

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 9649
ORDER NO. 11347

IN THE MATTER OF A HEARING CALLED ON
A MOTION OF THE COMMISSION TO
CONSIDER ON A MOTION OF THE
COMMISSION TO CONSIDER ADOPTING NEW
RULES AND AMENDMENTS TO THE
"GENERAL RULES AND REGULATIONS FOR
THE CONSERVATION OF CRUDE OIL AND
NATURAL GAS" CODIFIED AS ARTICLE 43-02
NORTH DAKOTA ADMINISTRATIVE CODE.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This cause came on for hearing at 9:00 a.m. on the 4th day of September, 2007.
- (2) The record of this case was open for ten (10) days after the hearing to receive written comments on the proposed additions and amendments to the rules. The record closed September 14, 2007.
- (3) The Commission is authorized to adopt, and from time to time amend or repeal, reasonable rules in conformity with the provisions of any statute administered or enforced by the agency.
- (4) It is necessary to amend existing rules codified in North Dakota Administrative Code (NDAC) Chapters 43-02-03 and 43-02-12, to implement, administer, and enforce the provisions of North Dakota Century Code Chapters 38-08 and 38-08.1.
- (5) The amendment of existing rules are in the public interest.

IT IS THEREFORE ORDERED:

- (1) Amended sections to NDAC Chapters 43-02-03 and 43-02-12, as shown in the appendix to this order, are hereby approved and adopted.
- (2) Existing regulations not specifically amended by this order shall remain in full force and effect.

(3) This order shall be effective pursuant to the applicable statutes and laws of this state and shall remain in full force and effect until further order of the Commission.

Dated this 17th day of October, 2007.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

/s/ John Hoeven, Governor

/s/ Wayne Stenehjem, Attorney General

/s/ Roger Johnson, Agriculture Commissioner

APPENDIX

NORTH DAKOTA INDUSTRIAL COMMISSION

RULES AND REGULATIONS—NORTH DAKOTA ADMINISTRATIVE CODE

**GENERAL RULES AND REGULATIONS
CHAPTER 43-02-03**

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 ~~and fractional 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 ~~and fractional proration units~~ in an allocated pool.
- ~~4. "Back allowable" means the authorized accumulative underage or shortage for a given proration unit or fractional proration unit.~~
54. "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].
65. "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.
76. "Bottom hole or subsurface pressure" means the pressure in pounds per square inch gauge under conditions existing at or near the producing horizon.
87. "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.
98. "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.
- ~~109.~~ "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.

- ~~11~~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.
- ~~12~~11. "Common purchaser for oil" means every person now engaged or hereafter engaging in the business of purchasing oil in this state.
- ~~13~~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.
- ~~14~~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.
- ~~15~~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.
- ~~16~~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].
- ~~17~~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.
- ~~18~~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.
- ~~19~~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.
- ~~20~~. "~~Fractional proration unit for oil~~" means ~~a tract of land containing more or less than forty acres [16.19 hectares] predominantly situated within the confines of a pool.~~

- ~~21~~19. "Gas lift" means any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.
- ~~22~~20. "Gas-oil ratio" means the ratio of the gas produced in cubic feet [cubic meters] to a barrel of oil concurrently produced during any stated period.
- ~~23~~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.
- ~~24~~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.
- ~~25~~23. "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the commission.
- ~~26~~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.
- ~~27~~25. "Injection or input well" means any well used for the injection of air, gas, water, or other fluids into any underground stratum.
- ~~28~~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.
- ~~29~~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.
- ~~30~~. "~~Marginal unit~~" means a proration unit or fractional proration unit that cannot produce at a rate equal to the top unit allowable for the proration period for the pool.
- ~~31~~. "~~Minimum allowable~~" means the minimum amount of production from an oil or gas well which will encourage the continued operation of such well and below which the well might be threatened with premature plugging and resulting waste.
- ~~32~~28. "Multiple completion" means the completion of any well so as to permit the production from more than one common source of supply.
- ~~33~~29. "Natural gas or gas" means and includes all natural gas and all other fluid hydrocarbons not herein defined as oil.
- ~~34~~. "~~Nonmarginal unit~~" means a proration unit or a fractional proration unit that can produce at a rate equal to the top unit allowable for the proration period for the pool.

- ~~35.~~ "Normal unit allowable" means the amount of allowable production allocated to proration units which are producing from a depth of five thousand feet [1,524 meters] or above.
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.
- ~~36~~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.
- ~~37~~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.
- ~~38~~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.
- ~~39~~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.
- ~~40~~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.
- ~~41~~36. "Potential" means the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the commission.
- ~~42~~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.
- ~~43~~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.
- ~~44~~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.
- ~~45.~~ "Proration period" means for oil the proration month and for gas six consecutive calendar months which shall begin at seven a.m. on the first day of a calendar month and end at seven a.m. on the first day of the seventh succeeding month.

