-65	Authorization for Production, Purchase, and Transportation
43-02-03-66	Application for Allowable on New Oil Wells
43-02-03-67	Oil Proration
43-02-03-68	Gas-Oil Ratio Limitation
43-02-03-69	Allocation of Gas Production
43-02-03-70	Gas Proration Period
43-02-03-71	Adjustment of Gas Allowables
43-02-03-72	Gas Proration Units
43-02-03-73	Permit for Injection of Gas, Air, or Water [Repealed]
43-02-03-74	Casing and Cementing of Injection Wells [Repealed]
43-02-03-75	Notice of Commencement and Discontinuance of Injection Operations [Repealed]
43-02-03-76	Records [Repealed]

43-02-03-77	Application for Unitized Management Under Commission Order
43-02-03-78	Illegal Sale Prohibited [Repealed]
43-02-03-79	Purchase of Liquids From Gas Wells
43-02-03-80	Reports of Purchasers and Transporters of Crude Oil
43-02-03-81	Authorization to Transport Oil From a Well or Central Production Facility
43-02-03-81.1	Reports of Purchases for Resale and Transporting of Dry Gas
43-02-03-82	Refinery Reports
43-02-03-83	Gas Processing Plant Reports
43-02-03-84	Additional Information May Be Required
43-02-03-85	Books and Records to Be Kept to Substantiate Reports
43-02-03-86	Public Hearing Required [Repealed]
43-02-03-87	Institute Proceedings [Repealed]
43-02-03-88	Application for Hearing
43-02-03-88.1	Special Procedures for Pooling, Flaring Exemption, Underground Injection, Commingling, Converting Mineral Wells to Freshwater Wells, and Central Tank Battery or Central Production Facilities Applications
43-02-03-88.2	Hearing Participants by Telephone
43-02-03-89	Upon Application Hearing Is Set [Repealed]
43-02-03-90	Hearings - Complaint Proceedings - Emergency Proceedings - Other Proceedings
43-02-03-90.1	Investigatory Hearings
43-02-03-90.2	Official Notice
43-02-03-90.3	Petitions for Review of Recommended Order and Oral Arguments Prohibited
43-02-03-90.4	Notice of Order by Mail
43-02-03-90.5	Service and Filing
43-02-03-91	Rehearing [Repealed]
43-02-03-92	Burden of Proof [Repealed]
43-02-03-93	Designation of Examiners
43-02-03-94	Matters to Be Heard by Examiner [Repealed]
43-02-03-95	Powers and Duties of Examiner
43-02-03-96	Matters Heard by Commission [Repealed]
43-02-03-97	Examiner Disinterested Umpire [Repealed]
43-02-03-98	Report of Examiner
43-02-03-99	Commission Order From Examiner Hearing
43-02-03-100	Hearing De Novo Before Commission [Repealed]
43-02-03-101	Prehearing Motion Practice

43-02-03-01. Definitions. The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 38-08 except:

1. "Adjusted allowable" means the allowable production a proration unit receives after all adjustments are applied.

2. "Allocated pool" is one in which the total oil or natural gas production is restricted and allocated to various proration units therein in accordance with proration schedules.
3. "Allowable production" means that number of barrels of oil or cubic feet of natural gas authorized to be produced from the respective proration units in an allocated pool.
4. "Barrel" means forty-two United States gallons [158.99 liters] measured at sixty degrees Fahrenheit [15.56 degrees Celsius] and fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter].
5. "Barrel of oil" means forty-two United States gallons [158.99 liters] of oil after deductions for the full amount of basic sediment, water, and other impurities present, ascertained by centrifugal or other recognized and customary test.
6. "Bottom hole or subsurface pressure" means the pressure in pounds per square inch gauge under conditions existing at or near the producing horizon.
7. "Bradenhead gas well" means any well capable of producing gas through wellhead connections from a gas reservoir which has been successfully cased off from an underlying oil or gas reservoir.
8. "Casinghead gas" means any gas or vapor, or both gas and vapor, indigenous to and produced from a pool classified as an oil pool by the commission.
9. "Certified or registered mail" means any form of service by the United States postal service, federal express, Pitney Bowes, and any other commercial, nationwide delivery service that provides the mailer with a document showing the date of delivery or refusal to accept delivery.
10. "Common purchaser for natural gas" means any person now or hereafter engaged in purchasing, from one or more producers, gas produced from gas wells within each common source of supply from which it purchases, for processing or resale.
11. "Common purchaser for oil" means every person now engaged or hereafter engaging in the business of purchasing oil in this state.
12. "Common source of supply" is synonymous with pool and is a common accumulation of oil or gas, or both, as defined by commission orders.
13. "Completion" means an oil well shall be considered completed when the first oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run. A gas well shall be

considered complete when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after casing has been run. A dry hole shall be considered complete when all provisions of plugging are complied with as set out in this chapter.

14. "Condensate" means the liquid hydrocarbons recovered at the surface that result from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.
15. "Cubic foot of gas" means that volume of gas contained in one cubic foot [28.32 liters] of space and computed at a pressure of fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter] at a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius].
16. "Director" means the director of oil and gas of the industrial commission, the assistant director of oil and gas of the industrial commission, and their designated representatives.
17. "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool, which artificial means or application includes pressuring, cycling, pressure maintenance, or injection to the pool of a substance or form of energy but does not include the injection in a well of a substance or form of energy for the sole purpose of:
 - a. Aiding in the lifting of fluids in the well; or
 - b. Stimulation of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.
18. "Exception well location" means a location which does not conform to the general spacing requirements established by the rules or orders of the commission but which has been specifically approved by the commission.
19. "Gas lift" means any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.
20. "Gas-oil ratio" means the ratio of the gas produced in cubic feet to a barrel of oil concurrently produced during any stated period.
21. "Gas-oil ratio adjustment" means the reduction in allowable of a high gas-oil ratio proration unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.
22. "Gas transportation facility" means a pipeline in operation serving one or more gas wells for the transportation of natural gas, or some other

device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported.

23. "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the commission.
24. "High gas-oil ratio proration unit" means a proration unit with a producing oil well with a gas-oil ratio in excess of the limiting gas-oil ratio for the pool.
25. "Injection or input well" means any well used for the injection of air, gas, water, or other fluids into any underground stratum.
26. "Limiting gas-oil ratio" means the gas-oil ratio assigned by the commission to a particular oil pool to limit the volumes of casinghead gas which may be produced from the various oil-producing units within that particular pool.
27. "Log or well log" means a systematic, detailed, and correct record of formations encountered in the drilling of a well, including commercial electric logs, radioactive logs, dip meter logs, and other related logs.
28. "Multiple completion" means the completion of any well so as to permit the production from more than one common source of supply.
29. "Natural gas or gas" means and includes all natural gas and all other fluid hydrocarbons not herein defined as oil.
30. "Occupied dwelling" or "permanently occupied dwelling" means a residence which is lived in by a person at least six months throughout a calendar year.
31. "Official gas-oil ratio test" means the periodic gas-oil ratio test made by order of the commission and by such method and means and in such manner as prescribed by the commission.
32. "Offset" means a well drilled on a forty-acre [16.19-hectare] tract cornering or contiguous to a forty-acre [16.19-hectare] tract having an existing oil well, or a well drilled on a one hundred sixty-acre [64.75-hectare] tract cornering or contiguous to a one hundred sixty-acre [64.75-hectare] tract having an existing gas well; provided, however, that for wells subject to a fieldwide spacing order, "offset" means any wells located on spacing units cornering or contiguous to the spacing unit or well which is the subject of an inquiry or a hearing.
33. "Oil well" means any well capable of producing oil or oil and casinghead gas from a common source of supply as determined by the commission.

34. "Operator" is the principal on the bond covering a well and such person shall be responsible for drilling, completion, and operation of the well, including plugging and reclamation of the well site.
35. "Overage or overproduction" means the amount of oil or the amount of natural gas produced during a proration period in excess of the amount authorized on the proration schedule.
36. "Potential" means the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the commission.
37. "Pressure maintenance" means the injection of gas or other fluid into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.
38. "Proration day" consists of twenty-four consecutive hours which shall begin at seven a.m. and end at seven a.m. on the following day.
39. "Proration month" means the calendar month which shall begin at seven a.m. on the first day of such month and end at seven a.m. on the first day of the next succeeding month.
40. "Proration schedule" means the periodic order of the commission authorizing the production, purchase, and transportation of oil or of natural gas from the various units of oil or of natural gas proration in allocated pools.
41. "Proration unit for gas" consists of such geographical area as may be prescribed by special pool rules issued by the commission.
42. "Recomplete" means the subsequent completion of a well in a different pool.
43. "Reservoir" means pool or common source of supply.
44. "Saltwater handling facility" means and includes any container such as a pit, tank, or pool, whether covered or uncovered, used for the handling, storage, disposal of deleterious substances obtained, or used, in connection with the drilling or operation of wells.
45. "Shut-in pressure" means the pressure noted at the wellhead when the well is completely shut in, not to be confused with bottom hole pressure.
46. "Spacing unit" is the area in each pool which is assigned to a well for drilling, producing, and proration purposes in accordance with the commission's rules or orders.
47. "Stratigraphic test well" means any well or hole, except a seismograph shot hole, drilled for the purpose of gathering information in connection

with the oil and gas industry with no intent to produce oil or gas from such well.

48. "Tank bottoms" means that accumulation of hydrocarbon material and other substances which settle naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains basic sediment and water in an amount rendering it unsalable to an ordinary crude oil purchaser; provided, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet thereto.
49. "Treating plant" means any plant permanently constructed or portable used for the purpose of wholly or partially reclaiming, treating, processing, or in any manner making tank bottoms or any other waste oils marketable.

History: Amended effective January 1, 1983; May 1, 1992; July 1, 1996; December 1, 1996; September 1, 2000; July 1, 2002; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-02. Scope of chapter. This chapter contains general rules of statewide application which have been adopted by the industrial commission to conserve the natural resources of North Dakota, to prevent waste, and to provide for operation in a manner as to protect correlative rights of all owners of crude oil and natural gas. Special rules, pool rules, field rules, and regulations and orders have been and will be issued when required and shall prevail as against general rules, regulations, and orders if in conflict therewith. However, wherever this chapter does not conflict with special rules heretofore or hereafter adopted, this chapter will apply in each case. The commission may grant exceptions to this chapter, after due notice and hearing, when such exceptions will result in the prevention of waste and operate in a manner to protect correlative rights.

History: Amended effective May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-03. Promulgation of rules, regulations, or orders. Repealed effective January 1, 1983.

43-02-03-04. Emergency rule, regulation, or order. Repealed effective January 1, 1983.

43-02-03-05. Enforcement of laws, rules, and regulations dealing with conservation of oil and gas. The commission, its agents, representatives, and employees are charged with the duty and obligation of enforcing all rules and statutes of North Dakota relating to the conservation of oil and gas. However,

it shall be the responsibility of all the owners or operators to obtain information pertaining to the regulation of oil and gas before operations have begun.

The director may shut in, for no more than forty days, any well that is likely to cause a serious threat of pollution or injury to the public health or safety.

History: Amended effective May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-06. Waste prohibited. All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, or other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging, and site reclamation of oil and gas wells in a manner that will prevent waste.

History: Amended effective January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-03

Law Implemented: NDCC 38-08-03

43-02-03-07. United States government leases. The commission recognizes that all persons drilling and producing on United States government land shall comply with the United States government regulations. Such persons shall also comply with all applicable state rules and regulations. Copies of the sundry notices, reports on wells, and well data required by this chapter of the wells on United States government land shall be furnished to the commission at no expense to the commission. Federal forms may be used when filing such notices and reports except for reporting the plugging and abandonment of a well. In such instance, the plugging record (form 7) must be filed with the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1994.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-08. Classifying and defining pools. Repealed effective January 1, 1983.

43-02-03-09. Forms upon request. Forms for written notices, requests, and reports required by the commission will be furnished upon request. These forms shall be of such nature as prescribed by the commission to cover proposed work and to report the results of completed work.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-10. Authority to cooperate with other agencies. The commission may from time to time enter into arrangements with state and federal

government agencies, industry committees, and individuals with respect to special projects, services, and studies relating to conservation of oil and gas.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-11. Organization reports. Every person acting as principal or agent for another or independently engaged in the drilling of oil or gas wells, or in the production, storage, transportation, refining, reclaiming, treating, marketing, or processing of crude oil or natural gas in North Dakota shall immediately file with the director the name under which such business is being conducted or operated; and name and post-office address of such person, the business or businesses in which the person is engaged; the plan of organization, and in case of a corporation, the law under which it is chartered; and the names and post-office addresses of any person acting as trustee, together with the names and post-office addresses of any officials thereof on an organization report (form 2). In each case where such business is conducted under an assumed name, such organization report shall show the names and post-office addresses of all owners in addition to the other information required. A new organization report shall be filed when and if there is a change in any of the information contained in the original report.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-12. Reservoir surveys. By special order of the commission, periodic surveys may be made of the reservoirs in this state containing oil and gas. These surveys will be thorough and complete and shall be made using methods approved by the director. The condition of the reservoirs containing oil and gas and the practices and methods employed by the operators shall be investigated. The produced volume and source of crude oil and natural gas, the reservoir pressure of the reservoir as an average, the areas of regional or differential pressure, stabilized gas-oil ratios, and the producing characteristics of the field as a whole and the individual wells within the field shall be specifically included.

