

MINING AND GAS AND OIL PRODUCTION

CHAPTER 395

SENATE BILL NO. 2214
(Committee on Natural Resources)
(At the request of the Industrial Commission)

INDUSTRIAL COMMISSION SERVICE FEES

AN ACT to create and enact a new subdivision to subsection 1 of section 38-08-04 of the North Dakota Century Code, relating to the payment of fees for services performed by the industrial commission.

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

SECTION 1. A new subdivision to subsection 1 of section 38-08-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

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

Approved March 23, 1983

CHAPTER 396

SENATE BILL NO. 2181
(Committee on Natural Resources)
(At the request of the Industrial Commission)

OIL AND GAS FILING AND PERMIT REQUIREMENTS

AN ACT to create and enact a new subdivision to subsection 1 of section 38-08-04 and a new subdivision to subsection 2 of section 38-08-04 of the North Dakota Century Code, relating to the filing of samples and cores with the state geologist and the underground storage of oil and gas; and to amend and reenact subdivisions b and i of subsection 1 of section 38-08-04 and section 38-08-05 of the North Dakota Century Code, relating to the filing of logs and reports with the industrial commission and the permitting of oil and gas wells.

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

SECTION 1. AMENDMENT. Subdivisions b and i of subsection 1 of section 38-08-04 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. The making and filing with the industrial commission and the state geologist of all resistivity, radioactivity, and mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling, and production; and the filing free of charge of samples and core chips and of complete cores when requested in the office of the state geologist within six months after the completion or abandonment of the well.
- i. That every person who produces, sells, purchases, acquires, stores, transports, refines, disposes of, or processes oil or, gas, saltwater or other related oilfield fluids in this state shall keep and maintain within this state complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to such oil or gas or the products thereof.

SECTION 2. A new subdivision to subsection 1 of section 38-08-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

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

SECTION 3. A new subdivision to subsection 2 of section 38-08-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The underground storage of oil or gas.

SECTION 4. AMENDMENT. Section 38-08-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-05. Drilling permit required. It shall be unlawful to commence operations for the drilling of a well for oil or gas ~~without first giving to the industrial commission notice of intention to drill, or~~ without first obtaining a permit ~~from the industrial commission,~~ under such rules as may be prescribed by the commission and paying to the commission a fee for each such well in an amount to be prescribed by the commission.

Approved March 17, 1983

CHAPTER 397

SENATE BILL NO. 2215
(Committee on Natural Resources)
(At the request of the Industrial Commission)

WELL DATA REPORT CONFIDENTIALITY

AN ACT to create and enact a new subsection to section 38-08-04 of the North Dakota Century Code, relating to confidentiality of well data reported to the industrial commission.

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

SECTION 1. A new subsection to section 38-08-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To provide for the confidentiality of well data reported to the commission if requested in writing by those reporting the data for a period not to exceed six months.

Approved March 15, 1983

CHAPTER 398

HOUSE BILL NO. 1198
(Committee on Natural Resources)
(At the request of the Industrial Commission)

DRILLING AND PRODUCTION SITE RESTORATION

AN ACT to create and enact two new sections to chapter 38-08 of the North Dakota Century Code, relating to the authority of the industrial commission to make contracts for the plugging or replugging of oil and gas wells and the reclamation of abandoned oil and gas well sites and establish a fund from fees collected to be used for purposes of contracting for plugging or replugging oil and gas wells and the reclamation of abandoned oil and gas well sites; to amend and reenact subdivision a of subsection 2 of section 38-08-04 of the North Dakota Century Code, relating to the power of the industrial commission to require the restoration of drilling and production sites; to provide an appropriation; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 38-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. A new section to chapter 38-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Commission authorized to enter into contracts. The commission is hereby authorized to enter into contracts for the plugging or replugging of oil and gas wells and the reclamation of abandoned oil and gas well sites if:

1. The person or company drilling or operating the well cannot be found or cannot be legally required to plug or replug the well or to reclaim the well site; and

2. There is no surety bond covering the well to be plugged or the site to be reclaimed or there is a forfeited surety bond but the cost of plugging or replugging the well or reclaiming the site exceeds the amount of the bond.

Reclamation work shall be limited to abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads. Sealed bids for any well plugging or reclamation work under this section shall be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids shall be addressed to the commission and shall be opened publicly at an industrial commission meeting designated in the notice. The contract shall be let to the lowest responsible bidder, but the commission may reject any or all bids submitted.

The contracts for the plugging or replugging of wells or the reclamation of well sites shall be on terms and conditions as set by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

SECTION 3. A new section to chapter 38-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Abandoned oil and gas well plugging and site reclamation fund. There is hereby created an abandoned oil and gas well plugging and site restoration fund.

1. Revenue to the fund shall include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
2. Moneys in the fund may be used for the following purposes.
 - a. Contracting for the plugging of abandoned wells.