4640. "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.
4741. "Proration unit for gas" consists of such geographical area as may be prescribed by special pool rules issued by the commission.
- ~~48. "Proration unit for oil" consists of a tract of land containing forty acres [16.19 hectares] predominantly situated within the confines of a pool.~~
4942. "Recomplete" means the subsequent completion of a well in a different pool.
5043. "Reservoir" means pool or common source of supply.
5144. "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.
5245. "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.
5346. "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.
5447. "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.
5548. "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 unsaleable 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.
- ~~56. "Top unit allowable for gas" means the maximum number of cubic feet [cubic meters] of natural gas, for the proration period, allocated to a proration unit for gas in an allocated gas pool.~~
- ~~57. "Top unit allowable for oil" means the maximum number of barrels of oil daily for each calendar month allocated to a proration unit for oil in a pool to nonmarginal units.~~

~~5849.~~ "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.

~~59.~~ "Underage" means the amount of oil or the amount of natural gas during a proration period by which a given proration unit failed to produce in an amount equal to that authorized on the proration schedule.

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

C. DRILLING

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 ~~within~~ 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 commence ~~commence~~ 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

43-02-03-18.1. 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 ~~by certified or registered mail~~ 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: Amended effective January 1, 1983; 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 to:
 - 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

43-02-03-22. 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

43-02-03-28. 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 125 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 ~~three~~ five hundred and ~~thirty~~ feet [~~100.58~~ 152.40 meters] from ~~a building or residence~~ 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

43-02-03-30. 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 ~~within ten days~~ by a written report within ten days after clean up of the incident, ~~if unless~~ deemed ~~necessary~~ 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

D. PLUGGING OF WELLS

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

G. OIL PRORATION AND ALLOCATION

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 ~~shall~~ may prorate or distribute the allowable production among ~~the~~ proration units ~~and fractional proration units in a pool~~ upon a reasonable basis through rules, regulations, or orders pertaining to any pool or area after notice and hearing.

~~After notice and hearing, the commission, in order to prevent waste and protect correlative rights, may promulgate rules, regulations, or orders pertaining to any 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

43-02-03-64. RATE OF PRODUCING WELLS. In allocated oil and gas pools the owner or operator of any ~~producing proration~~ unit shall not produce from ~~any proration~~ 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 or minus~~ plus five days ~~top~~ unit allowable, and any such overproduction ~~shall~~ may be deducted from the total allowable for the well in the second month following; ~~and any such underproduction shall be added to the total allowable on the well for the second month following; provided, that if the underproduction shall exceed five days top unit allowable for the unit, none of the underproduction shall be added to the allowable for the second month following, except as provided in section 43-02-03-65.~~

~~A fractional proration unit shall be allowed to produce only in the proportion that the acreage content thereof bears to forty acres [16.19 hectares].~~

~~Where the commission has adopted special established spacing rules in any pool, wells drilled in accordance with those special rules shall be allowed to produce a daily amount of oil and gas equal to the top unit allowable as set by the commission multiplied by a factor, the~~

~~numerator of which shall be the number of acres assigned to a spacing unit in the pool and the denominator of which shall be forty 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 ~~the normal proration unit allowable~~ 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 units ~~and fractional proration units.~~

~~When it appears that a single normal unit allowable will not supply the amounts of oil or gas required by the markets available, the commission may designate separate marketing districts within the state and prescribe separate normal unit allowables for each district.~~

~~A marginal unit shall be permitted to produce any amount of oil which it is capable of producing up to and including the top unit allowable for that particular pool for the particular proration period; provided the operator of such unit shall file with the commission for a supplemental order covering the difference between the amount shown on the proration schedule and the top unit allowable for the pool. The commission shall issue such supplemental order setting forth the daily amount of production which such unit shall be permitted to produce for the particular proration period and shall furnish such supplemental order to the operator of the unit and a copy thereof to the transporter authorized to transport the production from the unit. Underages may be made up or unavoidable and lawful overages compensated for during the third proration period next following the proration period in which such underages or overages occurred.~~

~~All back allowables authorized for purchase will be published in a proration schedule. No back allowable, except as provided in section 43-02-03-64, shall be placed on the proration schedule unless requested by the producer. In requesting back allowables, the producer shall indicate the reason for the underage and the director may approve any portion of the request. The~~

~~usual grounds for back allowable which may be considered are (1) failure of purchaser to transport assigned allowable, (2) mechanical failure or repairs to well equipment during the proration period, and (3) testing or gathering engineering data.~~