All operators of oil wells are required to permit and assist the agents of the commission in making any and all special tests that may be required by the commission on any or all wells.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-13. Record of wells. The director shall maintain a record of official well names, to be known as the well-name register, in which shall be entered: (1) the name and location of each well; (2) the well file number; (3) the name of the

operator, or the operator's agent; and (4) any subsequent name or names assigned to the well and approved by the director.

The last name assigned to a well in the well-name register shall be the official name of the well, and the one by which it shall be known and referred to.

The director may, at the director's discretion, grant or refuse an application to change the official name. The application shall be accompanied by a fee of twenty-five dollars, which fee is established to cover the expense of recording the change. If the application is refused, the fee shall be refunded.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-14. Access to records. The commission, director, and their representatives shall have access to all well records wherever located. All owners, operators, drilling contractors, drillers, service companies, or other persons engaged in drilling, completing, producing, or servicing wells shall permit the commission, director, and their representatives to come upon any lease, property, well, or drilling rig operated or controlled by them, complying with state safety rules, and to inspect the records and operation of such wells, and to have access at all times to any and all records of wells. If requested, copies of such records must be filed with the commission. The confidentiality of any data submitted which is confidential pursuant to subsection 6 of North Dakota Century Code section 38-08-04 and section 43-02-03-31 must be maintained.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-14.1. Verification of certified welders. Repealed effective July 1, 1996.

43-02-03-14.2. Oil and gas metering systems.

1. **Application of section.** This section is applicable to all metering stations measuring production from oil and gas wells within the state of North Dakota, including private, state, and federal wells. If these rules differ from federal requirements on measurement of production from federal oil and gas wells, the federal rules take precedence.
2. **Definitions.** As used in this section:
 - a. "Allocation meter" means a meter used by the producer to determine the volume from an individual well before it is commingled with production from one or more other wells prior to the custody transfer point.

- b. "Calibration test" means the process or procedure of adjusting an instrument, such as a gas meter, so its indication or registration is in satisfactorily close agreement with a reference standard.
 - c. "Custody transfer meter" means a meter used to transfer oil or gas from the producer to transporter or purchaser.
 - d. "Gas gathering meter" means a meter used in the custody transfer of gas into a gathering system.
 - e. "Meter factor" means a number obtained by dividing the net volume of fluid (liquid or gaseous) passed through the meter during proving by the net volume registered by the meter.
 - f. "Metering proving" means the procedure required to determine the relationship between the true volume of a fluid (liquid or gaseous) measured by a meter and the volume indicated by the meter.
3. **Inventory filing requirements.** The owner of metering equipment shall file with the commission an inventory of all meters used for custody transfer and allocation of production from oil or gas wells, or both. Inventories must be updated on an annual basis, and filed with the commission on or before the first day of each year, or they may be updated as frequently as monthly, at the discretion of the operator. Inventories must include the following:
- a. Well name and legal description of location or meter location if different.
 - b. North Dakota industrial commission well file number.
 - c. Meter information:
 - (1) Gas meters:
 - (a) Make and model.
 - (b) Differential, static, and temperature range.
 - (c) Orifice tube size (diameter).
 - (d) Meter station number.
 - (2) Oil meters:
 - (a) Make and model.
 - (b) Size.

(c) Meter station number.

4. **Installation and removal of meters.** The commission must be notified of all custody transfer meters placed in service. The owner of the custody transfer equipment shall notify the commission of the date a meter is placed in service, the make and model of the meter, and the meter or station number. The commission must also be notified of all metering installations removed from service. The notice must include the date the meter is removed from service and the meter or station number. The required notices must be filed with the commission within thirty days of the installation or removal of a meter.

All allocation meters must be approved prior to installation and use. The application for approval must be on a sundry notice (form 4) and shall include the make and model number of the meter, the meter or station number, the well name, its location, and the date the meter will be placed in service.

Meter installations for measuring production from oil or gas wells, or both, must be constructed to American petroleum institute or American gas association standards or to meter manufacturer's recommended installation. Meter installations constructed in accordance with American petroleum institute or American gas association standards in effect at the time of installation shall not automatically be required to retrofit if standards are revised. The commission will review any revised standards, and when deemed necessary will amend the requirements accordingly.

5. **Registration of persons proving or testing meters.** All persons engaged in meter proving or testing of oil and gas meters must be registered with the commission. Those persons involved in oil meter testing, by flowing fluid through the meter into a test tank and then gauging the tank, are exempted from the registration process. However, such persons must notify the commission prior to commencement of the test to allow a representative of the commission to witness the testing process. A report of the results of such test shall be filed with the commission within thirty days after the test is completed. Registration must include the following:

- a. Name and address of company.
- b. Name and address of measurement personnel.
- c. Qualifications, listing experience or specific training.

Any meter tests performed by a person not registered with the commission will not be accepted as a valid test.

6. **Calibration requirements.** Oil and gas metering equipment must be proved or tested to American petroleum institute or American gas association standards or to the meter manufacturer's recommended procedure to establish a meter factor or to ensure measurement accuracy. The owner of a custody transfer meter or allocation meter shall notify the commission at least ten days prior to the testing of any meter.
- a. Oil allocation meter factors shall be maintained within two percent of original meter factor. If the factor change between provings or tests is greater than two percent, the meter must be repaired or adjusted and tested within forty-eight hours of repair or replaced.
 - b. Copies of all oil allocation meter test procedures are to be filed with and reviewed by the commission to ensure measurement accuracy.
 - c. All gas meters must be tested with a minimum of a three-point test for static and differential pressure elements and a two-point test for temperature elements. The test reports must include an as-found and as-left test and a detailed report of changes.
 - d. Test reports must include the following:
 - (1) Producer name.
 - (2) Lease name.
 - (3) Pipeline company or company name of test contractor.
 - (4) Test personnel's name.
 - (5) Station or meter number.
 - e. Unless required more often by the director, minimum frequency of meter proving or calibration tests are as follows:
 - (1) Oil meters used for custody transfer shall be proved monthly for all measured volumes which exceed two thousand barrels per month. For volumes two thousand barrels or less per month, meters shall be proved at each two thousand barrel interval or more frequently at the discretion of the operator.
 - (2) Quarterly for oil meters used for allocation of production.
 - (3) Semiannually for gas meters used for allocation of production.
 - (4) Semiannually for gas meters in gas gathering systems.

- (5) For meters measuring more than one hundred thousand cubic feet [2831.68 cubic meters] per day on a monthly basis, orifice plates shall be inspected semiannually, and meter tubes shall be inspected at least every five years to ensure continued conformance with the American gas association meter tube specifications.
 - (6) For meters measuring one hundred thousand cubic feet [2831.68 cubic meters] per day or less on a monthly basis, orifice plates shall be inspected annually.
- f. Meter test reports must be filed within thirty days of completion of proving or calibration tests unless otherwise approved. Test reports are to be filed on, but not limited to, all meters used for allocation measurement of oil or gas and all meters used in crude oil custody transfer.
 - g. Accuracy of all equipment used to test oil or gas meters must be traceable to the standards of the national institute of standards and technology. The equipment must be certified as accurate either by the manufacturer or an independent testing facility. The certificates of accuracy must be made available upon request. Certification of the equipment must be updated as follows:
 - (1) Annually for all equipment used to test the pressure and differential pressure elements.
 - (2) Annually for all equipment used to determine temperature.
 - (3) Biennially for all conventional pipe provers.
 - (4) Annually for all master meters.
 - (5) Five years for equipment used in orifice tube inspection.
 7. **Variances.** Variances from all or part of this section may be granted by the commission on the basis of economic necessity providing the variance does not affect measurement accuracy. All requests for variances must be on a sundry notice (form 4).

A register of variances requested and approved must be maintained by the commission.

History: Effective May 1, 1994; amended effective July 1, 1996; September 1, 2000; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-15. Bond and transfer of wells.

1. **Bond requirements.** Prior to commencing drilling operations, any person who proposes to drill a well for oil, gas, or injection shall submit to the commission, and obtain its approval, a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of such well shall be the principal on the bond covering the well. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

2. **Bond amounts and limitations.** The bond shall be in the amount of twenty thousand dollars when applicable to one well only. Wells drilled to a total depth of less than two thousand feet [609.6 meters] may be bonded in a lesser amount if approved by the director. When the principal on the bond is drilling or operating a number of wells within the state or proposes to do so, the principal may submit a bond conditioned as provided by law. A blanket bond covering ten wells or less shall be in the amount of fifty thousand dollars provided the bond shall be limited to no more than three of the following in aggregate and a blanket bond covering more than ten wells shall be in the amount of one hundred thousand dollars, provided the bond shall be limited to no more than six of the following in aggregate:
 - a. A well that is a dry hole and is not properly plugged;
 - b. A well that is plugged and the site is not properly reclaimed; and
 - c. A well that is abandoned pursuant to section 43-02-03-55 and is not properly plugged and the site is not properly reclaimed.

If this aggregate of wells is reached, all well permits, for which drilling has not commenced, held by the principal of such bond are suspended. No rights may be exercised under the permits until the aggregate of wells drops below the required limit, or the operator files the appropriate bond to cover the permits, at which time the rights given by the drilling permits are reinstated. A well with an approved temporary abandoned status shall have the same status as an oil, gas, or injection well. The commission may, after notice and hearing, require higher bond amounts than those referred to in this section. Such additional amounts for bonds must be related to the economic value of the well or wells and the expected cost of plugging and well site reclamation, as determined by the commission. The commission may refuse to accept a bond or to add wells to a blanket bond if the operator or surety company has failed in the past to comply with statutes, rules, or orders relating to the operation of wells; if a civil or administrative action brought by the commission is pending against the operator or surety company; or for other good cause.

3. **Unit bond requirements.** Prior to commencing unit operations, the operator of any area under unitized management shall submit to the

commission, and obtain its approval, a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The operator of the unit shall be the principal on the bond covering the unit. The amount of the bond shall be specified by the commission in the order approving the plan of unitization. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota.

Prior to transfer of a unit to a new operator, the commission, after notice and hearing, may revise the bond amount for a unit, or in the case when the unit was not previously bonded, the commission may require a bond and set a bond amount for the unit.

4. **Bond terms.** Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-08, and all administrative rules and orders of the commission. It shall be a plugging bond, as well as a drilling bond, and is to endure up to and including approved plugging of all oil, gas, and injection wells as well as dry holes. Approved plugging shall also include practical reclamation of the well site and appurtenances thereto. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.
5. **Transfer of wells under bond.** Transfer of property does not release the bond. In case of transfer of property or other interest in the well and the principal desires to be released from the bond covering the well, such as producers, not ready for plugging, the principal must proceed as follows:
 - a. The principal must notify the director, in writing, of all proposed transfers of wells at least thirty days before the closing date of the transfer. The director may, for good cause, waive this requirement.

The principal shall submit to the commission a form 15 reciting that a certain well, or wells, describing each well by quarter-quarter, section, township, and range, is to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form signed by a party duly authorized to sign on behalf of the principal.

On said transfer form the transferee shall recite the following: "The transferee has read the foregoing statement and does accept such transfer and does accept the responsibility of such well under the transferee's one-well bond or, as the case may be, does accept the responsibility of such wells under the transferee's blanket bond, said bond being tendered to or on file with the commission." Such acceptance must likewise be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

- b. When the commission has passed upon the transfer and acceptance and accepted it under the transferee's bond, the transferor shall be released from the responsibility of plugging the well and site reclamation. If such wells include all the wells within the responsibility of the transferor's bond, such bond will be released by the commission upon written request. Such request must be signed by an officer of the transferor or a person authorized to sign for the transferor. The director may refuse to transfer any well from a bond if the well is in violation of a statute, rule, or order.
 - c. The transferee (new operator) of any oil, gas, or injection well shall be responsible for the plugging and site reclamation of any such well. For that purpose the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue and attach to such well. The original or prior bond shall not be released as to the plugging and reclamation responsibility of any such transferor until the transferee shall submit to the commission an acceptable bond to cover such well. All liability on bonds shall continue until the plugging and site reclamation of such wells is completed and approved.
6. **Treating plant bond.** Prior to the commencement of operations, any person proposing to operate a treating plant must submit to the commission and obtain its approval of a surety bond or cash bond. An alternative form of security may be approved by the commission after notice and hearing, as provided by law. The person responsible for the operation of the plant shall be the principal on the bond. Each surety bond shall be executed by a responsible surety company authorized to transact business in North Dakota. The amount of the bond must be as prescribed in section 43-02-03-51. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security. If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.
7. **Bond termination.** The commission shall, in writing, advise the principal and any sureties on any bond as to whether the plugging and reclamation is approved. If approved, liability under such bond may be formally terminated upon receipt of a written request by the principal. The request must be signed by an officer of the principal or a person authorized to sign for the principal.
8. **Director's authority.** The director is vested with the power to act for the commission as to all matters within this section, except requests

for alternative forms of security, which may only be approved by the commission.