- b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
3. Whenever the money accumulated in the fund exceeds fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission shall be deposited in the general fund.

SECTION 4. APPROPRIATION. There is hereby appropriated out of any moneys in the abandoned oil and gas well plugging and site restoration fund in the state treasury, the sum of one hundred thousand dollars or so much thereof as may be necessary to the industrial commission for the purpose of entering into contracts for the plugging or replugging of oil and gas wells and the reclamation of abandoned well sites for the period beginning after the passage and approval of this Act and ending June 30, 1985.

SECTION 5. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 21, 1983

CHAPTER 399

SENATE BILL NO. 2216
(Committee on Natural Resources)
(At the request of the Industrial Commission)

DISCRIMINATION IN PURCHASE AND PROCESSING OF GAS

AN ACT to create and enact a new section to chapter 38-08 of the North Dakota Century Code, relating to purchasing and processing of gas; to amend and reenact section 49-19-19 of the North Dakota Century Code, relating to discrimination between shippers in transportation of oil and gas by common pipeline carriers; and to repeal section 49-19-21 of the North Dakota Century Code, relating to the preventing of waste of oil and gas; and to declare an emergency.

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

SECTION 1. A new section to chapter 38-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Discrimination in the processing and purchasing of gas prohibited. Gas produced in this state must be processed and purchased without discrimination between producers in the same reservoir, recognizing the right of the purchaser to establish reasonable quality standards for acceptance of gas, which must be applied without discrimination among producers. After notice and hearing, for good cause, the commission may relieve any person of the duty to process and purchase gas produced in this state without discrimination.

SECTION 2. AMENDMENT. Section 49-19-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-19. Discrimination between shippers in facilities furnished, service rendered, and rates prohibited. No common pipeline carrier shall discriminate between or against shippers in regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum, coal, or gas, nor shall there be any discrimination in the transportation of crude petroleum, coal, or gas produced or purchased by itself directly or indirectly. In this connection the pipeline shall be considered as a shipper of the crude petroleum, coal, or gas produced or purchased by itself directly or indirectly.

and handled through its facilities. No such carrier in such operation, directly or indirectly, shall charge, demand, collect, or receive from anyone a greater or less compensation for any service rendered than from another for a like contemporaneous service. This shall not limit the right of the commission to prescribe rates and regulations from or to some places different from other rates or regulations for transportation from or to other places as it may determine, nor shall any carrier be guilty of discrimination when obeying any order of the commission. Where there shall be offered for transportation more crude petroleum or coal than can be transported immediately, the same shall be apportioned equitably. Gas shall be taken pro rata on the basis of open flow production of the wells connected to the pipeline or lines and the delivery of each well shall be regulated accordingly. The commission may make and enforce general or specific regulations in this regard on a pro rata basis or on such basis as may be established by the industrial commission pursuant to section 38-08-06.

SECTION 3. REPEAL. Section 49-19-21 of the North Dakota Century Code is hereby repealed.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 17, 1983

CHAPTER 400

HOUSE BILL NO. 1307
(R. Meiers, Lardy, O'Connell, Aubol)

ROYALTY OWNER STATEMENTS

AN ACT to require that certain information be provided with any payment made to a royalty owner for the purchase of oil or gas produced from a royalty owner's interest in land in this state; to provide a penalty; and to declare an emergency.

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

SECTION 1. Information statement to accompany payment to royalty owner - Penalty. Any person who makes a payment to an owner of a royalty interest in land in this state for the purchase of oil or gas produced from that royalty interest must provide with the payment to the royalty owner an information statement that will allow the royalty owner to clearly identify the amount of oil or gas sold and the amount and purpose of each deduction made from the gross amount due. The statement must be on forms approved by the industrial commission and contain the information that the commission prescribes by rule. A person who fails to comply with the requirements of this section is guilty of a class B misdemeanor.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 4, 1983

CHAPTER 401

HOUSE BILL NO. 1203
(Committee on Natural Resources)
(At the request of the Industrial Commission)

POOLING OF UNLEASED MINERAL INTEREST OWNERS

AN ACT to amend and reenact subsection 1 of section 38-08-08 of the North Dakota Century Code, relating to pooling of unleased mineral interest owners.

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

SECTION 1. AMENDMENT. Subsection 1 of section 38-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission upon the application of any interested person shall enter an order pooling all interests in the spacing unit for the development and operations thereof. Each such pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon. For the purposes of this section and section 38-08-10, any unleased mineral interest pooled by virtue of this section shall be entitled to a cost free royalty interest equal to the acreage weighted average royalty interest of the leased tracts within the spacing unit, but in no event shall the royalty interest of an unleased tract be less than a one-eighth interest. The remainder of the unleased interest shall be treated as a lessee or cost bearing interest. Any unleased mineral interest pooled prior to July 1, 1983, shall be entitled to the cost free royalty interest and working interest as provided in this section from and after the effective date of this Act.

