

Lynn D. Helms - Director      Bruce E. Hicks - Assistant Director

**Department of Mineral Resources**

Lynn D. Helms - Director

**North Dakota Industrial Commission**

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## ADMINISTRATIVE RULES COMMITTEE HEARING

### TESTIMONY OF BRUCE E. HICKS - September 13, 2016

Chairman Devlin and Committee Members:

Following please find my written testimony concerning the adoption of administrative rules by the Oil and Gas Division of the North Dakota Industrial Commission. The items listed are pursuant to Ms. Vonette Richter's (Assistant Code Revisor for the Legislative Council) request.

1. **Statutory changes:** The following rule changes are related to statute changes made by the recent Sixty-Fourth Legislative Assembly.

<u>NDAC Sec.</u>	<u>Description</u>	<u>Page</u>	<u>Bill</u>
43-02-03-15	Bond and Transfer of Wells	142	HB1358
43-02-03-29.1	Underground Gathering Pipelines	152	HB1358
43-02-08-02.1	Stripper well—Property Determination	178	HB1476

2. **Federal changes:** The rule changes are not related to any federal statute or regulation.

3. **Procedure:** The rulemaking procedure consisted of the following:

- Feb 16, 2016—Received approval from Industrial Commission (IC) to adopt rules
- Feb 29, 2016—Filed rules with Legislative Council
- Mar 7, 2016—Completed regulatory analysis for rules impacting industry > \$50,000
- Mar 7-18, 2016—Public notices were published in each county
- Mar 1, 2016—Notice given to all sponsors of recent legislation via email
- Apr 11-14, 2016—Hearings (Case 24957) in Bismarck, Dickinson, Williston & Minot
- Apr 25, 2016—Comment period deadline (11-14 day comment period)
- Jun 29, 2016—Wrote responses to all comments received
- Jun 29, 2016—Received approval from IC to adopt rules (Order No. 27349)
- Jul 6, 2016—Wrote small entity regulatory analysis & small entity impact statement
- Jul 6, 2016—Submitted final rules to Attorney General for legal opinion
- Jul 29, 2016—Received Attorney General's opinion that rules are legal
- Jul 29, 2016—Filed rules with Legislative Council
- Aug 25, 2016—Notified parties (including sponsors) of ARC hearing & posted on web
- Sep 13, 2016—Administrative Rules Committee hearing
- Oct 1, 2016—Rules become effective
- 228 days (7.5 months)—Agency approval to effective date of rules

4. **Oral and written comments:** Oral comments were received from 37 parties at the hearing and written comments were received from 88 parties during the 11-14 day comment period. The Commission received 490 pages of written comments and another 89 pages transcribed from the four hearings for a total of 579 pages. Comments were received on 33 sections and the Commission made modifications to our original language on 16 sections. The Consideration of Comments (attached) explains our rationale and action for either modifying the proposed rules, leaving them as proposed, or withdrawing them.

The following rules received comments:

<u>NDAC Sec.</u>	<u>Description</u>	<u>Page</u>	<u>Change Made</u>
43-02-03-01	Definition—Interested Party	<del>139</del>	Withdrawn
43-02-03-01	Definition—Saltwater Handling Facility	141	Modified
43-02-03-11	Organization Reports	141	Modified
43-02-03-14	Access To Records	142	Modified
43-02-03-15	Bond and Transfer of Wells	142	Modified
43-02-03-16	Permit to Drill	147	Leave as proposed
43-02-03-17	Sign on Well or Facility	148	Leave as proposed
43-02-03-19	Site Construction	148	Modified
43-02-03-19.3	Earthen Pits and Open Receptacles	149	Leave as proposed
43-02-03-28	Safety Regulation	150	Modified
43-02-03-29.1	Underground Gathering Pipelines	152	Modified
43-02-03-30	Notification of Fires, Leaks, Spills or Blowouts	160	Modified
43-02-03-30.1	Leak and Spill Cleanup	160	Leave as proposed
43-02-03-31	Well Log, Completion & Workover Reports	161	Leave as proposed
43-02-03-34.1	Reclamation of Surface	162	Modified
43-02-03-40	Gas-Oil Ratio Tests	163	Modified
43-02-03-49	Oil Production Equipment, Dikes, and Seals	164	Modified
43-02-03-51.1	Treating Plant Requirements	164	Leave as proposed
43-02-03-51.3	Treating Plant Construction and Operation	165	Modified
43-02-03-52	Report of Oil Production	167	Leave as proposed
43-02-03-52.1	Report of Gas Production	167	Leave as proposed
43-02-03-53	Saltwater Handling Facilities	168	Leave as proposed
43-02-03-53.1	Saltwater Handling Facility Permit Requirements	169	Leave as proposed
43-02-03-53.2	Saltwater Handling Facility Siting	169	Leave as proposed
43-02-03-53.3	Saltwater Handling Facility Construction & Operation	170	Modified
43-02-03-53.4	Saltwater Handling Facility Abandonment & Reclaim	171	Modified
43-02-03-55	Temporary Abandonment of Wells and TPs	172	Leave as proposed
43-02-03-90	Hearings-Complaints-Other Proceedings	173	Modified
43-02-03-90.2	Special Procedures for Hearings	174	Modified
43-02-05-04	UIC—Permit Requirements	175	Leave as proposed
43-02-05-07	UIC—Mechanical Integrity	176	Leave as proposed
43-02-05-11	UIC—Bonding Requirements	177	Leave as proposed
43-02-08-02.1	Stripper Wells—Property Determination	178	Leave as proposed
43-02-08-03	Stripper Wells—Determining Property Status	178	Leave as proposed

5. **Cost:** The approximate cost of giving public notice and holding a hearing on the rules was \$2,426 (\$1,390 two years ago). This does not include staff time for developing and adopting the rules.
6. **Justification of changes:** The rationale in the Consideration of Comments (attached) details the justification. The full notice also explains the subject matter of the rules and the reasons for adopting the rules (attached). Find below additional justification on some key rule changes:

<u>NDAC Sec.</u>	<u>Description and Further Justification</u>
43-02-03-01	<u>Saltwater Handling Facility Definition:</u> Tanks storing saltwater have been recently constructed on hundreds of service company locations across North Dakota. The definition clarifies that such tanks are considered saltwater handling facilities and ensures companies will construct proper diking to mitigate environmental impacts.
43-02-03-15	<u>Pipeline Bond—Sec 3 of HB1358 (Sixty-fourth Legislative Assembly)</u> amended NDCC Section 38-08-04 requiring bonds on pipelines transferring oil or produced water from a production facility for disposal, storage, or sale purposes. <u>Saltwater Handling Facility Bond:</u> Most facilities will be unaffected by this change since they are already bonded as an appurtenance to a well or treating plant. Service companies possessing such facilities will have 90 days from the date we contact them to file the \$50,000 bond.
43-02-03-29.1	<u>Pipelines—Sec 2 of HB1358 (Sixty-fourth Legislative Assembly):</u> Created NDCC Section 38-08-27 which only affects pipelines placed into service after August 1, 2015 and requires an independent inspector’s certificate of the pressure test, and upon request, requires operators to provide the design drawings and specifications, list of independent inspectors, and plan for leak protection and monitoring. <u>Pipelines—Sec 8 of HB1358 (Sixty-fourth Legislative Assembly):</u> Authorized a special project through the Energy and Environmental Research Center for the purpose of analyzing the existing regulations on construction and monitoring of crude oil and produced water pipelines, determine the feasibility and cost effectiveness of requiring leak detection and monitoring technology on new and existing pipeline systems, and provide a report with recommendations to the Industrial Commission and the Energy Development and Transmission Committee. It also required the Industrial Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity.
43-02-03-49	<u>Perimeter Berms:</u> The Commission believes additional environmental protection is needed to contain spills on the location and to prevent fluids from entering surface and potable water sources. Spill reports reviewed since 2013 indicate the percentage of spills contained are decreasing and perimeter berms will substantially increase such percentage. Industry could see a substantial benefit even if one disaster is prevented.
43-02-03-53-53.5	<u>Saltwater Handling Facilities:</u> The rules clarify that all saltwater tanks, not just those as an appurtenance to a well or treating plant are subject to

the rule. Many stand-alone sites currently located on service company property will be inspected by the Commission in the future.

7. **Regulatory analysis:** A regulatory analysis was not requested by the Governor or an agency. An analysis was done on the following rules that were expected to have an impact on the regulated community in excess of \$50,000 (attached):

<u>NDAC Sec.</u>	<u>Description</u>
43-02-03-15	Bond and Transfer of Wells
43-02-03-29.1	Underground Gathering Pipelines
43-02-03-49	Oil Production Equipment, Dikes, and Seals
43-02-03-53.3	Saltwater Handling facility Construction and Operation Requirements

8. **Small entity regulatory analysis and impact statement:** A small entity regulatory analysis was done on each proposed rule and an impact statement was done on the following rules since they will have an adverse impact on small entities (attached):

<u>NDAC Sec.</u>	<u>Description</u>
43-02-03-01	Saltwater Handling Facility definition
43-02-03-11	Organization Reports
43-02-03-15	Bond and Transfer of Wells
43-02-03-17	Sign on Well or Facility
43-02-03-19	Site Construction
43-02-03-29.1	Underground Gathering Pipelines
43-02-03-30	Notification of Fires, Leaks, Spills, or Blowouts
43-02-03-34	Method of Plugging
43-02-03-40	Gas-Oil Ratio Test
43-02-03-49	Oil Production Equipment, Dikes, and Seals
43-02-03-53.1	Saltwater Handling Facility Permit Requirements
43-02-03-53.3	Saltwater Handling Facility Construction and Operation Requirements
43-02-03-90	Hearings – Complaint, Emergency, and Other Proceedings
43-02-05-07	Mechanical Integrity

9. **Fiscal note:** Pipeline regulation and rulemaking was mandated by HB1358. It is anticipated that an additional 30,000 miles of pipelines will be installed in the future.

## **Yearly Fiscal Note for implementing rules:**

### **I. COST TO AGENCY AND EFFECT ON STATE REVENUES—NDAC Section 43-02-03-15**

It is anticipated that there will be negligible costs to the agency to implement and enforce the proposed amendments concerning source well and saltwater handling facility bonds.

The amendment concerning pipeline bonds is necessary to comply with House Bill 1358. It is anticipated our agency will bear the following costs to implement and enforce the proposed amendments:

Costs to Agency

Field Inspection-----	1hr/wk x 6 inspectors @ \$23/hr	=	\$ 7,176 / yr
IT maintenance-----	1hr/wk @ \$30/hr	=	\$ 1,560 / yr
File clerk-----	5hr/wk @ \$15/hr	=	\$ 3,900 / yr
Total-----			<b>\$12,636 / yr</b>

### **II. COST TO AGENCY AND EFFECT ON STATE REVENUES—NDAC Section 43-02-03-29.1**

This adoption is necessary to improve underground gathering pipeline safety and integrity pursuant to House Bill 1358. It is anticipated our agency will bear the following costs to implement and enforce the proposed adoption:

<u>Costs to Agency</u>		
Field Inspection-----	40hr/wk x 6 inspectors @ \$23/hr =	\$287,040 / yr
IT-----	40hr/wk x 2 employees (GIS/Database) @ \$30/hr =	\$124,800 / yr
File clerk-----	40hr/wk @ \$15/hr =	\$ 31,200 / yr
Program Supervisor-----	40hr/wk @ \$40/hr =	\$ 83,200 / yr
Total-----		<b>\$526,240 / yr</b>

**III. COST TO AGENCY AND EFFECT ON STATE REVENUES—NDAC Section 43-02-03-49**

It is anticipated that there will be minimal costs to the agency to implement and enforce the proposed amendments concerning weather-resistant seals.