History: Amended effective April 30, 1981; March 1, 1982; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; December 1, 1996; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-16. Application for permit to drill and recomplete. Before any person shall begin any well-site preparation for the drilling of any well other than surveying and staking, such person shall file an application for permit to drill (form 1) with the director, together with a permit fee of one hundred dollars. Verbal approval may be given for site preparation by the director in extenuating circumstances. No drilling activity shall commence until such application is approved and a permit to drill is issued by the director. The application must be accompanied by the bond pursuant to section 43-02-03-15 or the applicant must have previously filed such bond with the commission, otherwise the application is incomplete. An incomplete application received by the commission has no standing and will not be deemed filed until it is completed.

The application for permit to drill shall be accompanied by an accurate plat certified by a registered surveyor showing the location of the proposed well with reference to the nearest lines of a governmental section. The plat shall also include latitude and longitude of the proposed well location to the nearest tenth of a second. Information to be included in such application shall be the proposed depth to which the well will be drilled, estimated depth to the top of important markers, estimated depth to the top of objective horizons, the proposed mud program, the proposed casing program, including size and weight thereof, the depth at which each casing string is to be set, and the proposed amount of cement to be used, including the estimated top of cement.

Prior to the commencement of recompletion operations or drilling horizontally in the existing pool, an application for permit shall be filed with the director. Included in such application shall be the notice of intention (form 4) to reenter a well by drilling horizontally, deepening, or plugging back to any source of supply other than the producing horizon in an existing well. Such notice shall include the name and file number and exact location of the well, the approximate date operations will begin, the proposed procedure, the estimated completed total depth, the casing program to be followed, and the original total depth with a permit fee of fifty dollars.

The applicant shall provide all information, in addition to that specifically required by this section, if requested by the director. The director may impose such terms and conditions on the permits issued under this section as the director deems necessary.

The director shall deny an application for a permit under this section if the proposal would cause, or tend to cause, waste or violate correlative rights. The

director of oil and gas shall state in writing to the applicant the reason for the denial of the permit. The applicant may appeal the decision of the director to the commission.

A permit to drill automatically expires one year after the date it was issued, unless the well is drilling or has been drilled below surface casing. A permit to recomplete or to drill horizontally automatically expires one year after the date it was issued, unless such project has commenced.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; September 1, 2000; July 1, 2002.

General Authority: NDCC 38-08-05

Law Implemented: NDCC 38-08-05

43-02-03-16.1. Designation and responsibilities of operator. The principal on the bond covering a well is the operator of the well. The operator is responsible for compliance with all laws relating to the well and well site. A dispute over designation of the operator of a well may be addressed by the commission. In doing so, the factors the commission may consider include those set forth in subsection 1 of section 43-02-03-16.2.

History: Effective December 1, 1996.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-16.2. Revocation and limitation of drilling permits.

1. After notice and hearing, the commission may revoke a drilling, recompletion, or reentry permit or limit its duration. The commission may act upon its own motion or upon the application of an owner in the spacing or drilling unit. In deciding whether to revoke or limit a permit, the factors that the commission may consider include:
 - a. The technical ability of the permitholder and other owners to drill and complete the well.
 - b. The experience of the permitholder and other owners in drilling and completing similar wells.
 - c. The number of wells in the area operated by the permitholder and other owners.
 - d. Whether drainage of the spacing or drilling unit has occurred or is likely to occur in the immediate future and whether the permitholder has committed to drill a well in a timely fashion.
 - e. Contractual obligations such as an expiring lease.

- f. The amount of ownership the permitholder and other owners hold in the spacing or drilling unit. If the permitholder is the majority owner in the unit or if its interest when combined with that of its supporters is a majority of the ownership, it is presumed that the permitholder should retain the permit. This presumption, even if not rebutted, does not prohibit the commission from limiting the duration of the permit. However, if the amount of the interest owned by the owner seeking revocation or limitation and its supporters are a majority of the ownership, the commission will presume that the permit should be revoked.
2. The commission may suspend a permit that is the subject of a revocation or limitation proceeding. A permit will not be suspended or revoked after operations have commenced.
3. If the commission revokes a permit upon the application of an owner and issues a permit to that owner or to another owner who supported revocation, the commission may limit the duration of such permit. The commission may also, if the parties fail to agree, order the owner acquiring the permit to pay reasonable costs incurred by the former permitholder and the conditions under which payment is to be made. The costs for which reimbursement may be ordered may include those involving survey of the well site, title search of surface and mineral title, and preparation of an opinion of mineral ownership.
4. If the commission declines to revoke a permit or limit the time within which it must be exercised, it may include a term in its order restricting the ability of the permitholder to renew the permit or to acquire another permit within the same spacing or drilling unit.

History: Effective December 1, 1996; amended effective January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-16.3. Recovery of a risk penalty. The following govern the recovery of the risk penalty pursuant to subsection 3 of North Dakota Century Code section 38-08-08 and subsection 3 of North Dakota Century Code section 38-08-09.4:

1. An owner may recover the risk penalty under the provisions of subsection 3 of North Dakota Century Code section 38-08-08, provided the owner gives, to the owner from whom the penalty is sought, a written invitation to participate in the risk and cost of drilling a well, including reentering a plugged and abandoned well, or the risk and cost of reentering an existing well to drill deeper or a horizontal lateral. If the nonparticipating owner's interest is not subject to a lease or other contract for development, an owner seeking to recover a risk penalty must also make a good-faith attempt to have the unleased owner execute a lease.

- a. The invitation to participate in drilling must contain the following:
 - (1) The location of the proposed or existing well and its proposed depth and objective zone.
 - (2) An itemization of the estimated costs of drilling and completion.
 - (3) The approximate date upon which the well was or will be spudded or reentered.
 - (4) The time within which the invitation must be accepted. At least thirty days should be given, for it is presumed that at least thirty days is needed to adequately consider and respond to an invitation. In unusual circumstances, however, the owner seeking the risk penalty may allow less than thirty days in which to respond to the invitation, but in no circumstances may less than fifteen days be allowed.
 - (5) Notice that the participating owners plan to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty, or if no such petition has been filed, by filing an application or request for hearing with the commission.
 - b. An election to participate must be in writing.
 - c. An invitation to participate and an election to participate must be served personally, by mail requiring a signed receipt, by facsimile transmission followed within one business day by mailing, or by overnight courier or delivery service requiring a signed receipt. Failure to accept mail requiring a signed receipt constitutes service.
 - d. An election to participate is only binding upon an owner electing to participate if the well is spudded or reentry operations are commenced on or before ninety days after the date the owner extending the invitation to participate sets as the date upon which a response to the invitation is to be received. It also expires if the permit to drill or reenter expires without having been exercised. If an election to participate lapses, a risk penalty can only be collected if the owner seeking it again complies with the provisions of this section.
2. An owner may recover the risk penalty under the provisions of subsection 3 of North Dakota Century Code section 38-08-09.4, provided the owner gives, to the owner from whom the penalty is sought, a written invitation to participate in the unit expense. If the nonparticipating owner's interest is not subject to a lease or other contract for development, an owner seeking to recover a risk penalty

must also make a good-faith attempt to have the unleased owner execute a lease.

- a. The invitation to participate in the unit expense must contain the following:
 - (1) A description of the proposed unit expense, including the location, objectives, and plan of operation.
 - (2) An itemization of the estimated costs.
 - (3) The approximate date upon which the proposal was or will be commenced.
 - (4) The time within which the invitation must be accepted. At least thirty days should be given, for it is presumed that at least thirty days is needed to adequately consider and respond to an invitation. In unusual circumstances, however, the owner seeking the risk penalty may allow less than thirty days in which to respond to the invitation, but in no circumstances may less than fifteen days be allowed.
 - (5) Notice that the participating owners plan to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty, or if no such petition has been filed, by filing an application or request for hearing with the commission.
- b. An election to participate must be in writing.
- c. An invitation to participate and an election to participate must be served personally, by mail requiring a signed receipt, by facsimile transmission followed within one business day by mailing, or by overnight courier or delivery service requiring a signed receipt. Failure to accept mail requiring a signed receipt constitutes service.
- d. An election to participate is only binding upon an owner electing to participate if the unit expense is commenced within ninety days after the date the owner extending the invitation request to participate sets as the date upon which a response to the request invitation is to be received. If an election to participate lapses, a risk penalty can only be collected if the owner seeking it again complies with the provisions of this section.
- e. An invitation to participate in a unit expense covering monthly operating expenses shall be effective for all such monthly operating expenses for a period of five years if the unit expense identified in the invitation to participate is first commenced within ninety days after the date set in the invitation to participate as the date upon

which a response to the invitation to participate must be received. An election to participate in a unit expense covering monthly operating expenses is effective for five years after operations are first commenced. If an election to participate in a unit expense comprised of monthly operating expenses expires or lapses after five years, a risk penalty may only be assessed and collected if the owner seeking the penalty once again complies with this section.

3. Upon its own motion or the request of a party, the commission may include in a pooling order requirements relating to the invitation and election to participate, in which case the pooling order will control to the extent it is inconsistent with this section.

History: Effective December 1, 1996; amended effective May 1, 2004; January 1, 2006; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04, 38-08-08

43-02-03-17. Sign on well. Every well associated with the production of oil and gas except plugged wells shall be identified by a sign posted on the derrick or not more than twenty feet [6.10 meters] from the well. The sign shall be of durable construction and the lettering thereon shall be kept in a legible condition and shall be large enough to be legible under normal conditions at a distance of fifty feet [15.24 meters]. The wells on each lease or property shall be numbered in nonrepetitive sequence, unless some other system of numbering was adopted by the owner prior to the adoption of this chapter. Each sign must show the well name and number (which shall be different or distinctive for each well), the name of the operator, file number, and the location by quarter-quarter, section, township, and range.

Existing well identification signs that are otherwise in accord with this section except that well locations are shown by quarter section rather than quarter-quarter section or show the permit number rather than the file number shall be allowed to remain.

History: Amended effective January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-18. Drilling units - Well locations. In the absence of an order by the commission setting spacing units for a pool:

1. a. Vertical or directional oil wells projected to a depth not deeper than the Mission Canyon formation shall be drilled upon a governmental quarter-quarter section or equivalent lot, located not less than five hundred feet [152.4 meters] to the boundary of such governmental quarter-quarter section or equivalent lot. No more than one well shall be drilled to the same pool on any such governmental quarter-quarter section or equivalent lot, except by order of the commission, nor shall any well be drilled on any such

governmental quarter-quarter section or equivalent lot containing less than thirty-six acres [14.57 hectares] except by order of the commission.

- b. Vertical or directional oil wells projected to a depth deeper than the Mission Canyon formation shall be drilled on a governmental quarter section or equivalent lots, located not less than six hundred sixty feet [201.17 meters] to the boundary of such governmental quarter section or equivalent lots. No more than one well shall be drilled to the same pool on any such governmental quarter section or equivalent lots, except by order of the commission, nor shall any well be drilled on any such governmental quarter section or equivalent lots containing less than one hundred forty-five acres [58.68 hectares] except by order of the commission.
2. Horizontal wells with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least five hundred feet [152.4 meters], must be drilled upon a drilling unit described as a governmental section or described as two adjacent governmental quarter sections within the same section or equivalent lots, located not less than five hundred feet [152.4 meters] to the outside boundary of such tract. The horizontal well proposed to be drilled must, in the director's opinion, justify the creation of such drilling unit. No more than one well may be drilled to the same pool on any such tract, except by order of the commission.
3.
 - a. Gas wells projected to a depth not deeper than the Mission Canyon formation shall be drilled upon a governmental quarter section or equivalent lots, located not less than five hundred feet [152.4 meters] to the boundary of such governmental quarter section or equivalent lots. No more than one well shall be drilled to the same pool on any such governmental quarter section or equivalent lots, except by order of the commission, nor shall any well be drilled on any such governmental quarter section or equivalent lot containing less than one hundred forty-five acres [14.57 hectares] except by order of the commission.
 - b. Gas wells projected to a depth deeper than the Mission Canyon formation shall be drilled upon a governmental quarter section or equivalent lots, located not less than six hundred sixty feet [201.17 meters] to the boundary of such governmental quarter section or equivalent lots. No more than one well shall be drilled to the same pool on any such governmental quarter section or equivalent lots, except by order of the commission, nor shall any well be drilled on any such governmental quarter section or equivalent lot containing less than one hundred forty-five acres [14.57 hectares] except by order of the commission.