Approved April 14, 1983

CHAPTER 402

HOUSE BILL NO. 1523
(Murphy)

UNITIZATION OF OIL AND GAS

AN ACT to amend and reenact sections 38-08-09.4 and 38-08-09.8 of the North Dakota Century Code, relating to unitization of oil and gas under the control and regulation of the industrial commission.

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

SECTION 1. AMENDMENT. Section 38-08-09.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-09.4. Order - Units and unit areas - Plan of unitization. The order of the commission shall define the area of the unit source of supply or portion thereof to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable thereto.

Each unit and unit area shall be limited to all or a portion of a single unit source of supply.

A unit may be created to embrace less than the whole of a unit source of supply only where it is shown by the evidence that the area to be so included within the unit area is of such size and shape as may be reasonably required for the successful and efficient conduct of the unitized method or methods of operation for which the unit is created, and that the conduct thereof will have no material adverse effect upon the remainder of such unit source of supply.

The plan of unitization for each such unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect thereto. In addition to such other terms, provisions, conditions and requirements found by the commission to be reasonably necessary or proper to effectuate or accomplish the purposes of sections 38-08-09.1 through 38-08-09.16, and subject to the further requirements hereof, each such plan of unitization shall contain fair, reasonable, and equitable provisions for:

1. The efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the unit source of supply affected. Under such a plan, the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient. The designation of the unit operation shall be by a vote of the working interest owners in the unit in a manner provided by the plan of unitization and not by the commission, and the unit operating agreement shall contain a provision that the owners of a simple majority of the working interest in the unit area may vote to change the unit operator.
2. The division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately owned tracts to produce or receive, in lieu thereof, their fair, equitable, and reasonable share of the unit production or other benefits thereof. A separately owned tract's fair, equitable, and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, or operating factors, as may be reasonably susceptible of determination. Unit production as that term is used in sections 38-08-09.1 through 38-08-09.16 means and includes all oil and gas produced from a unit area from and after the effective date of the order of the commission creating the unit regardless of the well or tract within the unit area from which the same is produced.
3. The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms, and conditions on which the cost and expense thereof shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations. Upon and subject to such terms and conditions as to time and legal rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing

lessees who are unable to promptly meet their financial obligations in connection with the unit.

4. The procedure and basis upon which wells, equipment, and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation.
5. The creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of such other subcommittees, boards, or officers to function under authority of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all such committees, boards, or officers and prescribing their tenure and time and method for their selection.
6. The time when the plan of unitization shall become and be effective.
7. The time when and conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up; however, the unit may be dissolved ten years after the unit agreement becomes effective upon a petition to the commission by the royalty owners who are credited with at least eighty percent of the production and proceeds thereof, and a subsequent hearing and order by the commission. The commission may not dissolve any unit if the dissolution would be likely to result in waste or the violation of the correlative rights of any owner. This provision does not limit or restrict any other authority which the commission has.

SECTION 2. AMENDMENT. Section 38-08-09.8 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-09.8. Modification of property rights, leases, and contracts - Title to property - Distribution of proceeds - Effect of operations. Property rights, leases, contracts, and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of sections 38-08-09.1 through 38-08-09.16 and to any valid and applicable plan of unitization or order of the commission made and adopted pursuant hereto, but otherwise to remain in full force and effect.

Nothing contained in sections 38-08-09.1 through 38-08-09.16 shall be construed to require a transfer to or vesting in the unit of title to the separately owned tracts or leases thereon within the

unit area, other than the right to use and operate the same to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale thereof shall be owned by the several persons to whom the same is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold, or possess shall not be acquired, held, or possessed by the unit for its own account but shall be so acquired, held, and possessed by the unit for the account and as agent of the several lessees and shall be the property of such lessees as their interests may appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use, or disposal of the same in the proper conduct of its affairs.

The amount of the unit production allocated to each separately owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced, and regardless of whether it be more or less than the amount of the production from the well or wells, if any, on any such separately owned tract, shall for all intents, uses, and purposes be regarded and considered as production from such separately owned tract, and, except as may be otherwise authorized in sections 38-08-09.1 through 38-08-09.16, or in the plan of unitization approved by the commission, shall be distributed among or the proceeds thereof paid to the several persons entitled to share in the production from such separately owned tract in the same manner, in the same proportions, and upon the same conditions that they would have participated and shared in the production or proceeds thereof from such separately owned tract had not said unit been organized, and with the same legal force and effect. If adequate provisions are made for the receipt thereof, the share of the unit production allocated to each separately owned tract shall be delivered in kind to the persons entitled thereto by virtue of ownership of oil and gas rights therein or by purchase from such owners subject to the rights of the unit to withhold and sell the same in payment of unit expense pursuant to the plan of unitization, and subject further to the call of the unit on such proportions of the gas for operating purposes as may be provided in the plan of unitization.

Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of and compliance with all of the provisions, covenants, and conditions, express or implied, of the several oil and gas mining leases upon lands included within the unit area, or other contracts pertaining to the development thereof, insofar as said leases or other contracts may relate to the common source of supply or portion thereof included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately owned tract within such unit area.

Nothing herein or in any plan of unitization shall be construed as increasing or decreasing the express or implied covenants of a lease in respect to a unit source of supply or lands

not included within the unit area of a unit. However, when an oil and gas lease covers and affects lands partially within and partially without the unit area, unit operations and unit production allocated to the lease, as provided in this section, shall not be deemed operations on or production from the lease as to the lands covered by the lease lying outside the unit area after two years from the effective date of the order of the commission creating and approving the unit or the expiration of the primary term of the lease, whichever is the later date. After the later date, the lease as to lands outside the unit area may be maintained in force and effect only in accordance with the terms and provisions contained in the lease.

Approved April 5, 1983

CHAPTER 403

HOUSE BILL NO. 1199
(Committee on Natural Resources)
(At the request of the Industrial Commission)

UNIT AGREEMENT RATIFICATION

AN ACT to amend and reenact section 38-08-09.5 of the North Dakota Century Code, relating to ratification of unit agreements.

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

SECTION 1. AMENDMENT. Section 38-08-09.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-09.5. Ratification or approval of plan by lessees and owners. At the time of filing of the petition for the approval of a unit agreement and the filing of the unit agreement, the commission shall set a time and place for the hearing. At least forty-five days prior to the hearing, the applicant or someone under his direction and control, shall give notice of the time and place of said hearing and shall mail, postage prepaid, a copy of the application and the proposed plan of unitization to each affected person owning an interest of record in the unit outline, at such person's last known post-office address. In addition, such applicant shall file with the commission engineering, geological, and all other technical exhibits to be used at said hearing, and further, the notice shall so specify that such material is filed and is available for inspection. Service shall be complete in the mailing of the notice of hearing and unit agreement to each interest owner as hereinbefore prescribed at his last known address and the filing of an affidavit of mailing with the commission. No order of the commission creating a unit and prescribing the plan of unitization applicable thereto shall become effective unless and until the plan of unitization has been signed, or in writing ratified or approved by those persons who, under the commission's order, will be required to pay at least eighty percent of the costs of the unit operation and also by the owners of at least eighty percent of the ~~production or proceeds~~ royalty interests under the commission's order, excluding overriding royalties, production payments, and other interests carved out of the working interest, and in addition it shall be required that when

there is more than one person who will be obligated to pay costs of the unit operation, at least two nonaffiliated such persons and at least two of the persons owning production or proceeds thereof that will be credited to interests which are free of costs such as royalties, overriding royalties, and production payments royalty interest owners, shall be required as voluntary parties, and the commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the commission shall, upon petition and notice, hold such additional and supplemental hearings as may be requested or required to determine if and when the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to such hearings, make and enter a finding of its determination in such regard. In the event lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not so signed, ratified, or approved the plan of unitization within a period of six months from and after the date on which the order creating the unit is made, the order creating the unit shall cease to be of further force and effect and shall be revoked by the commission.

Approved March 21, 1983

CHAPTER 404

HOUSE BILL NO. 1196
(Committee on Natural Resources)
(At the request of the Industrial Commission)

GEOPHYSICAL EXPLORATION SURETY BOND

AN ACT to amend and reenact subsections 1 and 2 of section 38-08.1-03.1 of the North Dakota Century Code, relating to the surety bond for geophysical exploration.

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

SECTION 1. AMENDMENT. Subsection 1 of section 38-08.1-03.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A person desiring to engage in geophysical exploration in this state shall also file with the industrial commission a good and sufficient surety bond in the amount of fifteen thousand dollars for a single geophysical crew or a blanket surety bond in the amount of thirty thousand dollars for all geophysical crews operating within the state for such person. The bond shall be in a form prescribed by the industrial commission and shall indemnify all owners of property within the state, including the state and its political subdivisions, against physical damages to property which may result from geophysical exploration. The bond shall cover a period of one year all geophysical exploration conducted within one year of the date the bond is issued and shall be automatically renewed unless the industrial commission and the person covered thereby receive notice sixty days prior to any anniversary date of the surety's intent not to renew the bond. In the event the surety does not renew the bond, the surety's liability under the bond shall cease six years from the date that geophysical exploration or reclamation covered by the bond was last conducted in the state.

SECTION 2. AMENDMENT. Subsection 2 of section 38-08.1-03.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The bond shall remain on file with the industrial commission so long as the exploration covered by the bond is carried on or engaged in within the state, plus an additional one year six years thereafter; provided, however, that the aggregate liability of the surety shall in no event exceed the amount of the bond.