It is anticipated our agency will bear the following costs to implement and enforce the proposed diking and berm amendments:

<u>Costs to Agency</u>		
Field Inspection-----	3hr/mth x 32 inspectors @ \$23/hr =	\$26,496 / yr
File clerk-----	1hr/wk @ \$15/hr =	\$ 780 / yr
Total-----		<b>\$27,276 / yr</b>

**IV. COST TO AGENCY AND EFFECT ON STATE REVENUES—NDAC Section 43-02-03-53.3**

It is anticipated our agency will bear the following costs to implement and enforce the proposed diking and berm amendments:

<u>Costs to Agency</u>		
Field Inspection-----	1hr/mth x 16 inspectors @ \$23/hr =	\$4,416 / yr
File clerk-----	1hr/mth @ \$15/hr =	\$ 180 / yr
Total-----		<b>\$4,596 / yr</b>

**IV. COST TO AGENCY AND EFFECT ON STATE REVENUES—TOTAL ESTIMATE**

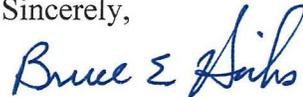
<u>Costs to Agency</u>		
NDAC Section 43-02-03-15-----		\$ 12,636 / yr
NDAC Section 43-02-03-15-----		\$526,240 / yr
NDAC Section 43-02-03-15-----		\$ 27,276 / yr
NDAC Section 43-02-03-15-----		\$ 4,596 / yr
Total-----		<b>\$570,748 / yr</b>

10. **Constitutional takings assessment:** A constitutional takings assessment was not required.

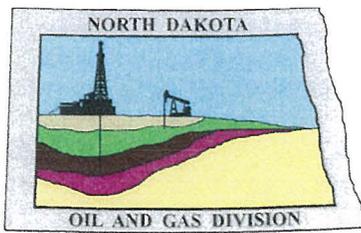
11. **Emergency rules:** None of the rules changes were emergency rules.

Thank you for consideration of the Oil and Gas Division’s rule changes.

Sincerely,



Bruce E. Hicks  
Assistant Director



# Oil and Gas Division

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## 2016 PROPOSED RULES

### CONSIDERATION OF ORAL AND WRITTEN COMMENTS

The following is a written record of the Industrial Commission's consideration of all oral and written comments received regarding its proposed 2016 additions to and revisions of the North Dakota Administrative Code (NDAC) Chapters 43-02-03, 43-02-05, and 43-02-08. The purpose of this record is to comply with North Dakota Century Code (NDCC) § 28-32-11.

#### INTRODUCTION

Public hearings were held on April 11, 12, 13, and 14, 2016 under Case No. 24957 pursuant to NDCC § 28-32-11. Notice of the hearing was published between March 7, 2016 and March 12, 2016, both inclusive, in the Ashley Tribune, Golden Valley News, Billings County Pioneer, The Bismarck Tribune, Bottineau Courant, Burke County Tribune, Bowman County Pioneer, Towner County Record-Herald, Foster County Independent, Cavalier Chronicle, Griggs County Courier, The Journal, Devils Lake Journal, Dickinson Press, Carson Press, Grant County News, Dickey County Leader, Fargo Forum, Steele County Press, McLean County Independent, Walsh County Record, Grand Forks Herald, Herald-Press, Hazen Star, Adams County Record, Jamestown Sun, Dunn County Herald, LaMoure Chronicle, Lakota American, Cavalier County Republican, Emmons County Record, Ransom County Gazette, Mandan News, Traill County Tribune, McClusky Gazette, The Sargent County Teller, Benson County Farmers Press, Minot Daily News, Renville County Farmer, Napoleon Homestead, The Herald, New Rockford Transcript, Turtle Mountain Star, Pierce County Tribune, Mountrail County Promoter, Steele Ozone & Kidder County Press, Mouse River Journal, Valley City Times-Record, The Daily News, Center Republican, McKenzie County Farmer, and the Williston Daily Herald. The hearing was properly noticed pursuant to said rule.

Thirty-seven persons gave oral testimony regarding the proposed rules at the hearings held on April 11-14, 2016. Several parties also submitted oral comments in written form at the hearing.

Eighty-eight persons gave written testimony regarding the proposed rules during the comment period, of these persons, fourteen gave oral testimony at the hearings.

Please see the attached Excel spreadsheet outlining each comment received, our rationale, and the action taken by the Commission.

CASE 24957 - SUMMARY OF COMMENTS ON PROPOSED 2016 RULES - NDIC - DEPT OF MINERAL RESOURCES - OIL AND GAS DIVISION

NDAC	PROPOSED AMENDMENT	COMMENTS RECEIVED			DISCUSSION (Rationale)	ACTION TAKEN
		DATE RECEIVED	ORAL OR WRITTEN	COMMENT		
43-02-03 GENERAL RULES						
43-02-03 GENERAL RULES	43-02-03 General Rules (general comments)	4/25/2016	Written	Patricia McGuire-- She heard the new rules were developed with members of the oil and gas industry and she strongly opposes the implementation of these rules.	No response to the comment is necessary, although the Commission notes it did not promulgate the proposed rules with the oil and gas industry. Rules are promulgated by the Commission to conserve the natural resources of North Dakota, to prevent waste, and to provide for operation in a manner as to protect correlative rights of all owners of crude oil and natural gas as stated in 43-02-03-02 (SCOPE OF CHAPTER).	None
		4/25/2016	Written	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan The Commission should be using this rulemaking opportunity to take a strong stance and write detailed rules for improved standards in oil field operations, instead the Commission is wasting this opportunity with empty language and unenforceable standards. She also believes the Commission should be addressing above-ground pipes and should set stringent construction standards and monitoring practices.	No response to the comment is necessary since it is addressing the rules in general and not a specific section of the Administrative Code that the Commission had advertised for proposed rule changes.	None
		4/25/2016	Written	Bruce Bale--Mandan Where is the rule in these otherwise good proposals requiring adequate well site metering of flared and vented gas, as is required in the BLM regulations, and on offshore U.S., and Canadian operations, where companies still manage to eagerly bid, drill, and profit.	No response to the comment is necessary since it is addressing the rules in general and not a specific section of the Administrative Code that the Commission had advertised for proposed rule changes.	None
		4/25/2016	Written	Fred and Joyce Evans Many over-restrictive regulations were implemented when oil was high-priced, many of which are unnecessary, therefore the poor and too restrictive regulations should now be abolished.	No response to the comment is necessary since it is addressing the rules in general and not a specific section of the Administrative Code that the Commission had advertised for hearing for proposed rule changes.	None
		4/20/2016	Written	Landon Kimball-- He wants to stress the importance of the surface being returned to as good or better of a condition compared to how it was prior to being disturbed to lay pipelines, construct sites, etc.	No response to the comment is necessary since it is addressing the rules in general and not a specific section of the Administrative Code that the Commission had advertised for hearing for proposed rule changes.	None
		4/25/2016	Written	Vawnita Best--Greater McKenzie County Stewardship Group (GMCSG) She indicated the GMCSG has a similar mission to the Northwest Landowners Association (NwLA) and they support their comments and encourages the adoption of the amendments as prescribed in the NwLA's comments.	No response to the comment is necessary.	None
		4/25/2016	Written	Marathon agrees with the NDPC comments.	No response to the comment is necessary.	None
		4/25/2016	Written	Jim Cron agrees with the NDPC comments.	No response to the comment is necessary.	None
		4/25/2016	Written	Gerbert Schoonman--Hess Corporation Hess agrees with the comments filed on the proposed rulemaking by the NDPC.	No response to the comment is necessary.	None
		4/25/2016	Written	Mark Sutton--GPA Midstream Association GPA Midstream closely reviewed the NDPC's April 20, 2016 comments and fully supports their suggested revisions.	No response to the comment is necessary.	None
		4/25/2016	Written	Kinder Morgan supports comments made by the North Dakota Petroleum Council and GPA Midstream Association. They are concerned that some entities may apply a cost-benefit analysis as to whether or not to comply with the final rules, so they want the Commission to fully enforce the final rules fairly and equally against all regulated entities	No response to the comment is necessary.	None
		4/25/2016	Written	Jan Swenson--representing the Badlands Conservation Alliance (BCA) She reviewed the comments to be submitted by the Environmental Defense Fund for improvement to language on gas gathering line and fully supports their recommendations.	No response to the comment is necessary.	None
		4/22/2016	Written	Nick Johnson--1804 Operating, LLC 1804 Operating indicated they support numerous comments submitted by the North Dakota Petroleum Council.	No response to the comment is necessary.	None
43-02-03-98 Report of Examiner (general comments)	4/25/2016	Written	Gary Preszler--North Dakota affiliate of the National Association of Royalty Owners (NARO) He believes 43-02-03-98 should be amended to read, "Upon the conclusion of any hearing before an examiner, the examiner shall promptly consider the proceedings in such hearing, including any general public comments, and based upon the record of such hearing, the examiner shall prepare a report and recommendations for the disposition of the matter or proceeding by the Commission".	The comment is addressing a specific section of the Administrative Code that the Commission had not advertised for proposed rule changes, therefore no changes to the section should be considered.	None	
43-02-03-01 definitions (general comments)	4/13/2016	Oral +	Laura Erickson--Cardno Inc. Suggests including the definition for "commercial disposal well" as found in 43-02-05-11.	The comment is addressing a specific section of the Administrative Code that the Commission had not advertised for proposed rule changes, therefore no changes to the section should be considered.	None	
	4/25/2016	Written	She also suggests including a definition for "oil and gas waste", meaning waste arising out of or incidental to drilling for or produced in oil and gas, which is under the Texas Water Code Chapter 27.			
	4/25/2016	written	Bill Wolf - Kinder Morgan, Inc. - The terms "Gas Transportation Facility" should be more specifically defined to include above ground facilities. The Hilland Entities suggest the following additions to the definition: "Gas Transportation Facility" means a pipeline including facilities required to operate the pipeline compressor station, meter station, in operation, serving one or more gas wells for the transportation of natural gas, or some other device or equipment in line operation whereby natural gas produced from gas wells connected therewith can be transported.			
4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the terms need to be defined: "production facility", "secondary recovery facility", "production flow lines", "secondary recovery flow lines from the CTB to the injection facility", "injection lines from the secondary recovery injection facilities to the unit injection wells and SWD", "system", and "flow lines".	Additional comments were received requesting clarification of the meaning of the term "flow line" and the Commission will define the term. The Commission is unclear what other issues there are with the other terms as many appear to be self explanatory.	The Commission's proposed amendment will be modified. The term "flow line" will be defined.		
4/13/2016	Oral + Written	Laura Erickson--Cardno Inc. Suggests an alternative could be to define "affected party" as a person or entity who has suffered or will suffer actual injury or economic damage other than as a member of the general public or as a competitor. It should include surface owners of property and certain operators of wells/facilities within half a mile of the proposed site. It also should not exclude local governments who want to comment or protest a case.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.		
4/25/2016						
4/11/2016	Oral + Written	Ron Ness--representing the ND Petroleum Council He believes the definition should give lesser weight where the party has no ownership or management interest and greater weight to an impacted party such as landowners, mineral owners, and the permittee.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.		
4/20/2016						
4/25/2016	Written	Betty Stenzel--Gresham, OR She is a mineral rights owner in western North Dakota and is unable to attend Commission hearings, therefore she wants to be able to have a representative allowed to speak on her behalf at the hearing. She also supports comments made by Barb Salerno.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.		
4/25/2016	Written	Vadamay Kingsley--Bismarck She attended a hearing (Case 24741) on January 20, 2016 at which her niece and nephew represented herself and other family members. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant". Please amend this definition so this incident will not reoccur.				