4. Within thirty days, or a reasonable time thereafter, following the discovery of oil or gas in a pool not then covered by an order of the commission, a spacing hearing shall be docketed. Following such hearing the commission shall issue an order prescribing a temporary spacing pattern for the development of the pool. This order shall continue in force for a period of not more than eighteen months at the expiration of which time a hearing shall be held at which the commission may require the presentation of such evidence as will enable the commission to determine the proper spacing for the pool.

During the interim period between the discovery and the issuance of the temporary order, no permits shall be issued for the drilling of an offset well to the discovery well, unless approved by the director. Approval shall be consistent with anticipated spacing for the orderly development of the pool.

Any well drilled within one mile [1.61 kilometers] of an established field shall conform to the spacing requirements in that field except when it is apparent that the well will not produce from the same common source of supply. In order to assure uniform and orderly development, any well drilled within one mile [1.61 kilometers] of an established field boundary shall conform to the spacing and special field rules for the field, and for the purposes of spacing and pooling, the field boundary shall be extended to include the spacing unit for such well and any intervening lands. The foregoing shall not be applicable if it is apparent that the well will not produce from the same common source of supply as wells within the field.

5. If the director denies an application for permit, the director shall advise the applicant immediately of the reasons for denial. The decision of the director may be appealed to the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; July 1, 1996; July 1, 2002; January 1, 2006.

General Authority: NDCC 38-08-04, 38-08-07

Law Implemented: NDCC 38-08-04, 38-08-07

43-02-03-18.1. Exception location. If upon application for an exception location, the commission finds that a well drilled at the location prescribed by any applicable rule or order of the commission would not produce in paying quantities, that surface conditions would substantially add to the burden or hazard of such well, or that the drilling of such well at a location other than the prescribed location is otherwise necessary either to protect correlative rights, to prevent waste, or to effect greater ultimate recovery from oil and gas, the commission may enter an order, after notice and hearing, permitting the well to be drilled at a location other than that prescribed and shall include in such order suitable provisions to prevent the production from that well of more than its just and equitable share of the oil and gas in the pool. The application for an exception well location shall set forth the names of the lessees of adjoining properties and the names of any unleased mineral owners

of the adjoining properties. The application shall be accompanied by a plat or sketch accurately showing the property for which the exception well location is sought, the location of the proposed well, and all other completed and drilling wells on this property and on the adjoining properties. The applicant or its attorney shall certify that a copy of the application has been sent to all lessees and all unleased mineral owners of properties adjoining the tract which would be affected by the exception location. If the applicant is the lessee of adjoining tracts that would be affected by the exception, the applicant must give notice, as prescribed above, to its lessors of such tracts.

History: Effective January 1, 1983; amended effective May 1, 1990; May 1, 1994; July 1, 1996; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-07

Law Implemented: NDCC 38-08-04, 38-08-07

43-02-03-19. Reserve pit for drilling mud and drill cuttings - Reclamation of surface. In the construction of a drill site, access road, and all associated facilities, the topsoil shall be removed, stockpiled, and stabilized or otherwise reserved for use when the area is reclaimed. "Topsoil" means the suitable plant growth material on the surface; however, in no event shall this be deemed to be more than the top eight inches [20.32 centimeters] of soil.

In order to assure a supply of proper material or mud-laden fluid to confine oil, gas, or water to its native strata during the drilling of any well, each operator shall provide, before drilling is commenced, a container or reserve pit of sufficient size to contain said material or fluid, and the accumulation of drill cuttings. A reserve pit may be utilized to contain solids and fluids used and generated during well drilling and completion operations, providing the pit can be constructed, used and reclaimed in a manner that will prevent pollution of the land surface and freshwaters. In special circumstances, the director may prohibit construction of a reserve pit or may impose more stringent pit construction and reclamation requirements. Under no circumstances shall reserve pits be used for disposal, dumping, or storage of fluids, wastes, and debris other than drill cuttings and fluids used or recovered while drilling and completing the well.

Reserve pits shall not be located in, or hazardously near, bodies of water, nor shall they block natural drainages. No reserve pit shall be wholly or partially constructed in fill dirt unless approved by the director.

When required by the director, the reserve pit or site or appropriate parts thereof must be fenced.

1. Within a reasonable time, but not more than one year, after the completion of a well, the reserve pit shall be reclaimed. Prior to reclaiming the pit, the operator or the operator's agent shall file a sundry notice (form 4) with the director and obtain approval of a pit reclamation plan. Verbal approval to reclaim the pit may be given. The notice shall include, but not be limited to:

- a. The name and address of the reclamation contractor;
- b. The name and address of the surface owner;
- c. The location and name of the disposal site for the pit water; and
- d. A description of the proposed work, including details on treatment and disposition of the drilling waste.

All pit water and oil on the pit must be removed prior to reclamation. Drilling waste should be encapsulated in the pit and covered with at least four feet [1.22 meters] of backfill and topsoil and surface sloped, when practicable, to promote surface drainage away from the reclaimed pit area.

2. Within a reasonable time, but not more than one year, after a well is plugged, the well site, access road, and other associated facilities constructed for the well shall be reclaimed as closely as practicable to original condition, or in the case of a completed well, the unused portion of the site shall be reclaimed. Prior to site reclamation, the operator or the operator's agent shall file a sundry notice (form 4) with the director and obtain approval of a reclamation plan. Verbal approval to reclaim the site may be given. The notice shall include, but not be limited:
 - a. The name and address of the reclamation contractor;
 - b. The name and address of the surface owner;
 - c. A description of the proposed work, including reclamation plans for the access road and other associated facilities; and
 - d. Reseeding plans, if applicable.

All production equipment, waste, and debris shall be removed from the site. Flow lines shall be purged in a manner approved by the director. Flow lines shall be removed if buried less than three feet [91.44 centimeters] below final contour.

3. Gravel or other surfacing material shall be removed and the well site, access road, and other associated facilities constructed for the well shall be reshaped as near as is practicable to original contour.
4. The stockpiled topsoil shall be evenly distributed over the disturbed area, and where applicable the area revegetated with native species or according to the reasonable specifications of the appropriate government land manager or surface owner.
5. Within thirty days after completing any reclamation, the operator shall file a sundry notice with the director reporting the work performed.

6. The director, with the consent of the appropriate government land manager or surface owner, may waive the requirement of reclamation of the site and access road after a well is plugged.

History: Amended effective March 1, 1982; January 1, 1983; May 1, 1992; July 1, 2002; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-19.1. Fencing, screening, and netting of pits. All open pits and ponds which contain saltwater must be fenced. All pits and ponds which contain oil must be fenced, screened, and netted.

This is not to be construed as requiring the fencing, screening, or netting of a reserve pit or other earthen pit used solely for drilling, completing, recompleting, or plugging unless such pit is not reclaimed in excess of ninety days after completion of the operation.

History: Effective May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-19.2. Disposal of waste. All waste associated with exploration or production of oil and gas must be properly disposed of in an authorized facility in accord with all applicable local, state, and federal laws and regulations.

This is not to be construed as requiring the offsite disposal of drilling mud or drill cuttings associated with the drilling of a well. However, top water remaining in the reserve pit used in the drilling and completion operations is to be removed from the reserve pit and disposed of in an authorized disposal well or used in a manner approved by the director. The disposition or use of the water must be included on the sundry notice (form 4) reporting the plan of reclamation pursuant to section 43-02-03-19.

History: Effective May 1, 1992; amended effective May 1, 1994; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-19.3. Earthen pits and open receptacles. Except as otherwise provided in section 43-02-03-19, no saltwater, drilling mud, crude oil, waste oil, or other waste shall be stored in earthen pits or open receptacles except in an emergency and upon approval by the director.

An earthen pit or open receptacle may be temporarily used to retain oil, water, or fluids generated in well servicing or plugging operations. A pit used for this purpose must be sufficiently impermeable to provide adequate temporary containment of the oil, water, or fluids. The contents of the pit or receptacle must

be removed within seventy-two hours after operations have ceased and must be disposed of at an authorized facility in accordance with section 43-02-03-19.2.

The director may permit pits used solely for the purpose of flaring casinghead gas. Permission for such a pit will be conditioned on keeping the pit free of any saltwater, crude oil, waste oil, or other waste.

History: Effective September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-20. Sealing off strata. During the drilling of any oil or natural gas well, all oil, gas, and water strata above the producing horizon shall be sealed or separated where necessary in order to prevent their contents from passing into other strata.

All freshwaters and waters of present or probable value for domestic, commercial, or stock purposes shall be confined to their respective strata and shall be adequately protected by methods approved by the commission. Special precautions shall be taken in drilling and plugging wells to guard against any loss of artesian water from the strata in which it occurs and the contamination of artesian water by objectionable water, oil, or gas.

All water shall be shut off and excluded from the various oil-bearing and gas-bearing strata which are penetrated. Water shutoffs shall ordinarily be made by cementing casing or landing casing with or without the use of mud-laden fluid.

History: Amended effective May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-21. Casing, tubing, and cementing requirements. All wells drilled for oil, natural gas, or injection shall be completed with strings of casing which shall be properly cemented at sufficient depths to adequately protect and isolate all formations containing water, oil, or gas or any combination of these; protect the pipe through salt sections encountered; and isolate the uppermost sand of the Dakota group.

Drilling of the surface hole shall be with freshwater-based drilling mud or other method approved by the director which will protect all freshwater-bearing strata. The surface casing shall consist of new or reconditioned pipe that has been previously tested to one thousand pounds per square inch [6900 kilopascals]. The surface casing shall be set and cemented at a point not less than fifty feet [15.24 meters] below the base of the Fox Hills formation. Sufficient cement shall be used on surface casing to fill the annular space behind the casing to the bottom of the cellar, if any, or to the surface of the ground. All strings of surface casing shall stand cemented under pressure for at least twelve hours before drilling the plug or initiating tests. The term "under pressure" as used herein shall be complied with if one float valve is used or if pressure is otherwise held. Cementing shall be by the

pump and plug method or other methods approved by the director. The director is authorized to require an accurate gauge be maintained on the surface casing of any well, not properly plugged and abandoned, to detect any buildup of pressure caused by the migration of fluids.

Surface casing strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least three hundred fifty pounds per square inch [2415 kilopascals] within seventy-two hours. All compressive strengths on surface casing cement shall be calculated at a temperature of eighty degrees Fahrenheit [26.67 degrees Celsius].

Production or intermediate casing strings shall consist of new or reconditioned pipe that has been previously tested to two thousand pounds per square inch [13800 kilopascals]. Such strings must be allowed to stand under pressure until the tail cement has reached a compressive strength of at least five hundred pounds per square inch [3450 kilopascals]. All filler cements utilized must reach a compressive strength of at least two hundred fifty pounds per square inch [1725 kilopascals] within twenty-four hours and at least five hundred pounds per square inch [3450 kilopascals] within seventy-two hours. All compressive strengths on production or intermediate casing cement shall be calculated at a temperature found in the Mowry formation using a gradient of 1.2 degrees Fahrenheit per one hundred feet [30.48 meters] of depth plus eighty degrees Fahrenheit [26.67 degrees Celsius]. After cementing, the casing shall be tested by application of pump pressure of at least one thousand five hundred pounds per square inch [10350 kilopascals]. If, at the end of thirty minutes, this pressure has dropped one hundred fifty pounds per square inch [1035 kilopascals] or more, the casing shall be repaired. Thereafter, the casing shall again be tested in the same manner. Further work shall not proceed until a satisfactory test has been obtained. The casing in a horizontal well may be tested by use of a mechanical tool set near the casing shoe after the horizontal section has been drilled.

All flowing wells must be equipped with tubing. A tubing packer must also be utilized unless a waiver is obtained after demonstrating the casing will not be subjected to excessive pressure or corrosion. The packer must be set as near the producing interval as practicable, but in all cases must be above the perforations.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 1997; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-22. Defective casing or cementing. In any well that appears to have defective casing or cementing, the operator shall report the defect to the director on a sundry notice (form 4). Prior to attempting remedial work on any casing, the operator must obtain approval from the director and proceed with

diligence to conduct tests, as approved or required by the director, to properly evaluate the condition of the well bore and correct the defect. The director is authorized to require a pressure test to verify casing integrity if its competence is questionable. The director may allow the well bore condition to remain if correlative rights can be protected without endangering potable waters. The well shall be properly plugged if requested by the director.

Any well with open perforations above a packer shall be considered to have defective casing.