Approved March 3, 1983

CHAPTER 405

HOUSE BILL NO. 1534
(Representatives R. Meyer, C. Martin, Thompson)
(Senator Krauter)

GEOPHYSICAL EXPLORATION PERMIT REQUIREMENT

AN ACT to amend and reenact section 38-08.1-04.1 of the North Dakota Century Code, relating to the requirements to obtain a geophysical exploration permit.

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

SECTION 1. AMENDMENT. Section 38-08.1-04.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08.1-04.1. Exploration permit.

1. Upon filing a notice of intention to explore pursuant to section 38-08.1-04 and the certificate issued by the industrial commission pursuant to section 38-08.1-03.1, the county commission or ~~their~~ its designee may issue to any person desiring to engage in geophysical exploration a "geophysical exploration permit" subject to such other conditions or restrictions as may be provided by county ordinances established pursuant to chapter 11-33. A person may not engage in geophysical exploration activities in any county without having first obtained a geophysical exploration permit from the county commission.
2. The permit shall show, at a minimum:
 - a. The name of the person.
 - b. The name and address of the resident agent for service of process.
 - c. That a notice of intention to engage in geophysical exploration has been duly filed.
 - d. That a good and sufficient surety bond has been filed by the person, naming the surety company and giving its address.

3. The permit shall be signed by the chairman of the county commission or his designee and shall bear the official county seal. The permit ~~shall be~~ is valid and effective for all geophysical crews of the permittee for a one-year period in which it is issued.
4. The cost of the permit shall be set by the county commission based on anticipated actual expenses of administering and enforcing provisions of this chapter, and the revenues realized therefrom shall go to the county so issuing.
5. The permit holder shall notify the operator of the land at least three days prior to the commencement of any geophysical exploration activity, unless waived by mutual agreement of both parties. The notice must include the approximate time schedule and the location of the planned activity.
6. The permit or a photostatic copy thereof shall be carried at all times by a member of the crew during the period of geophysical exploration and shall be exhibited upon demand of the landowner or tenant operator or county or state official or respective surface owner.

Approved April 5, 1983

CHAPTER 406

HOUSE BILL NO. 1533
(Representatives R. Meyer, Thompson, C. Martin)
(Senator Krauter)

SEISMIC DRILL HOLE PLUGGING

AN ACT to create and enact a new section to chapter 38-08.1 of the North Dakota Century Code, relating to the plugging requirements for drill holes; and to amend and reenact section 38-08.1-06 of the North Dakota Century Code, relating to the duty of seismic company to plug exploration seismic drill holes.

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

SECTION 1. AMENDMENT. Section 38-08.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08.1-06. Duty to plug drill holes.

1. Unless otherwise agreed to between the owner of the surface or lessee and the person required by this section to plug the drill hole, prior to abandonment of any drill hole, it shall be the obligation of the person engaging the services of the drill, or if none, then the driller himself, to plug the drill hole as required by section 23-13-06 or to install casing in the drill hole, and to restore the surrounding surface as nearly as is practicable to its original condition. Each drill hole required to be filled under this section shall be filled with clay, bentonite, or concrete or a mixture of any of the three. This section shall not apply to drill holes regulated by the industrial commission under sections 38-08-04 and 38-12-02, and chapter 38-12-1 drill holes must be plugged and abandoned as required by this section.
2. The seismic company responsible for the plugging and abandonment of seismic shot holes shall notify the county commission in writing that it intends to plug and abandon the drill hole. The required notice must be received by the commission at least twenty-four hours prior to the time plugging activities are scheduled to begin. The

notice must include the date and time the activities are expected to commence, the location by section, township and range of the holes to be plugged, and the name and telephone number of the person in charge of the plugging operations. A copy of the notice must be sent to the landowner or lessee at the same time it is sent to the county commission.

3. All seismic shot holes must be plugged as soon after being used as reasonably is practicable; however, they may not remain unplugged for a period of more than thirty days unless, upon application, the county commission grants an extension which may not exceed ninety days. All seismic shot holes must be temporarily capped during the period between drilling and final plugging.
4. The plug must have permanently affixed to it a durable nonrusting metal or plastic tag or plate imprinted with the name of the operator responsible for the plugging of the hole and the operator's permit number.
5. The surface around each seismic shot hole must be restored to its original condition insofar as restoration is practicable and all stakes, markers, cables, ropes, wires, primacord, cement or mud stacks, and any other debris or material not native to the area must be removed from the drill site and deposited in a sanitary landfill.

SECTION 2. A new section to chapter 38-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Plugging requirements - Liability for damage.

1. Except as provided in this section, all seismic holes must be filled with a bentonite-water slurry by hose injection and displacement upwards from the bottom up. The slurry mixture must have a marsh funnel viscosity of sixty seconds or greater per quart (subject to field verification on site), and must contain a minimum of twenty-eight pounds of commercial plugging bentonite per forty-two gallons of water. A mechanical bridge plug must be set on top of the slurry mixture followed by a cement plug at least one foot in length. The top of a cement plug must be at least four feet below the ground surface. The remainder of the hole must be filled with native surface material.
2. Seismic holes that penetrate artesian water deposits must be stabilized with a cement slurry from the maximum depth attainable up to approximately four feet below the ground surface. The cement slurry must be of sufficient density to contain water to their native strata. The remainder of the hole must be filled with native surface material.