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Marylou Krause--Fessenden Her niece and nephew represented herself and other family members in Case 24741. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant". Please amend this definition so this incident will not reoccur.		
		4/25/2016	Written	Ileen Campbell--Spokane, WA Her niece and nephew represented herself and other family members in Case 24741. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant". She wants a rep to be able to speak on her behalf "as if she said the words herself".		
		4/25/2016	Written	Barbara Salerno--Havre, MT Her tenant represented her in Case 24741. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant". She wants this rule amended to allow such testimony and not allow a company's attorney to object to testimony from a knowledgeable individual to speak on behalf of a mineral and/or surface owner.		
		4/25/2016	Written	Susan Witt--Havre, MT Her tenant represented her in Case 24741. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant". She wants this rule amended to allow such testimony and not allow a company's attorney to object to testimony from a knowledgeable individual to speak on behalf of a mineral and/or surface owner. She wants Barbara Salerno's comments incorporated into hers.		
		4/25/2016	Written	Viv Hawbaker--Williston She testified on behalf of others in Cases 23104 and 24741. The company attorney objected to their testimony and the Commission later deemed their testimony "not relevant" in Case 24741 (ICO 27104). She wants to be able to speak on behalf of others at future hearings.		
		4/14/2016	Written	Mike Donohue--Mainstream Investors Supports the definition--He believes there should be reasonable limitations to prohibit parties with the sole purpose of disrupting the orderly process we now enjoy, although residents should be allowed to testify if they are within 5 miles of the site under review.		
		4/25/2016	Written	Pete Hanebutt--North Dakota Farm Bureau General public comments are not needed for private business transactions on private property. There may be a need for comments from local government leaders, but outside individuals or special interest groups that have no direct connection to projects often use public comments as an opportunity to make political statements and these interest should not be allowed. Comments should be restricted to stakeholders who have the potential to be directly affected by the proposed project.		
		4/7/2016	Written	Mark Mazaheri--Fargo He objects to the definition and believes it is an attempt to exclude public comment and restrict state and federal management agencies. He believes such organizations' personal knowledge, concerns and investment in the surface value far exceed that of either industry or the Commission and the proposed definition would exclude valuable information, and he would like the proposed amendment stricken.		
		4/11/2016	Oral + exhibit	Senator Erin Oban--ND State Senator, representing District 35--Bismarck Objects to the definition: She believes testimony should be open and accessible to the public and wants the proposed definition removed from our rule changes.		
		4/11/2016	Oral	Waylon Hedegaard--representing the North Dakota AFL-CIO Objects to the definition: He agrees with Senator Oban. He represents a labor advocacy group and believes a strict interpretation of the definition would prohibit his group from testifying. He believes it is our democratic right to testify if we think we have an interest in the hearing and wants the proposed definition removed from our rule changes.		
		4/11/2016	Oral + exhibit	Sara Vogel--Bismarck Objects to the definition: She believes that by statute the overall role of the Oil and Gas Division is to represent the general public and that must include allowing all concerned people to testify. She indicated that many concerned people may not be landowners and she wants the proposed definition removed from our rule changes.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.
		4/11/2016	Oral + exhibit	Eric Thompson--Bismarck Objects to the definition: He believes anything that drinks water or breathes air is an interested party in oil and gas development and should be allowed to testify.		
		4/11/2016	Oral	Laura Anhalt--representing the Badlands Conservation Alliance Objects to the definition: She indicated the lands are all public lands and belong to all of us, therefore any concerned citizen should be allowed to testify.		
		4/11/2016	Oral	Tracy Potter--Bismarck Objects to the definition: He believes nearly all lands are adjacent to rivers and streams, State school lands, national lands, and public roads, therefore the general public has the right to testify, even under the proposed definition. He also indicated Article 4 of the State Constitution, Section 5, in the Declaration of Rights, states the citizens have a right in a peaceful manner to assemble together for the common good and to apply to those invested with the powers of government for the redress of grievances or for other proper purposes by petition, address or remonstrance.		
		4/11/2016	Oral	Wendy Ross--representing the United States National Park Service (NPS) Objects to the definition: She believes the proposed definition requiring the party to be adjacent and managing will limit the NPS from commenting on permits that impact NPS sites in North Dakota. The NPS has an interest in preserving the visitor experience, viewshed, darksky resource, air quality, and sound scape of the NPS lands. To accomplish this, she believes that the early identification of impacts during hearings is necessary.		
		4/11/2016 4/25/2016	Oral + Written	Jan Swenson--representing the Badlands Conservation Alliance (BCA) She objects to the definition. She believes the definition is unclear in meaning and arbitrary and capricious in intent. She indicated BCA is focused on management of public lands in western North Dakota with particular attention to Theodore Roosevelt National Park, the Little Missouri National Grasslands, and state school lands. BCA feels a responsibility to testify at hearings since (1) its members hold significant familiarity with the surface lands, (2) it is more likely solutions can be found when concerns are brought up early in the process, (3) BCA is a proponent of comprehensive landscape scale planning, and (4) it is their intent in testifying to share their expertise. She wants the proposed definition removed from our rule changes.		
		4/11/2016	Oral	Mike McEnroe--representing North Dakota Chapter of The Wildlife Society Objects to the definition: He believes the definition will exclude public comment on oil and gas matters that impact public lands and the public deserves the opportunity to provide input and comment on such issues that affect public lands and natural resources in our state. He wants the proposed definition deleted or rewritten to encourage public comment.		
		4/11/2016	Oral + exhibit	Senator Connie Triplett--ND State Sen, rep Dist 18--previously on BCA board--GF Objects to the definition: She agreed with an editorial from the Grand Forks Herald printed on April 4, 2016 indicating the proposed definition is a limitation that would poorly serve the state because interested parties who have no ownership rights still may have useful information to offer. She indicated that any ND citizen has the right to speak on public lands, sovereign lands such as the Missouri River and Lake Sakakawea, and on every application for a permit to drill even those purely on private lands. She also indicated when considering public safety issues from ground water contamination that it is the right of every ND citizen to come to any hearing whether on private land or not. She also indicated the hearing officer already has the authority to prevent someone from testifying if it appears they do not have any interest, but as long as they are credible and respectful and offering useful information they should be welcome to participate.		
		4/11/2016	Oral	Kevin Franis--representing the Laborers' International Union of North America (LIUNA) Objects to the definition: He believes the proposed definition would prevent the people who know the most about the process of building and maintaining pipelines from having any part in the regulatory process and wants the proposed definition removed.		
		4/11/2016	Oral	Lynn Wolff--representing the Dakota Resource Council--current board member Objects to the definition: She believes every ND citizen should have the opportunity to talk and present as they see fit on the issue.		
		4/12/2016 4/25/2016	Oral + Written	Valerie Naylor--representing the National Parks Conservation Association (NPCA) Objects to the definition: She believes the word "adjacent" is vague and sometimes developments miles away from a park can cause harm or be of concern and NPCA has much more experience, interest, and expertise in determining what may be of potential concern to a national park than does the general public. She wants the proposed definition removed.		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to the definition: She agrees with others opposing this change and wants the proposed definition stricken.		
		4/12/2016	Oral	Candyce Kleemann--Killdeer Objects to the definition: If it is a State decision, residents of the State should have input.		
		4/12/2016	Oral	Joletta Birdbear--representing herself--member of Fort Berthold POWER (Protectors Of Water & Earth Rights) Objects to the definition: She is very concerned about protecting waters in the Missouri River, which are used by many communities. She opposes any restrictions on limiting public discussion in projects that impact ND citizens. She said there are no boundaries and she should be able to appear and speak on any project in ND.		
		4/12/2016	Oral	Evan Whiteford--representing the Laborers' International Union of North America (LIUNA) Objects to the definition: He believes public input is important and is not in support of the proposed definition.		
		4/12/2016	Oral	Linda Weiss--representing herself--member of DRC--Beffield Objects to the definition: She believes all people are affected by oil and gas extraction within the immediate area and also downstream and the public has the right to speak. She wants the proposal stricken.		
		4/12/2016	Oral	Robert Rubey--representing 1804 Operating Objects to the definition: He believes it should be a radius from the site, not adjacent to it.		
		4/12/2016	Oral	Mark Trechock--Dickinson Objects to the definition: He indicated harmful air emissions and polluted water could have impacts far from the site of origin and testimony should not be limited to only "adjacent" parties. He wants the proposal stricken.		
		4/12/2016	Oral	Dan Feragen--Wibaux, MT Objects to the definition: He doesn't want to lose his right to testify in matters where he has a small interest in a unitized formation.		
		4/12/2016	Oral	Tama Smith--Beach Objects to the definition: She believes there should be no limitations on who can speak at an oil and gas hearings.		
		4/12/2016	Oral	Ruth Buckman-Moim--Beffield Objects to the definition: She believes all ND citizens has a right and responsibility to speak and for anyone. She wants the proposal stricken.		
		4/13/2016 4/22/2016	Oral + exhibit + written	Shelly Ventsch--New Town Objects to the definition: She indicated both "interested" and "party" are defined in Webster's International Dictionary and therefore do not have to be defined. She also stated spills could have a far reaching effect beyond an adjacent owner and participation should not be limited. If taking public comments at hearings is becoming time-consuming, set a time limit (such as 3 minutes) whether it be a resident or oil company. If interested party is going to get defined, then "property ownership" and "management interest" also need to be defined.		
		4/13/2016	Written	Rose Veeder--Watford City She objects to the definition and believes we should welcome anyone willing to share their ideas before the Commission whether or not they own land, since a ripple effect from oil industry also affects them.		
		4/14/2016	Oral + exhibit	Representative Marvin Nelson--ND House of Rep, representing District 9--Rolla Objects to the definition: He believes it will have a detrimental effect on the relationship between government and the citizens of North Dakota and would like the proposed definition stricken.		
		4/14/2016 4/25/2016	Oral + exhibit + written	Troy Koons--Northwest Landowners Association Objects to the definition: They believe the definition of "interested party" is significantly narrower than the Supreme Court's definition of "real party in interest" since the Commission's definition requires ownership of an interest in real property that is either directly at issue or adjacent to the property at issue and a "real party in interest" is one who has a real, actual, material, or substantial interest in the subject matter. They also believe under NDCC Section 28-32-42, which states any party to any proceeding heard by an administrative agency...may appeal from the order, the statute reflects a legislative determination regarding appellate rights. They therefore believe the definition of interested party is unconstitutional because it conflicts with the provisions of the Administrative Agencies Practice Act passed by the legislature which determines who can appeal from administrative decisions, and it also conflicts with the ND Supreme Court's decisions on who has standing to appeal from a decision of an administrative agency.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.
		4/19/2016	Written	Pete Wolla--landowner-- Objects to the definition. He doesn't believe limiting who is allowed to comment is in the best interest of the citizens of ND since many persons could have an interest in a hearing besides the adjacent parties.		
		4/25/2016	Written	Steve Poekes-- He objects to allowing participation in Commission meetings unless you are on the agenda.		
		4/25/2016	Written	Barbara Samuelson--Minot She depends on family members to speak on her behalf and wants it clear that such testimony is not hearsay. In Case 24741 an oil company's attorney objected to her representative testifying and she wants it clear that such testimony could occur.		
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the proposed definition is too broad and possibly could allow input from parties who have no connection to a project other than their broad personal or political agenda and it should not include the general interest of the general public.		
		4/25/2016	Written	Gary Preszler--North Dakota affiliate of the National Association of Royalty Owners (NARO) He believes the proposed definition may be too limiting, even for property owners and party's rights to seek judicial remedies should not be denied. Black's Law Dictionary, tenth edition, defines "standing" as "a parties (sic) right to make a legal claim or seek judicial enforcement of a duty or right". They suggest the definition be expanded to read, "interested party means an individual or number of individuals that have a property ownership or management interest in or adjacent to the subject matter or that have a legal claim as to the case outcome."		
		4/20/2016	Written	Carol Ventsch--New Town Commission decisions effects property far beyond a particular property and everyone has the right and responsibility to speak on these issues, therefore interested party should not be limited.		
		4/25/2016	Written	Laurie Solberg--Beffield Anytime our water, air quality, land etc. is affected we are all "interested parties", therefore we all have right to our freedom of speech and as long as we are taxpayers of this state, we have a right to speak.		
		4/25/2016	Written	Mark Peihl--Fargo Do not place new restrictions on who can provide public input on energy industry actions--drop the proposed definition of "interested party".		
		4/25/2016	Written	Mike and Barb Larson--Carrington They are opposed to keep the public from speaking at Commission meetings.		
43-02-03-01 Definitions	Clarifies definition of "Interested Party" and who can testify at a Comm hearing	4/25/2016	Written	Larry Hellmann--President of Friends of Theodore Roosevelt National Park--Fargo TRNP belongs to all United States citizens and they need the right to be involved in decisions that may impinge on the viewshed and soundshed of the park.		
		4/25/166	Written	Anthony and Nancy Kieffer--San Angelo, TX They want to be able to have someone appear at a hearing on their behalf and they suggest the definition be: "Interested party means an individual or number of individuals that have a property ownership or management interest in or adjacent to the subject matter, or their designee."		
		4/25/2016	Written	Jon Rask--Moffett Field, CA People from all over the United States are stakeholders in public lands and they should have a right for public involvement in managing and developing the public lands, therefore he wants the definition stricken.		