History: Amended effective January 1, 1983; May 1, 1992; September 1, 2000; July 1, 2002; May 1, 2004; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-23. Blowout prevention. In all drilling operations, proper and necessary precautions shall be taken for keeping the well under control, including the use of a blowout preventer and high pressure fittings attached to properly cemented casing strings adequate to withstand anticipated pressures. During the course of drilling, the pipe rams shall be functionally operated at least once every twenty-four-hour period. The blind rams shall be functionally operated each trip out of the well bore. The blowout preventer shall be pressure tested at installation on the wellhead, after modification of any equipment, and every thirty days thereafter. The director may postpone such pressure test if the necessity therefor can be demonstrated to the director's satisfaction. All tests shall be noted in the driller's record.

History: Amended effective January 1, 1983; September 1, 2000; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-24. Pulling string of casing. In pulling strings of casing from any oil, gas, or injection well, the space above the casing stub shall be kept and left full of fluid with adequate gel strength and specific gravity, cement, or combination thereof, to seal off all freshwater and saltwater strata and any strata bearing oil or gas not producing. No casing shall be removed without the prior approval of the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-25. Deviation tests and directional surveys. When any well is drilled or deepened, tests to determine the deviation from the vertical shall be taken at least every one thousand feet [304.8 meters]. The director is authorized to waive the deviation test for a shallow gas well if the necessity therefor can be demonstrated to the director's satisfaction. When the deviation from the vertical exceeds five degrees at any point, the director may require that the hole be

straightened. Directional surveys may be required by the director, whenever, in the director's judgment, the location of the bottom of the well is in doubt.

A directional survey shall be made and filed with the director on any well utilizing a whipstock or any method of deviating the well bore. The obligation to run the directional survey may be waived by the director when a well bore is deviated to sidetrack junk in the hole, straighten a crooked hole, control a blowout, or if the necessity therefor can be demonstrated to the director's satisfaction. The survey contractor shall file two certified copies of all surveys with the director free of charge within thirty days of completion. Surveys must be submitted as one paper copy and one electronic copy, or in a form approved by the director. However, the director may require the directional survey to be filed immediately after completion if the survey is needed to conduct the operation of the director's office in a timely manner. Special permits may be obtained to drill directionally in a predetermined direction as provided above, from the director.

If the director denies a request for a permit to directionally drill, the director shall advise the applicant immediately of the reasons for denial. The decision of the director may be appealed to the commission.

History: Amended effective April 1, 1980; April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; September 1, 2000; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-26. Multiple zone completions. Multiple zone completions in any pool may be permitted by the director.

An application for a multiple zone completion shall be accompanied by an exhibit showing the location of all wells on the applicant's lease and all offset wells on offset leases and shall set forth all material facts on the common sources of supply involved and the manner and method of completion proposed.

Multiply completed wells shall at all times be operated, produced, and maintained in a manner to ensure the complete segregation of the various common sources of supply. The director may require such tests as the director deems necessary to determine the effectiveness of the segregation of the different sources of supply.

History: Amended effective January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-27. Perforating, fracturing, and chemically treating wells. If damage results to the casing or the casing seat from perforating, fracturing, or chemically treating a well, the operator shall proceed with diligence to use the appropriate method and means for rectifying such damage. If perforating, fracturing, or chemical treating results in irreparable damage which threatens the

mechanical integrity of the well, the commission may require the operator to plug the well.

History: Amended effective January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-28. Safety regulation. During drilling operations all oil wells shall be cleaned into a pit or tank, not less than forty feet [12.19 meters] from the derrick floor and one hundred fifty feet [45.72 meters] from any fire hazard.

All flowing oil wells must be produced through an approved oil and gas separator or emulsion treater of ample capacity and in good working order. No boiler, portable electric lighting generator, or treater shall be placed nearer than one hundred fifty feet [45.72 meters] to any producing well or oil tank. Placement as close as one hundred twenty-five feet [38.10 meters] may be allowed if a flame arrestor is utilized on the equipment. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred fifty feet [45.72 meters] from the vicinity of wells and tanks. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard. All vegetation must be removed to a safe distance from any production equipment to eliminate a fire hazard.

No well shall be drilled nor production equipment installed less than five hundred feet [152.40 meters] from an occupied dwelling unless agreed to in writing by the surface owner or authorized by order of the commission.

Subsurface pressure must be controlled during all drilling, completion, and well-servicing operations with appropriate fluid weight and pressure control equipment.

History: Amended effective January 1, 1983; May 1, 1990; September 1, 2000; January 1, 2006; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-29. Well and lease equipment. Wellhead and lease equipment with a working pressure at least equivalent to the calculated or known pressure to which the equipment may be subjected shall be installed and maintained. Equipment on producing wells shall be installed to facilitate gas-oil ratio tests, and static bottom hole or other pressure tests. Valves shall be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing.

History: Amended effective January 1, 1983; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-30. Notification of fires, leaks, spills, or blowouts. All persons controlling or operating any well, pipeline, receiving tank, storage tank, or production facility into which oil, gas, or water is produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported, shall verbally notify the director within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. Notification requirements prescribed by this section shall not apply to any leak, spill, or release of fluid that is less than one barrel total volume and remains onsite of a facility. The verbal notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, cause of the accident, and action taken to prevent reoccurrence. The signature, title, and telephone number of the company representative must be included on such report. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall also notify the surface owners upon whose land the incident occurred or traveled.

The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-31. Well log, completion, and workover reports. After the plugging of a well, a plugging record (form 7) shall be filed with the director. After the completion of a well, recompletion of a well in a different pool, or drilling horizontally in an existing pool, a completion report (form 6) shall be filed with the director. In no case shall oil or gas be transported from the lease prior to the filing of a completion report unless approved by the director. The operator shall cause to be run an open hole electrical, radioactivity, or other similar log, or combination of open hole logs, of the operator's choice, from which formation tops and porosity zones can be determined. The operator shall cause to be run a gamma ray log from total depth to ground level elevation of the well bore. The operator shall cause to be run a log from which the presence and quality of bonding of cement can be determined in every well in which production or intermediate casing has been set. The obligation to log may be waived by the director if the necessity therefor can be demonstrated to the director's satisfaction. Waiver will be contingent upon such terms and conditions as the director deems appropriate. All logs run shall be available to the director at the well site prior to proceeding with plugging or completion operations. Two copies of all logs run shall be submitted to the director free of charge. Logs shall be submitted as one paper copy and one digital LAS (log ASCII) formatted copy, or a format approved by the director. In addition, operators shall file two copies of drill stem test reports and charts, formation water

analyses, core analyses, and noninterpretive lithologic logs or sample descriptions if compiled by the operator.

All information furnished to the director on new permits, except the operator name, well name, location, spacing or drilling unit description, spud date, rig contractor, and any production runs, shall be kept confidential for not more than six months if requested by the operator in writing. The six-month period shall commence on the date the well is completed or the date the written request is received, whichever is earlier. If the written request accompanies the application for permit to drill or is filed after permitting but prior to spudding, the six-month period shall commence on the date the well is spudded.

All information furnished to the director on recompletions or reentries, except the operator name, well name, location, spacing or drilling unit description, spud date, rig contractor, and any production runs, shall be kept confidential for not more than six months if requested by the operator in writing. The six-month period shall commence on the date the well is completed or the date the well was approved for recompletion or reentry, whichever is earlier. Any information furnished to the director prior to approval of the recompletion or reentry shall remain public.

Approval must be obtained on a sundry notice (form 4) from the director prior to perforating or recompleting a well in a pool other than the pool in which the well is currently permitted.

After the completion of any remedial work, or attempted remedial work such as plugging back or drilling deeper, acidizing, shooting, formation fracturing, squeezing operations, setting liner, perforating, reperforating, or other similar operations not specifically covered herein, a report on the operation shall be filed on a sundry notice (form 4) with the director. The report shall present a detailed account of all work done and the date of such work; the daily production of oil, gas, and water both prior to and after the operation; the shots per foot, size, and depth of perforations; the quantity of sand, crude, chemical, or other materials employed in the operation; and any other pertinent information or operations which affect the original status of the well and are not specifically covered herein.

Upon the installation of pumping equipment on a flowing well, or change in type of pumping equipment designed to increase productivity in a well, the operator shall submit a sundry notice (form 4) of such installation. The notice shall include all pertinent information on the pump and the operation thereof including the date of such installation, and the daily production of the well prior to and after the pump has been installed.

All forms, reports, logs, and other information required by this section shall be submitted within thirty days after the completion of such work, although a

completion report shall be filed immediately after the completion or recompletion of a well in a pool or reservoir not then covered by an order of the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; September 1, 2000; July 1, 2002; January 1, 2006; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-32. Stratigraphic test and core holes. Stratigraphic test and core holes shall be permitted the same as oil and gas wells, although no setback from a drilling unit shall be required.

History: Amended effective April 30, 1981; January 1, 1983; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-33. Notice of intention to plug well. The operator or the operator's agent shall file a notice of intention (form 4) to plug with the director, and obtain the approval of the director, prior to the commencement of plugging or plug-back operations. The notice shall state the name and location of the well, the name of the operator, and the method of plugging, which must include a detailed statement of proposed work. In the case of a recently completed test well that has not had production casing in the hole, the operator may commence plugging by giving reasonable notice to, and securing verbal approval of, the director as to the method of plugging, and the time plugging operations are to begin. Within thirty days after the plugging of any well has been accomplished, the owner or operator thereof shall file a plugging record (form 7), and, if requested, a copy of the cementer's trip ticket or job receipt, with the director setting forth in detail the method used in plugging the well.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-34. Method of plugging. All wells shall be plugged in a manner which will confine permanently all oil, gas, and water in the separate strata originally containing them. This operation shall be accomplished by the use of mud-laden fluid, cement, and plugs, used singly or in combination as may be approved by the director. All casing strings shall be cut off at least three feet [91.44 centimeters] below the final surface contour, and a cap shall be welded thereon. Core or stratigraphic test holes drilled to or below sands containing freshwater

shall be plugged in accordance with the applicable provisions recited above. After plugging, the site must be reclaimed pursuant to section 43-02-03-19.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-35. Conversion of mineral wells to freshwater wells. Any person desiring to convert a mineral well to a freshwater well, as provided by North Dakota Century Code section 61-01-27, shall file an application for approval with the commission. The application must include, but is not limited to, the following:

1. If the well is to be used for other than individual domestic and livestock use, a conditional water permit issued by the state water commission.
2. An affidavit by the person desiring to obtain approval for the conversion stating that such person has the authority and assumes all liability for the use and plugging of the proposed freshwater well.
3. The procedure which will be followed in converting the mineral well to a freshwater well.
4. If the well is not currently plugged and abandoned, an affidavit must be executed by the operator of the well indicating that the parties responsible for plugging the mineral well have no objection to the conversion of the mineral well to a freshwater well.

If the commission, after notice and hearing, determines that a mineral well may safely be used as a freshwater well, the commission may approve the conversion.

History: Amended effective April 30, 1981; January 1, 1983; September 1, 1987; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-36. Liability. The owner and operator of any well, core hole, or stratigraphic test hole, whether cased or uncased, shall be liable and responsible for the plugging and site reclamation thereof in accordance with the rules and regulations of the commission.

History: Amended effective January 1, 1983; May 1, 1994.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-37. Slush pits. Repealed effective January 1, 1983.

43-02-03-38. Preservation of cores and samples. Repealed effective January 1, 1983.

43-02-03-38.1. Preservation of cores and samples. Sample cuttings of formations, taken at regular intervals in all wells drilled for oil or gas or geologic information in North Dakota, shall be washed and packaged in standard sample envelopes which in turn shall be placed in proper order in a standard sample box; carefully identified as to operator, well name, location, depth of sample; and shall be sent free of cost to the state geologist within thirty days after completion of drilling operations.

The operator of any well drilled for oil or gas in North Dakota, during the drilling of or immediately following the completion of any well, shall inform the state geologist or the geologist's representative of all intervals that are to be cored, or have been cored. All cores taken shall be preserved and forwarded to the state geologist, free of cost, within ninety days after completion of drilling operations, unless specifically exempted by the state geologist. If an exemption is granted, the operator shall advise the state geologist of the final disposition of the core.

This section does not prohibit the operator from taking such samples of the core as the operator may desire for identification and testing. The operator shall furnish the state geologist with the results of identification and testing procedures.

History: Effective October 1, 1990; amended effective January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-39. Limiting gas-oil ratio. In the event the commission has not set a limiting gas-oil ratio for a particular pool, the operator of any well in such pool whose gas-oil ratio exceeds two thousand shall demonstrate to the director that production from such well should not be restricted pending a hearing before the commission to establish a limiting gas-oil ratio. The director may restrict production of any well with a gas-oil ratio exceeding two thousand, until the commission can determine that restrictions are necessary to conserve reservoir energy.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-39.1. Oil production limitation. In the event the commission has not established spacing and special field rules for a particular oil pool, oil production from any well completed therein shall be a maximum of two thousand barrels per day until the commission issues a decision after hearing. The director shall have the authority to waive production limitations for good cause, and for special tests.