3. Seismic holes that penetrate artesian water deposits and encounter alkaline or saline waters must be plugged immediately as set forth in subsection 1 except that a heavier slurry mixture must be used with the addition of inorganic drying or stabilizing chemicals such as calcium chloride, sodium bicarbonate, or soda ash to assist in the effective plugging and stability of the bentonite column in the hole.
4. The seismic company is liable for all damages resulting from failure to comply with the provisions of this section.

Approved April 5, 1983

CHAPTER 407

SENATE BILL NO. 2319
(Senators Maixner, J. Meyer)
(Representatives R. Anderson, Thompson)

OIL AND GAS PRODUCTION DAMAGE COMPENSATION

AN ACT to amend and reenact subsection 2 of section 38-11.1-03, sections 38-11.1-04, 38-11.1-05, 38-11.1-08, and 38-11.1-09 of the North Dakota Century Code, relating to the definition of "drilling operations", surface damage and disruption payments, notice of oil and gas drilling operations to surface owners, offers of settlement for damages resulting from drilling operations, and legal actions in regard to damages resulting from drilling operations.

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

SECTION 1. AMENDMENT. Subsection 2 of section 38-11.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Drilling operations" means the exploration for, including seismograph activities, or drilling of an oil and gas well which requires entry upon the surface estate and was commenced subsequent to June 30, 1979, and the production operations ensuing therefrom, provided, however, that this subsection is applicable only to seismograph activities commenced subsequent to June 30, 1983.

SECTION 2. AMENDMENT. Section 38-11.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11.1-04. Surface damage and disruption payments. The mineral developer shall pay the surface owner a sum of money equal to the amount of damages sustained by the surface owner for loss of agricultural production and income, lost land value, lost use of and access to the surface owner's land, and lost value of improvements caused by drilling operations. The amount of damages may be determined by any formula mutually agreeable between the surface owner and the mineral developer. When determining damages, consideration shall be given to the period of time during which the loss occurs and the surface owner may elect to be paid damages in

annual installments over a period of time; except that the surface owner shall be compensated for harm caused by exploration only by a single sum payment. The payments contemplated by this section shall only cover land directly affected by drilling operations. Payments under this section are intended to compensate the actual surface owner for damage and disruption; any reservation or assignment of such compensation apart from the surface estate except to a tenant of the surface estate is prohibited.

* SECTION 3. AMENDMENT. Section 38-11.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11.1-05. Notice of drilling operations. Except for exploration activities governed by chapter 38-08.1, the mineral developer shall give the surface owner written notice of the drilling operations contemplated at least twenty days prior to the commencement of such activities, unless waived by mutual agreement of both parties. If the mineral developer plans to begin drilling operations within twenty days of the termination date of the mineral lease, the required notice under this section may be given at any time prior to commencement of drilling operations. This notice shall be given to the record surface owner at his address as shown by the records of the county register of deeds at the time the notice is given. This notice shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property. Included with this notice shall be a form prepared by the state geologist advising the surface owner of his rights and options under the chapter.

SECTION 4. AMENDMENT. Section 38-11.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11.1-08. Agreement - Offer of settlement. Unless both parties provide otherwise by written agreement, within sixty days after the mineral developer receives notice of damages at the time the notice required by section 38-11.1-05 is given, the mineral developer shall make a written offer of settlement to the person seeking compensation for the damages when the notice required by section 38-11.1-05 is given. The person seeking compensation may accept or reject any offer so made.

SECTION 5. AMENDMENT. Section 38-11.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11.1-09. Rejection - Legal action - Fees and costs. If the person seeking compensation ~~receives a written rejection,~~ rejects the offer of the mineral developer, ~~or receives no reply,~~ that person may bring an action for compensation in the court of proper jurisdiction. If the amount of compensation awarded by the court is greater than that which had been offered by the mineral developer,

* NOTE: Section 38-11.1-05 was also amended by section 1 of House Bill No. 1375, chapter 408.

the court shall award the person seeking compensation reasonable attorney fees and, any costs assessed by the court, and interest on the amount of the final compensation awarded by the court from the day drilling is commenced. The rate of interest awarded must be the prime rate charged by the Bank of North Dakota on the date of the judgment.

Approved April 8, 1983

CHAPTER 408

HOUSE BILL NO. 1375
(Murphy)

OIL AND GAS DRILLING OPERATION NOTICE

AN ACT to amend and reenact section 38-11.1-05 of the North Dakota Century Code, relating to notice of oil and gas drilling operations.