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		4/25/2016	Written	Terry Schauhsman--Fargo Air, water, land, game, fish, biological species, cultural, tribal, and parks are all negatively affected by oil and gas development, therefore he believes it is the right of all impacted by oil and gas development to testify at Commission hearings.		
		4/25/2016	Written	Karen Kreil--Bismarck The air, water, and wildlife belong to all North Dakota citizens, therefore all North Dakotans should have the opportunity to comment on proposed oil and gas development. She wants the proposed definition stricken.		
		4/25/2016	Written	John Madden--Grand Forks The definition will essentially disallow testimony from interested citizens regarding oil company applications. He believes the citizens of North Dakota should have every right to voice their opinions regarding the use of public lands.		
		4/25/2016	Written	Roger and Patricia Ashley--Dickinson The proposed change will entirely exclude public comment and restrict state and federal management agencies from commenting and the public also has a right to speak on behalf of federal and state lands. The oil and gas industry impacts the water we drink, the air we breathe, and the soil that grows our food and the people have a right to full participation in North Dakota government to ensure clean water and air. They therefore want the proposed definition stricken.		
		4/25/2016	Written	Bette Stieglitz--Fargo We live in a democracy and the public has a right to speak, therefore vote no on the amendment.		
		4/25/2016	Written	Gary and Jan Kuhn--Manning The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken.		
		4/25/2016	Written	Sharon Krieger--Tioga This definition seems an out and out violation of the First Amendment.		
		4/25/2016	Written	Gary and Renae Schneider--Killdeer The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken, (same letter as Gary & Jan Kuhn)		
		4/22/2016	Written	John Staley--Grand Forks Citizens have a constitutional right to testify at hearings related to how wells, pipelines, and other infrastructure is developed. There should not be any language relating to "interested party" as a way to limit testimony.		
		4/22/2016	Written	Buel Sonderland--Fargo North Dakota citizens are affected by this type of development as we work and recreate in the state and the definition should be stricken.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.
		4/22/2016	Written	Bonnie Palecek--Bismarck She is deeply troubled by what appears to be a growing trend to limit public involvement in issues which are of grave mutual concern to all of us. This kind of limiting proposal only encourages cynicism and passivity. She wants the definition stricken.		
		4/22/2016	Written	Scott Lindgren--Grand Forks He is outraged at the thought of not allowing public participation at oil and gas hearings and does not want to limit those who can testify.		
		4/21/2016	Written	Monte and Jan Schmalz--Dunn County The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken, (same letter as Gary & Jan Kuhn)		
		4/25/2016	Written	Patricia Veitch Pascheke-- The public has the right to comment and everyone should have the opportunity to testify. Please remove the proposed definition.		
		4/25/2016	Written	Holly Pearen--Environmental Defense Fund Impacts of oil and gas development go far beyond the immediate and adjacent properties, such as air emissions, truck traffic, potential ground and surface water contamination, and can extend outside the bounds of a well pad. Nothing binds the Commission to adapt the position advocated by community members without a direct property interest in the case, therefore there is no harm in allowing evidence or testimony from impacted and concerned members of the public. They want the definition stricken.		
		4/21/2016	Written	Laura Schmidt-Dochter--Bismarck Public participation in the development of oil and gas in North Dakota should be more inclusive, not more exclusive, and all will benefit. She wants the definition stricken.		
		4/21/2016	Written	Ellen Chaffee--Bismarck The proposed definition for "interested party" is outrageous. The Commission and DMR have a fiduciary duty to the people of North Dakota and to deny them the opportunity to weigh in while engaging in unlimited communication with industry is undemocratic. Citizens not only have rights, they have information and perspectives that can lead to the best solutions for all. Delete the definition.		
		4/20/2016	Written	Richard Cayko--McKenzie County Commission McKenzie County would not be considered an "interested party" in all application hearings before the Commission using the proposed definition and we feel that due to the extent of our impact, the County and residents should be allowed to comment on any public hearings before the Commission related to oil and gas development. The proposed definition is more restrictive than those provided by several on-line searches and a less restrictive definition might mean "any stakeholder in the state of North Dakota", or just strike the definition from the proposed rules.		
		4/25/2016	Written	Wade Enget and Donald Longmuir--Planning & Zoning Board, County of Mountrail Limiting the parties that can testify hinders information which may be relevant to making a proper decision by the Commission and deprives counties and the citizens of North Dakota the right to be heard.		
		4/25/2016	Written	Craig Scott--Dakota Resource Council, Board of Directors The definition will prohibit testimony from citizens not directly invested in the facility or property, but who will still be impacted by truck traffic, emissions, and the threat of contamination. Spills and contamination are not limited to right-of-ways, easements, and well pad sites. Testimony at oil and gas hearings is also the only assurance a party has to claim a possible grievance under NDCC Section 23-01-36. They don't want any right to oppose any facility that may impact surrounding residents.		
		4/25/2016	Written	Daphne Hecker--Killdeer The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken, (same letter as Gary & Jan Kuhn)		
		4/25/2016	Written	Ivan Hecker--Killdeer The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken, (same letter as Gary & Jan Kuhn)		