History: Effective July 1, 1996.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-40. Gas-oil ratio test. Each operator shall take a gas-oil ratio test within thirty days following the completion or recompletion of an oil well. Each test

shall be conducted using standard industry practices unless otherwise specified by the director. The initial gas-oil ratio must be reported on the well completion or recompletion report (form 6). After the discovery of a new pool, each operator shall make additional gas-oil ratio tests as directed by the director or provided for in field rules. During tests each well shall be produced at a maximum efficient rate. The director may shut in any well for failure to make such test until such time as a satisfactory test can be made, or satisfactory explanation given. The results of all gas-oil ratio tests shall be submitted to the director on form 9, which shall be accompanied by a statement that the data on form 9 is true and correct.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-41. Subsurface pressure tests. The operator shall make a subsurface pressure test on the discovery well of any new pool hereafter discovered and shall report the results thereof to the director within thirty days after the completion of such discovery well. Drill stem test pressures are acceptable. After the discovery of a new pool, each operator shall make additional subsurface pressure tests as directed by the director or provided for in field rules. All tests shall be made by a person qualified by both training and experience to make such tests and with an approved subsurface pressure instrument. All wells shall remain completely shut in for at least forty-eight hours prior to the test. The subsurface determination shall be obtained as close as possible to the midpoint of the productive interval of the reservoir. The report of the reservoir pressure test shall be filed on form 9a.

The director may shut in any well for failure to make such test as herein above described until such time as a satisfactory test has been made or satisfactory explanation given.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-42. Commingling of oil from pools. Except as directed by the commission after hearing, each pool shall be produced as a single common reservoir without commingling in the well bore of fluids from different pools. After fluids from different pools have been brought to surface, such fluids may be commingled provided that the amount of production from each pool is determined by a method approved by the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-43. Control of multiply completed wells. Repealed effective January 1, 1983.

43-02-03-44. Metered casinghead gas. All casinghead gas produced shall be reported monthly to the director in units of one thousand cubic feet [28.32 cubic meters] computed at a pressure of fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter] at a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius]. Associated gas production may not be transported from a well premises or central production facility until its volume has been determined through the use of properly calibrated measurement equipment. All measurement equipment and volume determinations must conform to American gas association standards. The operator of a well shall notify the director of the connection date to a gas gathering system, the metering equipment, transporter, and purchaser of the gas. Any gas produced and used on lease for fuel purposes or flared must be estimated and reported on a gas production report (form 5b) in accordance with section 43-02-03-52.1.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-45. Vented casinghead gas. Pending arrangements for disposition for some useful purpose, all vented casinghead gas shall be burned. Each flare shall be equipped with an automatic ignitor or a continuous burning pilot, unless waived by the director for good reason. The estimated volume of gas used and flared shall be reported to the director on a gas production report (form 5b) on or before the fifth day of the second month succeeding that in which gas is produced.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-46. Use of vacuum pumps. Repealed effective January 1, 1983.

43-02-03-47. Produced water. Monthly water production from each well must be determined through the use of properly calibrated meter measurements, tank measurements, or an alternate measurement method approved by the director. This includes allocating water production back to individual wells on a monthly basis, provided the method of volume determination and allocation procedure results in reasonably accurate production volumes. Operators shall report monthly to the director the amount of water produced by each well on

form 5. The reports must be filed on or before the first day of the second month following that in which production occurred.

History: Amended effective January 1, 1983; May 1, 1992; May 1, 1994; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-48. Measurement of oil. Oil production may not be transported from a well premises or central production facility until its volume has been determined through the use of properly calibrated meter measurements or tank measurements. All meter and tank measurements, and volume determinations must conform to American petroleum institute standards and be corrected to a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius].

History: Amended effective April 30, 1981; March 1, 1982; January 1, 1983; May 1, 1992; May 1, 1994; July 1, 1996.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-48.1. Central production facility - Commingling of production.

1. The director shall have the authority to approve requests to consolidate production equipment at a central location.
2. Commingling of production from two or more wells in a central production facility is prohibited unless approved by the director. There are two types of central production facilities in which production from two or more wells is commingled that may be approved by the director.
 - a. A central production facility in which all production going into the facility has common ownership (working interests, royalty interests, and overriding royalties).
 - b. A central production facility in which production going into the facility has diverse ownership.
3. The commingling of production in a central production facility from two or more wells having common ownership may be approved by the director provided the production from each well can be accurately determined at reasonable intervals. Commingling of production in a central production facility from two or more wells having diverse ownership may be approved by the director provided the production from each well is accurately metered prior to commingling. Commingling of production in a central production facility from two or more wells having diverse ownership that is not metered prior to commingling may only be approved by the commission after notice and hearing.

a. Common ownership central production facility. The application for permission to commingle oil and gas in a central production facility with common ownership must be submitted on a sundry notice (form 4) and shall include the following:

- (1) A plat or map showing thereon the location of the central facility and the name, well file number, and location of each well and flow lines from each well that will produce into the facility.
- (2) A schematic drawing of the facility which diagrams the testing, treating, routing, and transferring of production. All pertinent items such as treaters, tanks, flow lines, valves, meters, recycle pumps, etc., should be shown.
- (3) An affidavit executed by a person who has knowledge as to the state of title indicating ownership is common.
- (4) An explanation of the procedures or method to be used to determine, accurately, individual well production at periodic intervals. Such procedures or method shall be performed at least once every three months.

A copy of all tests are to be filed with the director on form 11 within thirty days after the tests are completed.

b. Diverse ownership central production facility. The application for permission to commingle oil and gas in a central production facility having diverse ownership must be submitted on a sundry notice (form 4) and shall include the following:

- (1) A plat or map showing thereon the location of the central facility and the name, well file number, and location of each well, and flow lines from each well that will produce into the facility.
- (2) A schematic drawing of the facility which diagrams the testing, treating, routing, and transferring of production. All pertinent items such as treaters, tanks, flow lines, valves, meters, recycle pumps, etc., should be shown.
- (3) The name of the manufacturer, size, and type of meters to be used. The meters must be proved at least once every three months and the results reported to the director within thirty days following the completion of the test.
- (4) An explanation of the procedures or method to be used to determine, accurately, individual well production at periodic

intervals. Such procedures or method shall be performed monthly.

A copy of all tests are to be filed with the director on form 11 within thirty days after the tests are completed.

4. Any changes to a previously approved central production facility must be reported on a sundry notice (form 4) and approved by the director.

History: Effective May 1, 1992; amended effective September 1, 2000; May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-49. Oil spills, production equipment, dikes, and seals.

Storage of oil in underground or partially buried tanks or containers is prohibited. Surface oil tanks and production equipment must be devoid of leaks and in good condition. Unusable tanks and production equipment must be removed from the site or repaired and placed into service, within a reasonable time period, not to exceed one year. Dikes must be erected and maintained around oil tanks at any production facility built or rebuilt on or after July 1, 2000.

Dikes must be erected around oil tanks at any new production facility within thirty days after the well has been completed. Dikes must be erected and maintained around oil tanks at production facilities built prior to July 1, 2000, when deemed necessary by the director. Dikes must be constructed of sufficiently impermeable material to provide emergency containment and of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid production. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction.

At no time shall oil be allowed to flow over or pool on the surface of the land or infiltrate the soil. Discharged oil must be properly removed and may not be allowed to remain standing within or outside of any diked areas.

Numbered metal security seals shall be properly utilized on all oil access valves and access points to secure the tank or battery of tanks.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000; July 1, 2002; May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-50. Tank cleaning permit. No tank bottom waste shall be removed from any tank used for the storage or sale of crude oil without prior approval by the director. Verbal approval may be given. Prior approval to remove tank bottom waste from tanks not used for the storage or sale of crude oil is not required.

Within thirty days of the removal of the tank bottom waste of any tank used for the storage or sale of crude oil, the owner or operator shall submit a report (form 23) showing an accurate gauge of the contents of the tank and the amount of merchantable oil determinable from a representative sample of the tank bottom by the standard centrifugal test as prescribed by the American petroleum institute's code for measuring, sampling, and testing crude oil.

Within thirty days of the removal of the tank bottom waste of any permanent tank not used for the storage or sale of crude oil, the owner or operator shall submit a sundry notice (form 4) detailing the cleaning operation.

All tank bottom waste must be disposed of in a manner authorized by the director and in accordance with all applicable local, state, and federal laws and regulations. Nothing contained in this section shall apply to reclaiming of pipeline break oil or the treating of tank bottoms at a pipeline station, crude oil storage terminal, or refinery or to the treating by a gasoline plant operator of oil and other catchings collected in traps and drips in the gas gathering lines connected to gasoline plants and in scrubbers at such plants.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; September 1, 2000; May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-51. Treating plant. Before construction of a treating plant and upon written application for a treating plant permit stating in detail the location, type, capacity of the plant contemplated, method of processing proposed, and the plan of operation for all plant waste, the commission shall set such application for hearing to determine whether the proposed plant and method of processing will actually and efficiently process, treat, and reclaim tank bottom emulsion and other waste oils, and whether there is need for such a plant. The operator of any portable treating plant shall notify the director as to all changes in location of said plant. No treating plant shall operate except by order of the commission. The disposition of all products and waste must be reported monthly on form 5p. Upon approval of a treating plant and before construction begins, the permittee shall file with the commission a surety bond or cash bond conditioned upon compliance with all laws, rules and regulations, and orders of the commission. The bond amount shall be specified in the commission order authorizing the treating plant and shall be based upon the location, type, and capacity of the plant, processing method, and plan of operation for all plant waste approved in the commission order and shall be payable to the industrial commission of North Dakota. In no case shall the bond amount be set lower than twenty-five thousand dollars.

History: Amended effective January 1, 1983; May 1, 1990; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-52. Report of oil production. The operator of each well in every pool shall, on or before the first day of the second month succeeding the month in which production occurs, file with the director the amount of production made by each such well upon form 5 or approved computer sheets no larger than eight and one-half by eleven inches [21.59 by 27.94 centimeters]. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included. Wells for which reports of production are not received by the close of business on said first day of the month may be shut in for a period not to exceed thirty days. The director shall notify, by certified mail, the operator and authorized transporter of the shut-in period for such wells. Any oil produced during such shut-in period shall be deemed illegal oil and subject to the provisions of North Dakota Century Code section 38-08-15.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; December 1, 1997; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-52.1. Report of gas produced in association with oil. The operator of each well in every pool shall, on or before the fifth day of the second month succeeding the month in which production occurs, file with the director the amount of gas produced by each such well upon form 5b or approved computer sheets no larger than eight and one-half by eleven inches [21.59 by 27.94 centimeters]. The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included. Wells for which reports of production are not received by the close of business on said fifth day of the month may be shut in for a period not to exceed thirty days. The director shall notify, by certified mail, the operator and authorized transporter of the shut-in period for such wells. Any gas produced during such shut-in period must be deemed illegal gas and subject to the provisions of North Dakota Century Code section 38-08-15.

History: Effective May 1, 1992; amended effective December 1, 1997; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-53. Saltwater handling facilities.

1. All saltwater liquids or brines produced with oil and natural gas shall be processed, stored, and disposed of without pollution of freshwater supplies. At no time shall saltwater liquids or brines be allowed to flow over or pool on the surface of the land or infiltrate the soil.
2. Underground injection of saltwater liquids and brines shall be in accordance with chapter 43-02-05.

3. Surface facilities are acceptable provided that:
 - a. They are devoid of leaks and constructed of materials resistant to the effects of produced saltwater liquids, brines, or chemicals that may be contained therein. The above materials requirement may be waived by the director for tanks presently in service and in good condition. Unusable tanks and injection equipment must be removed from the site or repaired and placed into service, within a reasonable time period, not to exceed one year.
 - b. Dikes must be erected and maintained around saltwater tanks at any saltwater handling facility built or rebuilt on or after July 1, 2000. Dikes must be erected around saltwater tanks at any new facility within thirty days after the well has been completed. Dikes must be erected and maintained around saltwater tanks at saltwater handling facilities built prior to July 1, 2000, when deemed necessary by the director. Dikes must be constructed of sufficiently impermeable material to provide emergency containment and of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid production. The required capacity of the dike may be lowered by the director if the necessity therefor can be demonstrated to the director's satisfaction. Discharged saltwater liquids or brines must be properly removed and may not be allowed to remain standing within or outside of any diked areas.
4. The operator shall take steps to minimize the amount of solids stored at the facility.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000; July 1, 2002; May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-54. Investigative powers. Upon receipt of a written complaint from any surface owner or lessee, royalty owner, mineral owner, local, state, or federal official, or any other interested party, alleging a violation of the oil and gas conservation statutes or any rule, regulation, or order of the commission, the director shall immediately cause an investigation of such complaint to be made. The director may also conduct such investigations on the director's own initiative or at the direction of the commission. If, after such investigation, the director affirms that cause for complaint exists, the director shall report the results of the investigation to the person who submitted the complaint, if any, to the person who was the subject of the complaint and to the commission. The commission shall institute such legal proceedings as, in its discretion, it believes are necessary to enjoin further violations.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04, 38-08-12

Law Implemented: NDCC 38-08-04, 38-08-12

43-02-03-55. Abandonment of wells - Suspension of drilling.