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

* SECTION 1. AMENDMENT. Section 38-11.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-11.1-05. Notice of drilling operations. Except for exploration activities governed by chapter 38-08.1, the mineral developer shall give the surface owner written notice of the drilling operations contemplated. This notice shall be given to the record surface owner at his address as shown by the records of the county register of deeds at the time the notice is given. This notice shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property. Included with this notice shall be a form prepared by the state geologist advising the surface owner of his rights and options under the chapter. If a mineral developer fails to give notice as provided under this section, the surface owner may seek any appropriate relief in the court of proper jurisdiction and may receive punitive as well as actual damages.

Approved March 3, 1983

* NOTE: Section 38-11.1-05 was also amended by section 3 of Senate Bill No. 2319, chapter 407.

CHAPTER 409

SENATE BILL NO. 2154
(Committee on Natural Resources)
(At the request of the Public Service Commission)

SURFACE MINING APPLICATION FILING FEE

AN ACT to amend and reenact subsection 1 of section 38-14.1-13 of the North Dakota Century Code, relating to permit applications for surface coal mining and reclamation operations.

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

SECTION 1. AMENDMENT. Subsection 1 of section 38-14.1-13 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person or operator desiring to engage in surface coal mining operations shall make written application to the commission for a permit. Application for such permit shall be made upon a form furnished by the commission. Included in the application shall be:
 - a. A bond or security to attach to the lands for which a permit is sought from and after the time a permit is granted pursuant to the requirements of section 38-14.1-16.
 - b. A nonrefundable filing fee of not less than two hundred fifty dollars or as prescribed by the commission by regulation. In establishing the amount of the fee, the commission may consider the actual or anticipated cost of reviewing, administering, and enforcing such permit. Any amount in excess of the minimum two hundred fifty dollar fee may be refunded as prescribed by the commission by regulation. five hundred dollars, plus ten dollars for each acre included in the permit application.
 - c. Mining and reclamation plans and other information required to be submitted pursuant to section 38-14.1-14.
 - d. An extended mining plan as required by section 38-14.1-15.

Approved March 15, 1983

CHAPTER 410

SENATE BILL NO. 2157
(Committee on Natural Resources)
(At the request of the Public Service Commission)

AUGER MINING

AN ACT to create and enact a new subsection to section 38-14.1-24 of the North Dakota Century Code, relating to auger mining; and to amend and reenact subsection 33 of section 38-14.1-02 of the North Dakota Century Code, relating to auger mining.

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

SECTION 1. AMENDMENT. Section 38-14.1-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

33. "Surface coal mining operations" means:

- a. Activities affecting the surface of lands in connection with a surface coal mine. Such activities include extraction of coal from coal refuse piles, excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, and loading of coal at or near the mine site: except that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds per centum of the tonnage of minerals removed for purposes of commercial use or sale, coal exploration subject to chapter 38-12.1, or the extraction of coal incidental to reclamation operations under chapter 38-14.2; and
- b. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all adjacent lands affected by the construction of new

roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

* SECTION 2. A new subsection to section 38-14-24 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

22. Conduct any auger mining associated with surface coal mining operations in a manner that will maximize recoverability of coal and other mineral reserves remaining after mining activities and reclamation operations are completed, and seal or fill all auger holes as necessary to ensure long term stability of the area and minimize any adverse impact to the environment or hazard to public health or safety. The commission may prohibit auger mining if necessary to maximize the utilization, recoverability, or conservation of coal resources, to ensure long term stability, or to protect against any adverse impact to the environment or hazard to public health or safety.

Approved March 29, 1983

* NOTE: This subsection has been redesignated as subsection 1.1.

CHAPTER 411

SENATE BILL NO. 2152
(Committee on Natural Resources)
(At the request of the Public Service Commission)

INFORMAL CONFERENCE PROCEDURES

AN ACT to amend and reenact subsection 1 of section 38-14.1-19 of the North Dakota Century Code, relating to informal conference procedures.

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

SECTION 1. AMENDMENT. Subsection 1 of section 38-14.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If written objections or comments are filed and an informal conference is requested as provided in section 38-14.1-17 ~~or~~, 38-14.1-18, or 38-14.1-28, the commission shall schedule such informal conference within thirty days of the receipt of such request but in no event prior to the expiration of the thirty-day period allowed for submission of comments, objections and requests in subsection 2 of section 38-14.1-17 or subsections 3, 4, and 5 of section 38-14.1-18.

Approved March 17, 1983

CHAPTER 412

HOUSE BILL NO. 1059
(Legislative Council)
(At the request of Legislative Audit and Fiscal Review)

SURFACE MINING AND RECLAMATION FUND DEPOSIT AND TRANSFER

AN ACT to amend and reenact section 38-14.1-39 of the North Dakota Century Code, relating to deposits to the surface mining and reclamation fund; and to provide for a transfer from the surface mining and reclamation fund to the general fund.