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		4/25/2016	Written	Linda Kittilson-Killdeer The amendment will limit the ability of landowners to testify in regards to projects that may be in close proximity. Residents are affected by roads used by industry and possible contamination of water due to acts of nature or accidents. They want the definition stricken. (same letter as Gary & Jan Kuhn)		
		4/25/2016	Written	Wendy Hart Ross-US Dept of Interior-National Park Service The definition is ambiguous and appears to limit our agency's ability to comment on permits that impact National Park Service sites in North Dakota. Although the NPS does not have direct management over the lands leased and developed for oil and gas activities, it does have an interest in preserving national park resources. They object to the definition.		
		4/25/2016	Written	Madeline Luke-Valley City The proposed amendment will prevent expert testimony which may very well help to prevent waste and maximize economic benefit to the landowners and royalty owners. To disallow such information is to deny stakeholders the benefit of hard earned knowledge, technical advances and regulatory options that come from other areas in the country that have fracking experience. She believes this definition violates the principle of free speech and objects to the definition.		
		4/25/2016	Written	Rob and Mary Sand-Killdeer All North Dakotans are "interested parties" and when the discussion relates to federal lands, all U.S. citizens are interested parties. They object to the definition.		
		4/25/2016	Written	Bruce Bale-Mandan Why is this proposed rule completely opposite of our own Legislature's rules encouraging affected citizens' rights to be heard?		
		4/25/2016	Written	Corinne Lee-Bismarck All North Dakotans are affected by the degradation of our air, land, water, and way of life that oil and gas development brings. We very much have a right to comment on that (especially of public land) and to try to provide some balance to unchecked destruction. She objects to the definition.	The Commission received some comments indicating suggestions to modify the definition in an attempt to further define what parties should be allowed to testify. The Commission received overwhelming response opposing any definition that could possibly limit testimony. It is not the Commission's intention to limit the voice of North Dakota citizens.	The proposed definition of "interested party" will be removed from the proposed amendment. When necessary, the Commission will address the weight of testimony in orders of the Commission after hearing each case.
		4/25/2016	Written	Dorothy Ventsch-New Town The proposed amendment appears to be another attempt to silence the small voice of the people who live in the middle of an oil boom's chaotic activity. It is taking away the constitutional right of free speech. She objects to the definition.		
		4/25/2016	Written	Charles Vasicek-North Dakota Wildlife Federation The proposed definition would prohibit the Wildlife Federation, as well as other conservation groups, from commenting on oil and gas permit issues that affect our public lands in the state. He notes Governor Dalrymple and Attorney General Stenehjem have both been quoted as welcoming public comments on oil and gas issues. They object to the definition.		
		4/25/2016	Written	Michael McEnroe-North Dakota Chapter of The Wildlife Society The definition would exclude public comment on oil and gas permit issues that affect public lands or may occur on "adjacent" lands. Public natural resources including fish, wildlife, air, and water, and that use or affect other public interests such as roads, utilities, and public services. The public has the right to comment on proposed actions that occur on private land but may affect public natural resources or affect public entities such as public roads and transportation, public health, or use the public's ground and surface water resources. Governor Dalrymple said the Commission welcomed public comments during a Commission meeting concerning extraordinary places policy in 2014 and Attorney General Stenehjem was quoted recently in the Bismarck Tribune saying he favored wide and robust public involvement when the government is taking any kind of action. He requests the definition be stricken.		
		4/20/2016	Written	Landon Kimball-- North Dakota is best served by bringing a diversity of experience and knowledge to hearings and narrowing the number of people that can testify does not bring the most diverse range of experience and knowledge to all hearings. The impacts of hearings can be wide ranging and don't just affect owners or managers. He disagrees with the definition.		
		4/20/2016	Written	Glenn Muske-Bismarck Aren't all North Dakota citizens interested parties in terms of what happens to our natural resources, our air, our water, and our land. Our state needs to continue a position of being inclusive, not exclusive, and let everyone be heard and take all of those comments seriously. He cannot support the definition.		
		4/20/2016	Written	Robert Olin-Rugby Oil and gas exploration and production and any other such operations affect many more people than just those in or adjacent to the subject matter. I strongly oppose the definition.		
		4/20/2016	Written	Lillian Crook-Bismarck In the words of the late and esteemed US Supreme Court Justice Louis Brandeis, "sunlight is the best disinfectant". That says it all. I urge the rejection of the proposed definition.		
		4/13/2016 4/25/2016	Oral + Written	Laura Erickson-Cardo Inc. She believes the definition needs clarification whether it applies to commercial facilities or to all producers and what is meant by "deleterious substances". She would like more specific references to authorize Class II fluids, including non-hazardous E&P waste other than produced water.	The Commission agrees that additional clarification is necessary to determine what applies to commercial facilities and that deleterious substances is a term that can be eliminated from the definition to avoid confusion.	
		4/14/2016 4/22/2016	Oral + exhibit + written	Zeno Farris-Enduro The definition needs clarification that SHFs that are appurtenances to an injection system on a Unit does not require additional bonding. Enduro recognizes the Commission considers EOR and SWD facilities as appurtenances to wells and therefore not subject to the saltwater handling facility regulations, but wants further clarity by amending the definition and adding language after appurtenances to wells "such as EOR and field SWD facilities".	The Commission is confused by Enduro's statement that the Commission considers EOR and SWD facilities as appurtenances to wells and therefore "not subject to the saltwater handling facility regulations". Section 43-02-03-54 states the permitting and bonding requirements for a saltwater handling facility set forth in sections 43-02-03-53, 43-02-03-53.1, and 43-02-03-53.3 are not to be construed to be required if the facility is bonded as a well or treating plant appurtenance. Such facilities will be considered in the permit application for the well or treating plant. Although saltwater handling facilities that are appurtenances to wells, will not be subject to 43-02-03-53, 43-02-03-53.1, or 43-02-03-53.3.	The Commission's proposed definition will be modified to clarify that a saltwater handling facility could be an appurtenance to a well or treating plant (i.e. tanks used in the production operations of a well or treating plant), or it could be a site where a trucking company stores saltwater used in oilfield servicing operations.
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes the proposed definition is unclear and it does not differentiate between a saltwater disposal handling facility and a secondary recovery injection facility.	The Commission agrees that additional clarification is necessary to determine what applies to a saltwater disposal facility and a secondary recovery injection facility.	
		4/20/2016	Written	Ron Ness--representing the ND Petroleum Council The NDPC believes the Commission's intention is to only include commercial facilities that are neither on or part of well sites nor a treatment plant. We believe changing the term to "saltwater handling and disposal facility" and using the suggested language below will accurately reflect that intent and clarify the definition: "Saltwater handling and disposal means and includes any <del>wellhead and site used for the handling, storage, and disposal of deleterious substances obtained or used in connection with fluids which are brought to the surface in connection with oil and gas exploration and development production.</del> "	It is the Commission's intent to clarify that a saltwater handling facility could be an appurtenance to an existing treating plant, well, disposal, or injection facility, but it could also be a stand alone facility, such as tankage located on a service company's site storing heavy saltwater.	The Commission's proposed definition will be modified to clarify that a saltwater handling facility could be an appurtenance to a well or treating plant (i.e. tanks used in the production operations of a well or treating plant), or it could be a site where a trucking company stores saltwater used in oilfield servicing operations.
	Updates def of "Saltwater Handling Facility" (SHF) & removes outdated pit language	4/20/2016	Written	Richard Cayko-McKenzie County Commission They are concerned on how the definition could potentially impact county property tax collections and the county does not support amendments in general that would create additional difficulty in managing and maintaining our road infrastructure.	It is the Commission's intent to clarify that a saltwater handling facility could be an appurtenance to an existing treating plant, well, disposal, or injection facility, but it could also be a stand alone facility, such as tankage located on a service company's site storing heavy saltwater.	
		4/25/2016	Written	Gerbert Schoonman-Hess Corporation Hess understands the Commission intended the saltwater handling facility proposed regulations to target "commercial" facilities, not produced water tanks or produced water disposal wells that are owned and operated by the oil and gas operator. If that is correct, they have a proposed amendment. (see suggested language)		
		4/14/2016 4/25/2016	Oral + exhibit + written	Troy Koons-Northwest Landowners Association Objects to the definition. They believe the definition is too vague and may take power away from local governments. They also believe it is unconstitutional since an "oilfield waste facility" would now fall under the definition, which is regulated by the NDDH.	It is the Commission's intent to clarify that a saltwater handling facility could be an appurtenance to an existing treating plant, well, disposal, or injection facility, but it could also be a stand alone facility, such as tankage located on a service company's site storing heavy saltwater. Modification of the definition will clarify that an oilfield waste facility permitted by the NDDH would not be considered a saltwater handling facility.	The Commission's proposed definition will be modified to clarify that a saltwater handling facility could be an