1. The removal of production equipment or the failure to produce oil or gas, other than a gas well shut in for lack of a market, for one year constitutes abandonment of the well. The removal of injection equipment or the failure to use an injection well for one year constitutes abandonment of the well. An abandoned well must be plugged and its site must be reclaimed pursuant to sections 43-02-03-34 and 43-02-03-19.
2. The director may waive for one year the requirement to plug and reclaim an abandoned well by giving the well temporarily abandoned status. This status may only be given to wells that are to be used for purposes related to the production of oil and gas. If a well is given temporarily abandoned status, the well's perforations must be isolated, the integrity of its casing must be proven, and its casing must be sealed at the surface, all in a manner approved by the director. The director may extend a well's temporarily abandoned status beyond one year. A fee of one hundred dollars shall be submitted with each application to extend the temporary abandonment status of any well.
3. In addition to the waiver in subsection 2, the director may also waive the duty to plug and reclaim an abandoned well for any other good cause found by the director. If the director exercises this discretion, the director shall set a date or circumstance upon which the waiver expires.
4. The director may approve suspension of the drilling of a well. If suspension is approved, a plug must be placed at the top of the casing to prevent any foreign matter from getting into the well. When drilling has been suspended for thirty days, the well, unless otherwise authorized by the director, must be plugged and its site reclaimed pursuant to sections 43-02-03-34 and 43-02-03-19.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; August 1, 1999; January 1, 2008.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-56. Underground disposal of water. Repealed effective November 1, 1982.

43-02-03-57. Determination of gas well potential. After the completion or recompletion of a gas well, the operator shall conduct tests to determine the daily open flow potential of the well. The test results together with an analyses of the gas shall be reported to the director within thirty days after completion of the well.

Operators shall conduct either a stabilized one-point back-pressure test or a multipoint back-pressure test in accordance with the "Manual of Back-Pressure

Testing of Gas Wells" published by the interstate oil and gas compact commission unless otherwise approved by the director.

History: Amended effective January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-58. Method and time of shut-in pressure tests. Repealed effective January 1, 1983.

43-02-03-59. Production from gas wells to be measured and reported.

Gas production may not be transported from gas well premises until its volume has been determined through the use of properly calibrated measurement equipment. All measurement equipment and volume determinations must conform to American gas association standards and corrected to a pressure of fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter] at a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius]. Gas production reports (form 5b) shall be filed with the director on or before the fifth day of the second month succeeding that in which production occurs.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; May 1, 1994; July 1, 1996; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-60. Natural gas utilization. Repealed effective January 1, 1983.

43-02-03-60.1. Valuation of flared gas. The value of gas flared from an oil well in violation of North Dakota Century Code section 38-08-06.4 shall be determined by the commission after notice and hearing.

History: Effective October 1, 1990; amended effective May 1, 1992; May 1, 1994; May 1, 2004.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-06.4

43-02-03-60.2. Flaring exemption. The connection of a well to a natural gas gathering line is "economically infeasible" under North Dakota Century Code section 38-08-06.4, if the direct costs of connecting the well to the line and the direct costs of operating the facilities connecting the well to the line during the life of the well, are greater than the amount of money the operator is likely to receive for the gas, less production taxes and royalties, should the well be connected. In making this calculation, the applicant may add ten percent to the amount of the cost of connecting the well and of operating the connection facilities used to determine whether a connection is economically infeasible. This ten percent may be added in consideration of the cost of money and other overhead costs that are not figured in the direct costs of connecting the well and operating the connecting facilities.

An applicant for an exemption under North Dakota Century Code section 38-08-06.4 must, at the minimum, present evidence covering the following areas:

1. Basis for the gas price used to determine whether it is economically infeasible to connect the well to a natural gas gathering line;
2. Cost of connecting the well to the line and operating the facilities connecting the well to the line;
3. Current daily rate of the amount of gas flared; and
4. The amount of gas reserves and the amount of gas available for sale.

History: Effective May 1, 1994.

General Authority: NDCC 38-07-04

Law Implemented: NDCC 38-08-06.4

43-02-03-61. Storage gas. With the exception of the requirement to meter and report monthly the amount of gas injected and the amount of gas withdrawn from storage, in the absence of waste, this chapter shall not apply to gas being injected into or removed from storage.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-62. Carbon dioxide, coal bed methane, helium, and nitrogen. Insofar as is applicable, the provisions of this chapter relating to gas, gas wells, and gas reservoirs shall also apply to carbon dioxide, coal bed methane, helium, nitrogen, carbon dioxide wells, coal bed methane wells, helium wells, nitrogen wells, carbon dioxide reservoirs, coal bed methane reservoirs, helium reservoirs, and nitrogen reservoirs.

History: Amended effective January 1, 1983; September 1, 1987; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-63. Regulation of pools. To prevent waste and to protect correlative rights, when the commission finds that total production in an area significantly exceeds the reasonable market demand and undue marketing discrimination is occurring, the commission may prorate or distribute the allowable production among proration units upon a reasonable basis through rules, regulations, or orders pertaining to any pool or area after notice and hearing.

History: Amended effective January 1, 1983; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-64. Rate of producing wells. In allocated oil and gas pools the owner or operator of any proration unit shall not produce from the unit during any proration period more oil or gas than the allowable production from such units as shown by the proration schedule, provided that such owners or operators shall be permitted to maintain a uniform rate of production for each unit during the proration period. In order to maintain a uniform rate of production from the pool during any proration period, any operator may produce a total volume of oil and gas equal to that shown on the applicable proration schedule plus five days unit allowable, and any such overproduction may be deducted from the total allowable for the well in the second month following.

Where the commission has established spacing rules in any pool, proration units shall consist of spacing units.

History: Amended effective January 1, 1983; September 1, 2000; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-65. Authorization for production, purchase, and transportation. When necessary the commission shall hold a hearing to set proration unit allowables for the state.

The commission shall consider all evidence of market demand for oil and gas, including sworn statements of individual demand as submitted by each purchaser or buyer in the state, and determine the amount to be produced from all pools. The amount so determined will be allocated among the various pools in accordance with existing regulations and in each pool in accordance with regulations governing each pool. In allocated pools, effective the first day of each proration period, the commission will issue a proration schedule which will authorize the production of oil and gas from the various units in strict accordance with the schedule, and the purchase and transportation of such production. Allowable for wells completed after the first day of the proration period will become effective from the date of well completion. A supplementary order will be issued by the commission to the operator of a newly completed or recompleted well, and to the purchaser or transporter of the production from a newly completed or recompleted well, establishing the effective date of completion, the amount of production permitted during the remainder of the proration period, and the authority to purchase and transport same from said proration unit.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-66. Application for allowable on new oil wells. No well shall be placed on the proration schedule until a completion report (form 6) has been filed with the director.

The discovery well of any pool hereafter discovered shall be allowed to produce at a maximum efficient rate until such time as proper spacing is set for the pool

, and shall produce thereafter, only pursuant to the general proration rules and regulations of the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-67. Oil proration.

At the beginning of each calendar month, the distribution or proration to the respective proration units shall be changed in order to take into account all new wells which have been completed and were not in the proration schedule during the previous calendar month. Where any well is completed between the first and last day of the calendar month, its proration unit shall be assigned an allowable beginning at seven a.m., on the date of completion and for the remainder of that calendar month.

History: Amended effective January 1, 1983; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-68. Gas-oil ratio limitation. In allocated pools containing a well or wells producing from a reservoir which contains both oil and gas, each proration unit shall be permitted to produce only that volume of gas equivalent to the applicable limiting gas-oil ratio multiplied by the proration unit oil allowable currently assigned to the pool. In the event the commission has not set a gas-oil ratio limit for a particular oil pool, the limiting gas-oil ratio shall be two thousand cubic feet [56.63 cubic meters] of gas for each barrel of oil produced.

A gas-oil limit shall be placed on all allocated oil pools, and all proration units having a gas-oil ratio exceeding the limit for the pool shall be adjusted unless previously exempted by the commission after hearing, in accordance with the following formula:

1. Any proration unit which, on the basis of the latest official gas-oil ratio test has a gas-oil ratio in excess of the limiting gas-oil ratio for the pool in which it is located, shall be permitted to produce that number of barrels of oil which shall be determined by multiplying the proration unit allowable by the fraction, the numerator of which shall be the limiting gas-oil ratio for the pool and the denominator of which shall be the official gas-oil ratio test of the well.
2. Any unit containing a well or wells producing from a reservoir which contains both oil and gas shall be permitted to produce only that volume

of gas equivalent to the applicable limiting gas-oil ratio multiplied by the proration unit allowable currently assigned to the pool.

All proration units to which gas-oil ratio adjustments are applied shall be so indicated in the proration schedule with adjusted allowables stated. The adjustment shall be made effective on the first day of the month following that in which the gas-oil ratio tests were reported for the pool, as set forth in the special field rules applicable to the pool.

In cases of new pools the limiting gas-oil ratio shall be two thousand cubic feet [56.63 cubic meters] per barrel until such time as changed by the commission after a hearing. After notice and hearing, the commission shall determine or redetermine, the specific gas-oil ratio limit which is applicable to a particular allocated oil pool.

History: Amended effective January 1, 1983; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-69. Allocation of gas production. When the commission determines that allocation of gas production in a designated gas pool is necessary to prevent waste, and to protect correlative rights, the commission, after notice and hearing, shall consider the nominations of purchasers from that gas pool and other relevant data, and shall fix the allowable production of that pool, and shall allocate production among the proration units in the pool delivering to a gas transportation facility upon a reasonable basis.

The commission shall include in the proration schedule of such pool any proration unit which it finds is being unreasonably discriminated against through denial of access to a gas transportation facility which is reasonably capable of handling the type of gas producible from such proration unit.

History: Amended effective January 1, 1983; January 1, 2008.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-70. Gas proration period. The gas proration period shall be set by order of the commission.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-71. Adjustment of gas allowables. When the actual market demand from any allocated gas pool during a proration period is more than or less than the allowable set by the commission for the pool for the period, the commission shall adjust the gas proration unit allowables for the pool for the next proration period so that each gas proration unit shall have a reasonable opportunity

to produce its fair share of the gas production from the pool in a manner that shall protect correlative rights.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-72. Gas proration units. Before issuing a proration schedule for an allocated gas pool, the commission, after notice and hearing, shall fix the gas proration unit for that pool.

General Authority: NDCC 38-08-04, 38-08-06

Law Implemented: NDCC 38-08-04, 38-08-06

43-02-03-73. Permit for injection of gas, air, or water. Repealed effective November 1, 1982.

43-02-03-74. Casing and cementing of injection wells. Repealed effective November 1, 1982.

43-02-03-75. Notice of commencement and discontinuance of injection operations. Repealed effective November 1, 1982.

43-02-03-76. Records. Repealed effective November 1, 1982.

43-02-03-77. Application for unitized management under commission order. Any plan of unitized management or any injection into a reservoir for the purpose of maintaining reservoir pressure or for enhanced recovery operations shall be permitted only by order of the commission after notice and hearing. The application for an order shall include a complete statement of all matters required by North Dakota Century Code section 38-08-09 et seq.

The application shall be submitted to the commission, in duplicate, at least forty-five days prior to the date requested for such hearings and shall be accompanied by all engineering, geological, and other technical exhibits which will be introduced at the hearing.

In addition, the application shall set forth that all the provisions of North Dakota Century Code section 38-08-09.5 have been complied with.

History: Amended effective November 1, 1982; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-09

Law Implemented: NDCC 38-08-09

43-02-03-78. Illegal sale prohibited. Repealed effective January 1, 1983.

43-02-03-79. Purchase of liquids from gas wells. Provided that a supplemental order is issued authorizing such production on the proration schedule, any common purchaser is authorized to purchase one hundred percent

of the amount of associated crude oil or condensate produced and recovered from a gas proration unit.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-06

Law Implemented: NDCC 38-08-06

43-02-03-80. Reports of purchasers and transporters of crude oil. On or before the first day of the second month succeeding that in which oil is removed, purchasers and transporters, including truckers, shall file with the director the appropriate monthly reporting forms. The purchaser shall file on form 10 and the transporter on form 10a the amount of all crude oil removed and purchased by them from each well or central production facility during the reported month. The transporter shall report the disposition of such crude oil on form 10b. All meter and tank measurements, and volume determinations of crude oil removed and purchased from a well or central production facility must conform to American petroleum institute standards and corrected to a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius] and fourteen and seventy-three hundredths pounds per square inch absolute [1034.19 grams per square centimeter].