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

SECTION 1. AMENDMENT. Section 38-14.1-39 of the North Dakota Century Code is hereby amended and reenacted to read, as follows:

38-14.1-39. Fees and Forfeitures - Deposit. All ~~permit application fees and~~ performance bond forfeitures collected under the provisions of this chapter shall be deposited in the state treasury and credited to a special account to be designated as the surface mining and reclamation fund. This fund shall be available to the commission and, subject to legislative appropriation, may be expended ~~for the administration and enforcement of this chapter and~~ for the reclamation of land affected by surface coal mining operations.

SECTION 2. TRANSFER. On July 1, 1983, the amount in the surface mining and reclamation fund which relates to permit application fees that have been deposited in the fund shall be transferred to the general fund.

Approved March 8, 1983

CHAPTER 413

HOUSE BILL NO. 1084
(Murphy)

ABANDONED MINERAL RIGHTS

AN ACT to provide for the termination of mineral interest in land owned by persons other than the owners of the surface and for the vesting of title to dormant mineral interests in the surface owners in the absence of appropriate developmental activities or the recording of a notice of claim of interest within a specified period.

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

SECTION 1. "Mineral interest" defined. In this chapter, unless context or subject matter otherwise requires, "mineral interest" includes any interest in oil, gas, coal, clay, gravel, uranium, and all other minerals of any kind and nature, whether created by grant, assignment, reservation, or otherwise owned by a person other than the owner of the surface estate.

SECTION 2. Statement of claims - Recording - Reversion. Any mineral interest shall, if unused for a period of twenty years, be deemed to be abandoned, unless a statement of claim is recorded in accordance with section 4 of this Act. Title to the abandoned mineral interest shall vest in the owner or owners of the surface estate in the land in or under which the mineral interest is located on the date of abandonment.

SECTION 3. When mineral interest deemed to be used. A mineral interest is deemed to be used when:

1. There are any minerals produced under that interest.
2. Operations are being conducted thereon for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances.
3. In the case of solid minerals, there is production from a common vein or seam by the owners of such mineral interest.

4. The mineral interest on any tract is subject to a lease, mortgage, assignment, and conveyance of the mineral interest recorded in the office of the register of deeds in the county in which the mineral interest is located.
5. The mineral interest on any tract is subject to an order or an agreement to pool or unitize, recorded in the office of the register of deeds in the county in which the mineral interest is located.
6. Taxes are paid on the mineral interest by the owner or his agent.
7. A proper statement of claim is recorded as provided by section 4 of this Act.
8. The owner or lessee utilizes the mineral interest in a manner pursuant to, or authorized by, the instrument creating the mineral interest.

SECTION 4. Statement of claim - Recording - Time. The statement of claim provided for in section 2 of this Act must:

1. Be recorded by the owner of the mineral interest or his representative prior to the end of the twenty-year period set forth in section 2, or within two years after the effective date of this Act, whichever is later. A joint tenant, but not a tenant in common, may record a claim on behalf of oneself and other joint tenants.
2. Contain the name and address of the owner of the mineral interest, and a legal description of the land on, or under which, the mineral interest is located as well as the type of mineral interest involved.
3. Be recorded in the office of the register of deeds in the county in which the mineral interest is located.

The mineral interest shall be deemed to be in use at the date of recording, if the recording is made within the time provided by this section.

SECTION 5. Failure to record the statement of claim. Failure to record the statement of claim within the time period provided in section 4 will not cause a mineral interest to be extinguished if the owner of the mineral interest meets all of the following requirements:

1. Owns one or more mineral interests in the county in which the mineral interest in question is located at the time of the expiration of the time period provided in section 4.
2. Inadvertently failed to preserve the mineral interest in question.

3. Within sixty days after publication of the notice provided for in section 6, recorded a statement of claim.

SECTION 6. Notice of lapse of mineral interest - Method.

1. Any person intending to succeed to the ownership of a mineral interest upon its lapse, shall give notice of the lapse of the mineral interest by publication.
2. The publication provided for in subsection 1 shall be made once each week for three weeks in the official county newspaper of the county in which the mineral interest is located; however, if the address of the mineral interest owner is shown of record or can be determined upon reasonable inquiry, notice must also be made by mailing a copy of the notice to the owner of the mineral interest within ten days after the last publication is made.
3. The notice shall state:
 - a. The name of the record owner of the mineral interests;
 - b. A description of the land on which the mineral interest involved is located; and
 - c. The name of the person giving the notice.
4. A copy of the notice and an affidavit of service of the notice, if recorded in the office of the register of deeds of the county in which the mineral interest is located, is prima facie evidence in any legal proceedings that such notice has been given.

SECTION 7. Waiver prohibited. The provisions of this Act may not be waived at any time prior to the expiration of the twenty-year period provided in section 2.

SECTION 8. Applicability. This Act does not apply to any mineral interest owned by any governmental body or agency thereof and this Act is both prospective and retrospective in its application.

Approved April 5, 1983