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		4/14/2016	Oral	Reice Haase--Cardno Objects to the definition. He believes its too vague and broad and it should clarify if SW tanks in a CTB are considered a SHF or appurtenance to the existing wells	It is the Commission's intent to clarify that a saltwater handling facility could be an appurtenance to an existing treating plant, well, disposal, or injection facility, but it could also be a stand alone facility, such as tankage located on a service company's site storing heavy saltwater.	appurtenance to a well or treating plant (i.e. tanks used in the production operations of a well or treating plant), or it could be a site where a trucking company stores saltwater used in oilfield servicing operations.
		4/25/2016	Written	Roger Kelley--Continental Resources, Inc. Wants the definition of "saltwater handling facility" changed to "saltwater handling and disposal facility" and defined as: "means and includes any <del>surface</del> - <del>site</del> used for the handling, storage, and disposal of <del>deleterious-substances-obtained-or-used-in-excess</del> fluids which are brought to the surface in conjunction with oil and gas exploration and production."		
		4/25/2016	Written	Wade Engst and Donald Longmuir--Planning & Zoning Board, County of Mountrail They are concerned about the term "deleterious" substances being allowed at a saltwater handling facility since it could greatly increase the jurisdiction of the Commission over portable facilities that are presently outside of the jurisdiction of the Commission.	The Commission agrees that additional clarification is necessary to define a saltwater handling facility and deleterious substances is a term that can be eliminated from the definition to avoid confusion.	
		4/25/2016	Written	Royce Brown--Enable Bakken Crude Services, LLC Enable believes the definition requires clarification to better define the intended types of facilities that would be subject to the regulation.		
43-02-03-11 Organization Reports	Requires organization report for persons engaged in pipeline operations	4/12/2016 4/25/2016	Oral + exhibit + written	Ken Dockweiler--Bridger / Belle Fourche Pipeline (True Companies) Would like 60 days to comply with submitting an Organization Report after the rules are adopted instead of being required to "immediately" file the report.		
		4/25/2016	Written	Nick Johnson - 1804 Operating 1804 Operating feels that identifying a period of time to file the organization report in would be helpful. We suggest inserting the following sentence into the final section of 43-02-03-11 "Companies engaged in underground gathering pipeline operations on October 1, 2016, shall file an organization report within 60 days of the effective date of the 2016 amendments to this section." (NDPC)	Note the IC plans to sign an order either June 29 or July 26 approving the rules, but the rules will not become effective until October 1, 2016, therefore the companies will have 60-90 days to submit an organization report before the effective date of the rule.	The Commission's proposed amendment will be modified to make reference to all pipelines, not just underground ones.
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council Identifying a period of time to file the organization report would be helpful. The NDPC suggest inserting the following as a final sentence, "Companies engaged in underground gathering pipeline operations on October 1, 2016, shall file an organization report within 60 days of the effective date of the 2016 amendments to this section."		
43-02-03-14 Access To Records	Clarifies that OGD can inspect pipeline records and right-of-ways	4/25/2016	Written	Roger Kelley--Continental Resources, Inc. Wants clarification that the amendment would not constitute a potential requirement to provide right-of-way documents or other construction documents that are already of public record and filed with the associated county.	The Commission does not foresee requiring right-of-way documents, but must have access to the right-of-way at all times to ensure thorough inspections.	
		4/25/2016	Written	Gerbert Schoonman--Hess Corporation Suggested Language: "...completing, producing, operation, or servicing oil and gas wells, <u>underground gathering pipelines</u> , injection wells, or treating plants shall permit the commission, director, and their representatives to come upon any lease, property, <u>underground gathering pipeline right-of-way</u> , well, or drilling rig operated or controlled by them, to determine compliance <u>conforming</u> with state safety rules and <u>subject to obligations and requirements set forth in the site access agreements from the surface owner</u> , to inspect the records and operation of such wells, <u>underground gathering pipelines and treating plants</u> , and to have <u>reasonable access at all times</u> to any and all records of wells, <u>underground gathering pipelines and treating plants</u> . If requested, copies of such records must be filed with the commission."	The Commission must have access at all times to the pipeline right-of-way to ensure thorough inspections. Also, the Commission does not participate in negotiations in agreements between the pipeline gatherers and the surface owner, therefore they should not be bound by obligations or requirements in such agreements.	
		4/25/2016	Written	Ken Dockweiler--Bridger / Belle Fourche Pipeline (True Companies) Many current right-of-way documents allow surface access only during construction and emergency responses and in most cases results in additional fees to the landowner. Commission rules give an implied requirement that Commission personnel are allowed on the ROW during construction, therefore they would like the ROW language stricken and include some definition to the type of pipeline records to be accessed or address the access in other sections where the records are required.		
		4/25/2016	Written	Nick Johnson - 1804 Operating - 1804 Operating is concerned with this section, and does not understand its necessity when right-of-way documents are already public and filed on record with the County. 1804 Operating is also concerned that the large amount of data this requirement would produce may create additional administrative burdens for the NDIC staff and delay the construction process. If the change is necessary, 1804 Operating suggests making it read only upon the request of the Director rather than automatic. Not many underground gathering pipelines are going to have "well records" or "any and all records of wells". 1804 Operating recommends modifying these phrases to better identify access to underground pipeline records. (NDPC)  Additionally, 1804 Operating recommends inserting 'underground gathering' after 'property' and prior to 'pipeline right-of-way' on line six of section 43-02-03-14 for consistency. (NDPC)	The Commission does not foresee requiring right-of-way documents, but must have access to the right-of-way at all times to ensure thorough inspections.	The Commission's proposed amendment will be modified to clarify the Commission has jurisdiction to inspect all sites, not just well sites.
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton Right-of-way documents must be filed on record with the County and he believes the documentation should only be delivered to the Commission when requested.		
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council Right-of-way documents must be filed on record with the County and the NDPC is concerned the large amount of data this requirement would produce may create additional administrative burdens for Commission staff and delay the construction process. If the change is necessary, make it required only upon request of the Director rather than automatic. The NDPC suggests the following language: "...completing, producing, operation, or servicing oil and gas wells, underground gathering pipelines, injection wells, or treating plants shall permit the commission, director, and their representatives to come upon any lease, property, <u>underground gathering pipeline right-of-way</u> , well, or drilling rig operated or controlled by them, complying with state safety rules and to inspect the records and operation of such wells, and to have access at all times to any and all records of wells. If requested, copies of such records must be filed with the commission."		
		4/25/2016	Written	Royce Brown--Enable Bakken Crude Services, LLC A better definition is needed as to what the review of the records is intended for and which records would be required. As written, an operator could choose not to keep certain records and be in compliance.	43-02-03-85 states all producers, transporters, storers, refiners, gasoline or extraction plant operators, and initial purchasers within North Dakota shall make and keep appropriate books and records for a period not less than six years, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.	
43-02-03-15 Bond and Transfer of Wells (general comments)		4/13/2016 4/25/2016	Oral + Written	Laura Erickson--Cardno Inc. Add "facilities" to the heading of 43-02-03-15. Paragraph (5) refers to the "Transfer of wells under bond", but should use all-inclusive language to cover facility transfer, or provide more specific transfer protocol for treating plants in paragraph (6) and saltwater handling facilities in paragraph (7). This section refers to the transfer of only "wells" although the Commission's Form 15P (Transfer of Treating Plant Facility) refers to this section.	The instructions on Commission's Form 15P refers to 43-02-03-15 and under paragraph (5) indicates "The director may refuse to transfer any treating plant from a bond if the treating plant is in violation of a statute, rule, or order".	None
		4/11/2016	Oral	Wendy Ross--representing the United States National Park Service Supports our proposed bonding proposals.	No response to the comment is necessary .	None
		4/11/2016	Oral	Kevin Pranis--Laborers' International Union of North America (LIUNA) Supports our proposed bonding proposals	No response to the comment is necessary .	None
		4/12/2016	Oral	Robert Rube--1804 Operating Objects to pipeline bonding--should require leak insurance instead	The bond required to be filed with the Commission is a financial instrument intended to protect the State from incurring the costs associated with pipeline abandonment and surface reclamation. The cost of cleaning up a pipeline spill is the responsibility of the owner.	The proposed amendment will not be modified to require leak insurance.
		4/14/2016 4/25/2016	Oral + exhibit + written	Troy Koons--Northwest Landowners Association Objects to \$100,000 blanket bonds--want at least \$50,000 per well Note: IC has no proposed changes in well bonding amounts	The Commission has no proposed changes in well bonding amounts. The request to increase the amount of well bonds goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
		4/25/2016	Written	Laura Erickson--Cardno Inc. Source wells are permitted through the State Water Commission, why are we proposing to bond them under our regulations.		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
43-02-03-15 Bond and Transfer of Wells	Requires source wells used in EOR projects to be bonded	4/25/2016	Written	Roger Kelley—Continental Resources, Inc. They indicated the State Water Board already has jurisdiction over water source wells and adding source wells to our regulations would cause duplicative oversight.		
		4/25/2016	Written	Jim Cron—Non-operating WIO-Flaxton He believes it may be necessary to define "source wells" to be certain it is referring to water source wells utilized in a secondary recovery unit. He also indicated that water source wells are permitted by the State Engineer and requiring a bond or permit through the Commission is government oversight and causes duplication	State Water Board only appropriates water allowance for source wells and does not require bonding or plugging at the end of the EOR project. Source wells for enhanced recovery units are typically producing from the Dakota Formation, which occurs at depths from 2000' - 6000'. Source wells should not be treated like fresh water wells since considerable plugging costs could be incurred and most source wells do not produce potable water.	The Commission's proposed amendment will be adopted without any further modifications.
		4/20/2016	Written	Ron Ness—North Dakota Petroleum Council The NDPC questions the need for a bond for any source well, which is a "water" source well permitted through the State Engineer of the Water Commission, therefore the Commission should avoid additional jurisdictional confusion.		
		4/25/2016	Written	Gerbert Schoonman—Hess Corporation Water source wells are permitted by the North Dakota Water Commission and consideration of bonding is best served under the same agency that holds a permit. Hess also requests clarification if this proposal would apply retroactively to existing source wells and if so, a provision for a timeframe for compliance should be given.		
Requires all saltwater handling facilities to be bonded	4/25/2016	Written	Laura Erickson—Cardno Inc. The Commission should clarify the meaning of "appurtenance".	Webster's Dictionary defines appurtenance as "a subordinate part". Appurtenance is not a new term, as it has been in the Commission's rules for over 35 years. This section requires a saltwater handling facility to be bonded, unless the facility is already bonded as an appurtenance. In other words, if a well tank battery, disposal well battery, injection well battery, or treating plant utilizes a saltwater handling facility (i.e. tanks containing saltwater), the saltwater handling facility would already be bonded as an appurtenance and a separate bond would not be required.		The Commission's proposed amendment will be adopted without any further modifications.
	4/25/2016	Written	Jim Cron—Non-operating WIO-Flaxton He indicated existing saltwater disposal well bonds cover the associated saltwater handling facilities and he is opposed to any additional bonding. He believes the rule needs to be clarified whether or not an existing secondary recovery unit would require a bond for their injection facilities, and if so, then existing plants should be exempt from the requirement. He also believes the term "appurtenance" needs to be defined under 43-02-03-01.	A secondary recovery unit utilizing a saltwater handling facility would be bonded as an appurtenance to the unit and a separate bond would not be required.		
	4/20/2016	Written	Ron Ness—North Dakota Petroleum Council The NDPC requests clarification on whether existing saltwater disposal well bonds cover the associated saltwater handling facility. The NDPC encourages the Commission to look to the results of the ongoing IOGCC study when determining appropriate bond amounts.	A saltwater disposal well utilizing a saltwater handling facility (i.e. tanks containing saltwater) would be bonded as an appurtenance to the saltwater disposal well and a separate bond would not be required.		
43-02-03-15 Bond and Transfer of Wells	Requires all crude oil and produced water pipelines to be bonded	4/12/2016	Oral	Robert Rubeby—representing 1804 Operating Objects to pipeline bonding—should require leak insurance instead	Robert Rubeby indicated 1804 Operating has instantaneous spill insurance for obvious pipeline failures and also undetected leak insurance that would cover plume remediation. The Commission notes it appears this insurance would not provide the same level of coverage as a surety bond since it would not cover abandonment and reclamation operations.	The Commission's proposed amendment will not be modified to allow pipeline insurance instead of bonding.
		4/14/2016 4/22/2016	Oral + Written	Zeno Farris—Enduro Objects to additional bonding for injection pipelines for Units. Enduro suggests that flowlines in currently bonded EOR units, emulsion, SWD flow lines, and commingled leases be differentiated from gathering pipelines and not required to be bonded. If flowline bonds are necessary and a blanket bond with designated flowline systems is acceptable, Enduro requests a single blanket unit bond with designated units assigned.	It is the Commission's intent to exclude bonding of flow lines, injection pipelines, and pipelines operated by the enhanced recovery Unit operator.	"Flow line" and "injection pipeline" will be definitions added to NDAC Section 43-02-03-01. The proposed amendment will be modified to clarify that pipelines within an enhanced recovery unit do not need an additional pipeline bond.
		4/25/2016	Written	Robbie McDonough - Crestwood incorporates by reference the comments of NDPC and GPA regarding this section. Crestwood recommends changing the notice requirements in this section to post transfer instead of pre-transfer. Requiring a 30-day timeline prior to transfer will unnecessarily delay and has the potential to disrupt an owner's ability to sell its assets. As written the rules would delay the transaction an additional two weeks. Additionally, sale transactions are highly confidential matters and underground gathering pipeline owners should not be forced to share details of a transfer prior to that transfer becoming general public information. Suggested Language: 8.d.(1) The principal must notify the director, in writing, of all proposed transfers of underground pipelines within at least thirty days following before the closing date of the transfer.	The Commission does not agree with this comment. This requirement is consistent with other types of bond transfers. The 30-day notice allows Commission staff to perform a compliance review to assure compliance prior to approving the transfer.	The Commission's proposed amendment will not be modified to allow the principal to notify the Commission following a pipeline transfer.
		4/25/2016	Written	Troy Coons—NW Landowners Define "underground gathering pipeline system." The term "system" is vague and ambiguous. More importantly, the term could be construed to cover an operator's entire system of gathering pipelines in North Dakota. Northwest Landowners Association suggests deleting the term "system" from N.D.A.C. § 43-02-03-15. The proposed addition to N.D.A.C. § 43-02-03-15 at subsection 8(b) contains a significant discrepancy. Subsection 8(b) indicates that the "blanket bond covering more than one underground gathering pipeline system shall be limited to no more than six of the following in aggregate..." After listing the limiting facilities, the subsection states: "If this aggregate of underground gathering pipeline systems is reached, the commission may refuse to accept additional pipeline systems on the bond..." This subsection should be changed to read: "If this aggregate of underground gathering pipeline systems is reached, the commission will refuse to accept additional pipeline systems on the bond..." Note Below in 43-02-03-29.1 Subsection 2 Definitions: Definitions for "crude oil or produced water underground gathering pipeline" and "underground gas gathering pipeline" in N.D.A.C. § 43-02-03-29.1 are also ambiguous as drafted. The current definitions could apply to an entire gathering system. The definition refers to transfer from a production facility for disposal, storage, or sale, or from a production facility to a gas processing facility, for example. Generally, numerous wells are connected to a single gathering system, and this definition could be construed to mean that the proposed \$50,000 bond applies to an entire gathering system rather than a single pipeline. Northwest Landowners Association suggests that the NDIC limit the applicability of any given \$50,000 bond to a specific maximum length and diameter of pipeline.	The Commission does not believe it is necessary to define underground gathering pipeline system. The requirement allows for a single underground gathering system be placed on a \$50,000 bond and multiple systems be placed on a \$100,000 blanket bond. Gathering pipelines that are less than one mile in length may be bonded at a lesser amount.	The Commission's proposed amendment will not be modified to include any of the suggestions.
		4/25/2016	Written	James Cron - Cron Industries, LLC - We feel that this section is overkill, and while it may not be the intent of the author, it appears that it may apply to all "lines" including those acting as flow lines from individual wells to production batteries as well as flow lines from CTB's to the secondary recovery unit's injection facilities. In addition we believe the legislative intent excluded flow lines and any lines put in place prior to April of 2011. We think that a new definition be added to 43-02-03-01 to define production facility, secondary recovery facility, production flow lines, and secondary recovery flow lines from the CTB to the injection facility as well as injection lines from the secondary recovery injection facilities to the unit injection wells and SWD. The definitions would provide needed clarity to this section. Additionally, as I am sure others have noted in the documentation, the terms "system" and "flow lines" need to be defined or clarified.	The Commission's intent was to exclude flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations from the bonding requirement. The Commission does not feel it is necessary to define production facility or secondary recovery facility. The Commission agrees with defining flow line and injection pipeline.	"Flow line" and "injection pipeline" are now defined under NDAC Section 43-02-03-01 Definitions. The Commission made amendments to Subsection 8 excluding flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations from the bonding requirements.
		4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC 43-02-03-15.8.a. -The July 1, 2017 deadline will be burdensome. Recommend tying the compliance date to the effective date of the rule and recommend no less than one year after the effective date. 43-02-03-15.8.b Define terms "system" and Production Facility" Suggested language: (added to 43-02-03-01, Definitions.) 39. "Production facility" means any well pad as permitted pursuant to section 43-02-03-16 or any central production facility as permitted pursuant to section 43-02-03-48.1 The commission has an inappropriate amount of discretion. The language does not recognize several scenarios where a gathering segment may be out of service, but is not "abandoned". The term "economic value of the underground pipeline" is irrelevant and should not be included as criteria for the commission to use in determining extra bond amounts. The terms "multiple failures" and without some guidance on what is meant by a past failure to comply with "statutes and orders" Bridger believes that the last sentence of this paragraph should be struck.	The July 1, 2017 deadline to submit and obtain Commission approval for crude oil and produced water underground gathering pipeline bond is sufficient time for owners to comply with the requirement. The Commission does not feel it is necessary to define system or production facility. The economic value of the pipeline must be factored into the Commission's decision in determining Bond amounts. The Commission may refuse to accept a bond or add underground gathering systems to a blanket bond for other good cause. The Commission feels it is necessary to include a gathering system with multiple failures as one of the factors it will consider. The Commission agrees with the comments pertaining to an "out of service" pipeline.	The requirement to submit a bond and obtain Commission approval for all crude oil and produced water underground gathering pipelines by July 1, 2017 remains. "Flow line" and "injection pipeline" are now defined under NDAC Section 43-02-03-01 Definitions. The Commission made amendments to Subsection 8 excluding flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations from the bonding requirements.
		4/25/2016	Written	Bill Wolf—Kinder Morgan, Inc. To avoid ambiguity, the Commission should define "multiple gathering pipeline systems".	The Commission does not feel it is necessary to define multiple gathering systems. The Commission has required the submittal GIS shape files since April 1, 2014. Thus far there has not been any confusion regarding the definition of an underground gathering pipeline system or multiple systems.	The Commission's proposed amendment will not be modified to define the term.
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - limiting bond requirements to a surety bond or cash bond is impracticable. Enable suggests adding a letter of credit option to all sections including wells, units, treating plants, saltwater handling facilities, crude oil and produced water underground gathering pipeline. Suggested language "...a surety bond, cash bond or letter of credit" in Section 1, 3, 6, 7 and 8a. Subsection 8a - Define the term "underground gathering pipeline system" Subsection 8(b) - Due to any number of operational considerations (e.g., delay in completing a well serviced by the pipeline, changing flow dynamics in a field, etc.) operations of a given gathering line may be suspended for periods of time that could exceed one year. However, a pipeline operator may still have plans to operate that pipeline in the future once the serviced well is completed. Suggested language "Any portion of an underground gathering pipeline system that has been permanently removed from service and is not properly abandoned pursuant to 43-02-03-29.1, and" Cross references for ROW reclamation requirements confusing -43-02-03-29.1 5(b), 5(c), 5(d) and 5(e) reference subsection 15. Subsection 15(a)(6) subsequently references 43-02-03-34.1. Recommend NDIC provide more specificity and definition around the reclamation requirements in 43-02-03-15.8(b)(2) or delete this language altogether. Subsection 8(d)(i) - Strike 30 day advanced notice of a bond transfer. Suggested Language: "The principal must notify the director, in writing, of all transfers of underground gathering pipelines."	The bonding requirement allows for an alternative form of security, such as letters of credit, after notice and hearing. The Commission believes it is unnecessary to define "Underground gathering Pipeline System". NDCC Section 38-08-02 defines underground gathering pipeline. The Commission agrees with the comments pertaining to an "out of service" pipeline. The Commission amended subsection 8b(1) by removing "out of" and replacing it with "removed from" in order to clarify that the requirement applies to pipelines that were active and have since been removed from service	The Commission amended subsection 8b(1) by removing "out of" and replacing it with "removed from".