Prior to removing any oil from a well or central production facility, purchasers and transporters shall obtain an approved copy of a producer's authorization to purchase and transport oil from a well or central production facility (form 8) from either the producer or the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-81. Authorization to transport oil from a well or central production facility. Before any crude oil is transported from a well or central production facility, the operator of the well or central production facility shall file with the director, and obtain the director's approval, an authorization to purchase and transport oil from a well or central production facility (form 8).

Oil transported from a well or central production facility before the authorization is obtained or if such authorization has been revoked shall be considered illegal oil.

The director may revoke the authorization to purchase and transport oil from a well or central production facility for failure to comply with any rule, regulation, or order of the commission.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-81.1. Reports of purchases for resale and transporting of dry gas. Transporters of and purchasers for the resale of dry gas shall file a report (form 8a) with the director showing the amount of gas taken from each plant or well during the monthly reporting period.

All gas shall be reported monthly to the director in one thousand cubic feet [28.32 cubic meters] computed at a pressure of fourteen and seventy-three hundredths pounds per square inch [1034.19 grams per square centimeter] absolute at a base temperature of sixty degrees Fahrenheit [15.56 degrees Celsius].

History: Effective January 1, 1983; amended effective May 1, 1992; July 1, 1996.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-82. Refinery reports. Each refiner of oil within North Dakota shall furnish for each calendar month a report (form 13) containing information and data respecting crude oil and products involved in such refiner's operations during each month. The report for each month shall be prepared and filed on or before the fifteenth of the next succeeding month with the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; September 1, 2000.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-83. Gas processing plant reports. Each operator of a gas processing plant, cycling plant, or any other plant at which gas processing, gasoline, butane, propane, condensate, kerosene, oil, or other products are extracted from gas shall furnish to the director a report containing the amount of gas received from each lease or well on form 12a.

Crude oil recovered shall be reported to the director, on form 5 on or before the close of business on the first day of the second month succeeding that in which oil is removed. Other operations shall be reported to the director, on form 12 and 12a, on or before the fifth day of the second month following that in which gas is processed.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-84. Additional information may be required. This chapter shall not be taken or construed to limit or restrict the authority of the commission to require the furnishing of such additional reports, data, or other information relative to production, transportation, storing, refining, processing, or handling of crude oil, gas, or products as may appear to be necessary or desirable, either generally or

specifically, for the prevention of waste, protection of correlative rights, and the conservation of natural resources.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-85. Books and records to be kept to substantiate reports. All producers, transporters, storers, refiners, gasoline or extraction plant operators, and initial purchasers within North Dakota shall make and keep appropriate books and records for a period 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: Amended effective January 1, 1983; July 1, 2002.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-86. Public hearing required. Repealed effective January 1, 1983.

43-02-03-87. Institute proceedings. Repealed effective January 1, 1983.

43-02-03-88. Application for hearing. In any proceeding instituted upon application, the application shall be signed by the applicant or by the applicant's attorney. An application shall state (1) the name and general description of the common source or sources of supply affected by the order, rule, or regulation sought if any, unless same is intended to apply to and affect the entire state, in which event the application shall so state, and such statement shall constitute sufficient description; and (2) briefly the general nature of the order, rule, or regulation sought in the proceedings.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-11

Law Implemented: NDCC 38-08-11

43-02-03-88.1. Special procedures for pooling, flaring exemption, underground injection, commingling, converting mineral wells to freshwater wells, and central tank battery or central production facilities applications.

1. Applications for pooling under North Dakota Century Code section 38-08-08, for a flaring exemption under North Dakota Century Code section 38-08-06.4 and section 43-02-03-60.2, for underground injection under chapter 43-02-05, for commingling in one well bore the fluids from two or more pools under section 43-02-03-42, for converting a mineral well to a freshwater well under section 43-02-03-35, and for establishing central tank batteries or central production facilities under section 43-02-03-48.1, must be signed by the applicant or the applicant's representative. The application must contain or refer to

attachments that contain all the information required by law as well as the information the applicant wants the commission to consider in deciding whether to grant the application. The application must designate an employee or representative of the applicant to whom the commission can direct inquiries regarding the application.

2. The applications referred to in subsection 1 will be advertised and scheduled for hearing as are all other applications received by the commission. The applicant, however, unless required by the director, need not appear at the hearing scheduled to consider the application, although additional evidence may be submitted prior to the hearing. Any interested party may appear at the hearing to oppose or comment on the application. Any interested party may also submit written comments on or objections to the application prior to the hearing date. Such submissions may be part of the record in the case.
3. The director is authorized, on behalf of the commission, to grant or deny the applications referred to in subsection 1.
4. In any proceeding under this section, the applicant, at the hearing, may supplement the record by offering testimony and exhibits in support of the application.
5. In the event the applicant is not required by the director to appear at the hearing and an interested party does appear to oppose the application or submits a written objection to the application, the hearing officer shall continue the hearing to a later date, keep the record open for the submission of additional evidence, or take any other action necessary to ensure that the applicant, who does not appear at the hearing as the result of subsection 2, is accorded due process.

History: Effective May 1, 1992; amended effective May 1, 1994; May 1, 2004.

General Authority: NDCC 38-08-04, 38-08-11

Law Implemented: NDCC 38-08-04, 38-08-08

43-02-03-88.2. Hearing participants by telephone. In any hearing, the commission may, at its option, allow telephonic communication of witnesses and interested parties. The procedure shall be as follows:

1. Telephonic communication of an applicant's witness will only be considered if a written request is made at least two business days prior to the hearing date.
2. Telephonic communication of an interested party will only be considered if said party notifies the applicant and the commission in writing at least three business days prior to the hearing date. Such notice shall include the subject hearing, the name and telephone number of the interested party, and the name and telephone number of the interested party's attorney or representative that will be present at the hearing.

3. In the event an objection to any party's telephonic communication is received, the examiner may disallow such communication by telephone and may reschedule for an in-person hearing. The commission will notify all parties whether or not the request to participate by telephone is granted or denied.
4. All parties participating by telephone shall have an attorney or representative present at the hearing who shall be responsible for actually calling said party once the case is called for hearing, for providing the commission at the time of the hearing with any documentary evidence requested to be included in the record, and for any other matters necessary for the party to participate by telephone.
5. All parties participating by telephone shall file an affidavit verifying the identity of such party. The record of such telephonic communication shall not be considered evidence in the case unless said affidavit is received by the examiner prior to an order being issued by the commission. The commission shall provide a form affidavit. The commission has the discretion to refuse to consider all or any part of the information received from any party participating by telephone.
6. For all hearings allowing communication by telephone, the commission shall provide a hearing room equipped with a speaker telephone.
7. The cost of telephonic communication shall be paid by the party requesting its use.

History: Effective July 1, 2002; amended effective May 1, 2004.

General Authority: NDCC 38-08-11

Law Implemented: NDCC 28-32-11

43-02-03-89. Upon application hearing is set. Repealed effective January 1, 1983.

43-02-03-90. Hearings - Complaint proceedings - Emergency proceedings - Other proceedings.

1. Except as more specifically provided in North Dakota Century Code section 38-08-11, the rules of procedure established in subsection 1 of North Dakota Century Code section 28-32-21 apply to proceedings involving a complaint and a specific-named respondent.
2. For proceedings that do not involve a complaint and a specific-named respondent the commission shall give at least fifteen days' notice (except in emergency) of the time and place of hearing thereon by one publication of such notice in a newspaper of general circulation in Bismarck, North Dakota, and in a newspaper of general circulation in the county where the land affected or some part thereof is situated, unless in some particular proceeding a longer period of time or a

different method of publication is required by law, in which event such period of time and method of publication shall prevail. The notice shall issue in the name of the commission and shall conform to the other requirements provided by law.

3. In case an emergency is found to exist by the commission which in its judgment requires the making of a rule or order without first having a hearing, the emergency rule or order shall have the same validity as if a hearing with respect to the same had been held after notice. The emergency rule or order permitted by this section shall remain in force no longer than forty days from its effective date, and in any event, it shall expire when the rule or order made after due notice and hearing with respect to the subject matter of such emergency rule or order becomes effective.

Any person moving for a continuance of a hearing, and who is granted a continuance, shall submit a twenty-five dollar fee to the commission to pay the cost of republication of notice of the hearing.

History: Amended effective March 1, 1982; January 1, 1983; May 1, 1990; May 1, 1992; May 1, 1994; July 1, 1996; July 1, 2002.

General Authority: NDCC 38-08-11

Law Implemented: NDCC 28-32-05, 38-08-11

43-02-03-90.1. Investigatory hearings. The commission may hold investigatory hearings upon the institution of a proceeding by application or by motion of the commission. Notice of the hearing must be served upon all parties personally or by certified mail at least five days before the hearing.

History: Effective May 1, 1992.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-90.2. Official notice. The evidence in each case heard by the commission, unless specifically excluded by the hearing officer, includes the oil, water, and gas production records on file with the commission.

History: Effective May 1, 1992.

General Authority: NDCC 28-32-06

Law Implemented: NDCC 28-32-06

43-02-03-90.3. Petitions for review of recommended order and oral arguments prohibited. Neither petitions for review of a recommended order nor oral arguments following issuance of a recommended order and pending issuance of a final order are allowed.

History: Effective May 1, 1992.

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-03-90.4. Notice of order by mail. The commission may give notice of an order by mailing the order, and findings and conclusions upon which it is based, to all parties by regular mail provided it files an affidavit of service by mail indicating upon whom the order was served.

History: Effective May 1, 1992.

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-03-90.5. Service and filing. All pleadings, notices, written motions, requests, petitions, briefs, and correspondence to the commission or commission employee from a party (or vice versa) relating to a proceeding after its commencement, must be filed with the director and entered into the commission's official record of the procedure provided the record is open at the time of receipt. All parties shall receive copies upon request of any or all of the evidence in the record of the proceedings. The commission may charge for the actual cost of providing copies of evidence in the record. Unless otherwise provided by law, filing shall be complete when the material is entered into the record of the proceeding.

History: Effective May 1, 1992.

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-03-91. Rehearing. Repealed effective May 1, 1992.

43-02-03-92. Burden of proof. Repealed effective January 1, 1983.

43-02-03-93. Designation of examiners. The commission may by motion designate and appoint qualified individuals to serve as examiners. The commission may refer any matter or proceeding to any legally designated and appointed examiner or examiners.

History: Amended effective April 30, 1981; January 1, 1983.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-94. Matters to be heard by examiner. Repealed effective January 1, 1983.

43-02-03-95. Powers and duties of examiner. The commission may by motion limit the powers and duties of any examiner in any particular case to such issues or to the performance of such acts as the commission deems expedient; however, subject only to such limitation as may be ordered by the commission, the examiner or examiners to whom any matter or proceeding is referred under this chapter shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to this chapter. The examiner shall have the power to regulate all proceedings before the examiner and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including ruling on prehearing motions, the swearing of witnesses, receiving of

testimony and exhibits offered in evidence, subject to such objections as may be imposed, and shall cause a complete record of the proceeding to be made and retained.

History: Amended effective January 1, 1983; May 1, 1990.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-96. Matters heard by commission. Repealed effective January 1, 1983.

43-02-03-97. Examiner disinterested umpire. Repealed effective January 1, 1983.

43-02-03-98. Report of examiner. Upon the conclusion of any hearing before an examiner, the examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing, the examiner shall prepare a report and recommendations for the disposition of the matter or proceeding by the commission. Such report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order, and shall be submitted to the commission.

History: Amended effective January 1, 1983.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-99. Commission order from examiner hearing. After receipt of the report and recommendations of the examiner, the commission shall enter its order disposing of the matter or proceeding.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04

43-02-03-100. Hearing de novo before commission. Repealed effective January 1, 1983.

43-02-03-101. Prehearing motion practice. In a matter pending before the commission, all prehearing motions must be served by the moving party upon all parties affected by the motion. Service must be upon a party unless a party is represented by an attorney, in which case service must be upon the attorney. Service must be made by delivering a copy of the motion and all supporting papers in conformance with one of the means of service provided for in rule 5(b) of the North Dakota Rules of Civil Procedure. Proof of service must be made as provided in rule 4 of the North Dakota Rules of Civil Procedure or by the certificate of an attorney showing that service has been made. Proof of service must accompany

the filing of a motion. Any motion filed without proof of service is not properly before the commission.

History: Effective May 1, 1990; amended effective January 1, 2006.

General Authority: NDCC 38-08-04

Law Implemented: NDCC 38-08-04