~~In order to preclude premature plugging, a common purchaser within its purchasing area is authorized and directed to make one hundred percent purchases from units of settled production producing ten barrels or less daily of oil, or sixty thousand cubic feet [169.9 cubic meters] or less daily of gas, in lieu of ratable purchases or takings. Provided such purchaser's takings are curtailed below ten barrels per unit of oil daily, or below sixty thousand cubic feet [169.9 cubic meters] per unit of gas daily, then such purchaser is authorized and directed to purchase equally from all such units within its purchasing area regardless of their producing ability insofar as they are capable of producing.~~

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 first four wells in any field or discovery well of any pool hereafter discovered shall be allowed to produce any amount of oil it is capable of producing but in no case to exceed a maximum of two hundred barrels of oil per day if the same can be done without waste and provided further, that a market can be obtained for such oil produced. at a maximum efficient rate until such time as proper spacing is set for the pool~~

~~The allowable production provided for above shall continue in effect for a period of not more than eighteen months from the date of completion of the first well in the field or pool, or until the completion of the fifth well in the pool, whichever shall occur first, and shall produce thereafter, only pursuant to the general proration rules and regulations of the commission.~~

~~The producer or operator of any well claiming a discovery allowable under this section shall report to the director, not later than the tenth of each month, the results of a potential test, made on or about the first day of the month, in accordance with the provisions of section 43-02-03-40.~~

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. ~~The allocation between pools shall be in accordance with the top of the producing depth of the pool and the corresponding proportional factor set out below. The depth to the casing shoe or the top perforation in the casing, whichever is the higher in the first well completed in a pool determines the depth classification for the pool. Top unit allowables shall be calculated for each of the several ranges of depth in the following proportions:~~

Pool Depth Range	Proportional Factor
From 0 to 5,000 feet	
5,000 to 6,000 feet	1.33
6,000 to 7,000 feet	1.77
7,000 to 8,000 feet	2.33
8,000 to 9,000 feet	3.00
9,000 to 10,000 feet	3.77
10,000 to 11,000 feet	4.67
11,000 to 12,000 feet	5.67
below 12,000 feet	6.75

~~The normal unit allowable shall be set by the commission and shall be uniform for all proration units within all pools producing from five thousand feet [1524 meters] or above.~~

~~Top unit allowables for each range of depth shall then be determined by multiplying the normal unit allowable by the proportional factor for each depth range as set out in the table hereinabove; any fraction of a barrel shall be regarded as a full barrel for both normal and top unit allowables.~~

At the beginning of each calendar month, the distribution or proration to the respective proration units ~~in each pool~~ 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 ~~in accordance with whether such unit is marginal or nonmarginal~~, 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 top proration unit oil allowable for the depth of the pool and 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 or fractional 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 ~~daily~~ that number of barrels of oil which shall be determined by multiplying the ~~current top~~ 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 ~~top~~ proration unit allowable currently assigned to the pool.
3. ~~A marginal unit shall be permitted to produce the same total volume of gas which it would be permitted to produce if it were a nonmarginal unit.~~
4. ~~All gas produced with the current oil allowable determined in accordance with this rule shall be deemed to have been lawfully produced.~~

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

H. GAS PRORATION AND ALLOCATION

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 ~~and~~

~~fractional 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 ~~or fractional 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 ~~or fractional 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

GEOPHYSICAL EXPLORATION REQUIREMENTS CHAPTER 43-02-12

43-02-12-06. NOTIFICATION OF WORK PERFORMED. Within thirty days following the completion of geophysical exploration by any person within this state, such person shall file with the commission a seismic completion report in the form of an affidavit deposing that the seismic project was completed in accordance with chapter 43-02-12, and incorporating a postplot map displaying the actual source point location and the location of all undetonated (loaded) holes, blowouts, and flowing holes or any other problem holes the director deems necessary. If obtained by the contractor, the latitude and longitude of each source and receiver point shall be submitted to the commission to the nearest tenth of a second.

Any person plugging a seismic hole must submit a plugging report and an affidavit of plugging detailing the line number, shot point number, hole depth, drill type, hole condition (wet, dry), bentonite used (sacks, capsules), and the depth at which the surface plug was set, and all other information necessary to describe the conditions of the shot hole.

The director is authorized to suspend operations of the entire geophysical exploration project, or any portion thereof, if further activity will cause excessive damage to the surface of the land. The geophysical exploration activity may continue upon the director approving a plan to mitigate the damage.

History: Effective December 1, 1997; amended effective September 1, 2000; May 1, 2004; January 1, 2008.

General Authority
NDCC 38-08.1

Law Implemented
NDCC 38-08.1-02,
38-08.1-05