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	<p>Nick Johnson - 1804 Operating Define production facility, system, and flowline.</p> <p>Suggested language: (added to 43-02-03-01. Definitions) 39. "Production facility" means any well pad as permitted pursuant to section 43-02-03-16 or any central production facility as permitted pursuant to section 43-02-03-48.1</p> <p>Deadline for underground gathering pipeline bond - Take into account the date the rule goes into effect. If rules are not in place until October 1, 2016, the July 1st, 2017 deadline is burdensome and difficult to meet.</p> <p>The phrase "pipeline composition" is vague and recommends replacing it with "The pipeline material and design specifications"</p> <p>subsection 8.b.(1) - Recommend adding "physically isolated". While an underground gathering pipeline may not be technically isolated in service, a tie-in may still be active and have pressure on it. In these situations, a line has not been physically isolated, should not be considered out of service or abandoned, and should not contribute to the aggregate. For this reason, 1804 Operating recommends delineating between this type of line or system and those that have been truly abandoned.</p> <p>Economic Value of the pipeline - Any additional bond amounts must be related to the expected cost of pipeline abandonment and right-of-way reclamation, as determined by the commission.</p>	<p>The Commission believes the July 1, 2017 deadline to submit and obtain NDIC approval for crude oil and produced water underground gathering pipeline bond is sufficient time for owners to comply with the requirement and it is unnecessary to define system or production facility.</p> <p>The Commission does not agree with replacing pipeline composition with the pipeline material and design specifications. The Commission prefers the term composition to material. Pipeline design specifications are required prior to starting new construction and during the submittal of the pipeline location following construction.</p> <p>The Commission agrees with the comments pertaining to an "out of service" pipeline.</p> <p>The economic value of the pipeline must be factored into the Commission's decision in determining Bond amounts</p>	<p>The requirement to submit a bond and obtain NDIC approval for all crude oil and produced water underground gathering pipelines by July 1, 2017 remains.</p> <p>Also "flow line" and "injection pipeline" will be defined under 43-02-03-01 Definitions. The Commission made amendments to Subsection 8 excluding flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations from the bonding requirements and subsection 8b(1) will be modified by removing "out of" and adding "removed from".</p>
		4/25/2016	Written	<p>Ron Ness - North Dakota Petroleum Council NDPC recommends define "production facility and system" and "flow lines". NDPC also requests clarity on whether a blanket bond is required if a crude oil or produced water underground gathering pipeline system is being built in sections. NDPC believes a system should include all sections of a pipeline.</p> <p>NDPC also requests that any deadline to have all underground gathering lines bonded should take into account the date the rule goes into effect. If rules are not in place until October 1, 2016, the July 1st, 2017 deadline is burdensome and difficult to meet.</p> <p>Suggested language: (added to 43-02-03-01. Definitions) 39. "Production facility" means any well pad as permitted pursuant to section 43-02-03-16 or any central production facility as permitted pursuant to section 43-02-03-48.1.</p> <p>43-02-03-15.8.a(3) The pipeline composition, material and design specifications.</p> <p>43-02-03-15.8.b. Crude oil and produced water underground gathering pipeline bond.</p> <p>NDPC recommends adding "physically isolated" to the proposed language of subsection 8.b.(1). While an underground gathering pipeline may not be technically isolated in service, a tie-in may still be active and have pressure on it. In these situations, a line has not been physically isolated, should not be considered out of service or abandoned, and should not contribute to the aggregate. NDPC recommends delineating between this type of line or system and those that have been truly abandoned. NDPC is concerned with the idea of relating additional bond amounts to the economic value of the underground gathering pipeline system as proposed in 8.b.(2), and recommends striking that language. The pipeline's value has no relevance in relation to higher bond amounts. NDPC also recommends striking the last sentence in subsection 8.b.(2), as it does not clearly define "multiple", nor does it take into account damage or failures caused by a third party. Should clarify if an underground gathering pipeline is installed, but not yet in service, that line should not be considered abandoned.</p>	<p>The Commission agrees with the comments pertaining to an "out of service" pipeline.</p> <p>The Commission will not accept a bond or add underground gathering systems to a blanket bond for other good cause. The Commission feels it is necessary to include a gathering system with multiple failures as one of the factors it will consider. The Commission does not agree with the suggestion for multiple Form 15 ( P, PL, SHF). It is easier to manage separate Forms based on the specific activity and separate Forms allow less opportunity for error.</p>	<p>The Commission modified subsection 8b(1) by removing "out of" and adding "removed from".</p>
		4/20/2016	Written	<p>Ron Ness-North Dakota Petroleum Council The NDPC is concerned that this section is overreaching and they suggest "production facility", "system", and "flow lines" be defined or clarified. They believe a system should include all sections of a pipe. They also state the bonding deadline of July 1, 2017 is burdensome and will be difficult to meet. They suggest "production facility" should mean "any well pad as permitted pursuant to 43-02-03-16 or any central production facility as permitted pursuant to 43-02-03-48.1".</p>		
		4/25/2016	Written	<p>Laura Erickson - Cardno - Section 8b(1) recommend insertion of "...is physically isolated from the system,..."</p> <p>8b(2) ¶ What constitutes a failure: any spill, any volume? Including, third party, etc?</p> <p>8b(1) 2nd ¶ - Could end up with several Form 15's (TP, PL, SHF) - NDIC may consider combing all into one form with checkbox indicated type of facility being transferred.</p>	<p>The Commission agrees with the comments pertaining to an "out of service" pipeline.</p> <p>The Commission will not accept a bond or add underground gathering systems to a blanket bond for other good cause. The Commission feels it is necessary to include a gathering system with multiple failures as one of the factors it will consider. The Commission does not agree with the suggestion for multiple Form 15 ( P, PL, SHF). It is easier to manage separate Forms based on the specific activity and separate Forms allow less opportunity for error.</p>	<p>The Commission modified subsection 8b(1) by removing "out of" and adding "removed from".</p>
	43-02-03-16 Application For Permit to Drill and Recomplete (general comments)	4/25/2016	Written	<p>Jim Cron-Non-operating WIO-Flaxton He believes the permit length should be extended from one year to two years which would bring the Commission's rule in line with federal permits.</p>	<p>The request to allow a 2-year permit goes beyond the intent of the rule change since the Commission has no proposed changes in permit length. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.</p>	<p>The proposed amendment received in the comments will not be considered for adoption.</p>
		4/20/2016	Written	<p>Ron Ness-North Dakota Petroleum Council The NDPC believes the permit length should be extended from one year to two years which would bring the Commission's rule in line with federal permits.</p>		
	43-02-03-16 Application For Permit To Drill and Recomplete	4/20/2016	Written	<p>Richard Cayko-McKenzie County Commission McKenzie County currently receives operator requests for them to designate a legal street address for operator applications to drill wells and construct treating plants, which is a current Commission requirement. The Commission's proposed amendment eliminates the requirement for operators to request said legal street address and McKenzie County is concerned that they will no longer have an opportunity to review "proposed locations" of well sites and treating plants due to the Commission's proposed amendment. They would like the Commission to clarify that the current requirement to "request" a legal street address, does not require them to "attain" an address. It is the Commission's understanding that in most cases McKenzie County does not intend to issue a legal street address, although they indicated that half of their volunteer fire districts in McKenzie County want to see emergency addresses designated.</p>	<p>The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage of wells and facilities) to identify the legal location using a cross-reference supplied by the Commission.</p>	<p>The Commission's proposed amendment will be adopted without any further modifications.</p>
	Removes requirement for legal street address to be requested	4/14/2016	Oral	<p>Reile Haase-Cardno Supports this change</p>		
		4/20/2016	Written	<p>Carol Ventech Legal street address for well sites is essential for 911 purposes since it can be challenging for EMS to locate injured workers without a 911 location.</p>		
		4/25/2016	Written	<p>Troy Koons-Northwest Landowners Association Objects to removal of requiring legal street address since they believe it is a minimal burden to help emergency responders located sites during emergencies.</p>	<p>The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage of wells and facilities) to identify the legal location using a cross-reference supplied by the Commission.</p>	<p>The Commission's proposed amendment will be adopted without any further modifications.</p>
		4/25/2016	Written	<p>Wade Enget and Donald Longmuir-Planning &amp; Zoning Board, County of Mountrail It does not make any sense to remove the requirement to request a legal street address, as it is imperative the emergency responders be able to be directed to an exact location in the event of a mishap on that site.</p>		
	43-02-03-17 Sign On a Well or Facility (general comments)	4/25/2016	Written	<p>Roger Kalley-Continental Resources, Inc. Continental requests clarification the proposed modifications do not require signs to be placed on fresh water wells or fresh water handling equipment.</p>		
	Requires sign on storage, treating, and water facilities	4/25/2016	Written	<p>Ken Dockweiler-Bridger / Belle Fourche Pipeline (True Companies) No deadline is given to comply with the signage, he suggests operators should have one year to comply. They currently install "line markers" in accordance with 49CRF 195.410 along the right-of-way and at above ground structures and believes it should meet the intent of the Commission.</p>	<p>Bonded fresh water source wells would require a sign along with any fresh water pit or receptacle permitted by the Director used in completion and well servicing operations.</p> <p>Note the IC plans to sign an order either June 29 or July 26 approving the rules, but the rules will not become effective until October 1, 2016, therefore the companies will have 60-90 days to obtain the bonding before the effective date of the rule.</p>	<p>The Commission's proposed amendment will be adopted without any further modifications.</p>
		4/20/2016	Written	<p>Ron Ness-North Dakota Petroleum Council The section needs to be clarified and limited to what is truly necessary for safety and identification purposes so that it does not create an eyesore and redundancy, therefore they suggest signage be only required on "produced" water facilities and clarify that signage is not necessary on compressor stations and pig stations or other multiple facilities on a single location.</p>		
	Removes requirement to show legal street address	4/14/2016	Oral	<p>Reile Haase-Cardno Supports this change</p>		
		4/25/2016	Written	<p>Wade Enget and Donald Longmuir-Planning &amp; Zoning Board, County of Mountrail It does not make any sense to remove the requirement to request a legal street address, as it is imperative the emergency responders be able to be directed to an exact location in the event of a mishap on that site.</p>	<p>The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.</p>	<p>The Commission's proposed amendment will be adopted without any further modifications.</p>

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Troy Koons--Northwest Landowners Association Objects to removal of requiring legal street address since they believe it is a minimal burden to help emergency responders located sites during emergencies.		
	Removes allowance to keep existing signs with permit number	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC is concerned that the signage policy may be retroactive, which will require new signs on all existing wells and be costly and burdensome.		
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the language is confusing and may be retroactive. He indicated current signage is more than adequate for emergency responders and Commission field personnel and new signs will be costly and burdensome.	Note: The Commission does not believe entirely new signs will have to be constructed, but rather the permit number on existing signs could be overwritten to show the "file" number. This proposed change only affects signs for wells permitted prior to mid 1977 (file number 6200) since the file and permit numbers for wells permitted thereafter were identical.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Gerbert Schoonman--Hess Corporation The proposed language appears to bring in legacy well sites and require modifications to existing signage, but does not provide a reasonable timeframe for compliance. They are unclear if additional signage will be needed at central tank batteries, although they already have compliant signage in place. Hess also believes the term "facility" needs to be defined.		
		4/13/2016	Oral	Laura Erickson--Cardno Inc. She is concerned that the phrase "When necessary to prevent pollution of the land surface and freshwaters, the Director may require the site to be sloped and diked" may not be appropriate to leave in this section since the phrase appears in a number of other sections in the rules.	The Commission realizes the language also appears in the treating plant construction and requirements, but this section is a general site construction section that covers wells, saltwater handling facilities, and treating plants, therefore it should remain.	None
	43-02-03-19 Site Construction (general comments)	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC believes the rule applies to only "well" sites, therefore the first sentence should be amended to state "In the construction of a well site, access road, ...".	The requirement to remove and stockpile topsoil from a saltwater handling facility or treating plant was typically found in the Commission's order or permit approving the same. It is the Commission's intention to clarify this with by modifying the proposed amendments.	The Commission's proposed amendment will be modified. The Commission will clarify that this section applies to treating plants and saltwater handling facilities, not just well sites.
		4/25/2016	Written	Laura Erickson--Cardno Inc. Cardno recommends the thickness of the stockpiled topsoil be given in inches.	The Commission received several comments indicating the thickness of the stockpiled topsoil can vary and the "volume" should be required to be reported instead of the thickness. The Commission agrees.	The proposed amendment will not be modified to require the stockpiled topsoil be given in inches.
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC is concerned that replacing the term "additives" with "materials" may refer to straw waddles and erosion control blankets and it does not seem appropriate to require a Sundry Notice every time erosion control maintenance is performed.	It is not the Commission's intent to require a Sundry Notice when erosion control maintenance is being performed, but rather when materials are used to "stabilize" the soil. The Commission believes this is clear in the proposed language and does not intend to modify it.	The proposed amendment will not be modified in reference to "materials".
		4/25/2016	Written	Gerbert Schoonman--Hess Corporation The Commission should clarify the use of "materials" in the proposed amendment since it is confusing and used twice in the same sentence. (see suggested language)	It is not the Commission's intent to require a Sundry Notice when erosion control maintenance is being performed, but rather when materials are used to "stabilize" the soil. The Commission believes this is clear in the proposed language and does not intend to modify it.	The proposed amendment will not be modified in reference to "materials".
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the language is too ambiguous and he believes it will lead to increased damage to the soil profile and additional cost to the operator.	The topsoil should be removed to a depth of twelve inches or to the depth of cultivation to preserve the suitable plant growth material, therefore the Commission does not believe it will lead to increased damage to the soil profile.	The proposed amendment will not be modified in reference to "materials".
		4/8/2016	Written	David Copeland--Oasis Petroleum The proposed rule requires the unused portion of the site to be reclaimed within six months after the completion of a well or construction of a facility. Oasis wants clarification that the time frame does not begin until the last well on a pad is completed and that it only applies to interim reclamation.	The Commission understands operators do not want to have to reduce the size of the site until all development wells are drilled, but operators could claim they do not want to reduce the pad size because they plan to drill additional development wells in years to come. The Director will have to consider waivers to this rule on a case-by-case basis and determine if the waiver request is reasonable.	
	Requires up to 12" of topsoil be stockpiled instead of 8" maximum + report of soil stabilization materials	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council Thickness of the stockpiled topsoil will vary, therefore they recommend the "volume" should be noted.	The Commission received several comments indicating the thickness of the stockpiled topsoil can vary and the "volume" should be required to be reported instead of the thickness. The Commission agrees.	The proposed amendment will be modified. "Well and facility sites" will be replaced with "sites" and the reference to the "thickness" of the stockpiled topsoil will be replaced with "volume" of the stockpiled topsoil.
		4/25/2016	Written	Renee White--Newalta Corporation When constructing a site, an operator may clear a prepare the land for future expansion, not just initial operations, therefore the rule should not require the unused portion of the site to be reclaimed. If the language remains in the amendment, it should not be applicable to existing sites.	A small footprint should be the goal of site construction, along with consideration of operations, safety, and environmental protection. The Director is authorized to consider a waiver to the site reduction requirement.	
		4/25/2016	Written	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Drill cuttings are toxic in nature and no earthen pits should be allowed.	This section does not refer to "drill cuttings", but rather that is addressed in 43-02-03-19.4. The Commission did not propose any amendments to 43-02-03-19.4. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
	43-02-03-19.3 Earthen Pits and Open Receptacles (general comments)	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the amendment will not allow for the use of completion operations when permitted reserve pits are in use and it also appears to eliminate the use of small temporary pits for flaring of casinghead gas while drilling.	Reserve pits are addressed in 43-02-03-19.4 and the section is not being amended. 43-02-03-19.3 specifically allows the Director to approve pits or receptacles used solely for the purpose of flaring casinghead gas, but fluids can not be stored in them.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Renee White--Newalta Corporation Newalta recognizes that the intent of the proposed changes in the section is to allow for new technology when flowing back a well after hydraulic stimulation, but they believe a definition of the new technology is needed and the process defined on how to use it (pilot project, hearing, etc).	The amendment allows the use of portable-collapsible receptacles used solely for storage of fluids used in completion and well servicing, but specifically prohibits flowback fluids.	The Commission's proposed amendment will be adopted without any further modifications.
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council Portable-collapsible receptacles used for untreated fresh water should not need a permit from the Director.	Portable collapsible receptacles are new to North Dakota and the only way to obtain information on their usefulness and reliability is to require a permit.	
	43-02-03-28 Safety Regulation (general comments)	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the term "stimulation" needs to be defined since it could be interpreted to apply to low-rate stimulations utilizing acid that have no noticeable effect on oil production. He also believes additional notice should be given to offset operators when an operator is conducting a fracture stimulation.	Low rate acid stimulations could have various effects on offsetting production due to highly variable reservoir permeability, therefore it is extremely difficult to differentiate what stimulations might affect offsetting completions. The request to define the term "stimulation" goes beyond the intent of the rule change and defining the term could have unintended consequences to safety and the environment. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	The proposed amendment will be modified. The safety regulation will be further modified to provide additional protection to operators and environmental safeguards by requiring operators to give up to ten days notice, but not less than seven days, prior to conducting a well stimulation.
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC suggests increasing the amount of time required for an operator to give notice prior to conducting well stimulation to be up to ten days and not less than seven days.	This notification requirement is an "operator-to-operator" issue and no opposition is anticipated since the request was on behalf of the NDPC, which is an organization with over 475 companies involved in all aspects of the oil and gas industry. A poll of their members indicated a need to provide additional safety for operators of wells offsetting a well in which a stimulation is being conducted. Typically the Commission would not consider amending a portion of a regulation not proposed to be amended, but in this case, the change should be allowed since it provides additional safety and protection from possible environmental damage.	
		4/13/2016 4/25/2016	Oral + Written	Laura Erickson--Cardno Inc. She suggests replacing "All vegetation must be removed to a safe distance from any production or injection equipment to eliminate a fire hazard" to "All vegetation must be removed to a safe distance from site equipment and the surveyed pad boundary to eliminate a fire hazard", although she believes "a safe distance" should also be clarified.	Commission field inspectors make a judgment call on what a safe distance is for a site because there is an incredible variety of what can be safe for one site, may not be for another.	The Commission's proposed amendment will be adopted without any further modifications.
		4/14/2016	Oral	Reice Haase--Cardno County emergency managers and other county employees are overburdened and lack engineering expertise. Supports this change.		
	Removes requirement to submit legal street address of sites and facilities	4/25/2016	Written	Wade Engert and Donald Longmuir--Planning & Zoning Board, County of Mountrail It does not make any sense to remove the requirement to request a legal street address, as it is imperative the emergency responders be able to be directed to an exact location in the event of a mishap on that site.	The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Troy Koons--Northwest Landowners Association Objects to removal of requiring legal street address since they believe it is a minimal burden to help emergency responders located sites during emergencies.		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
	Requires saltwater handling facilities and treating plants to be at least 500' from dwelling	4/25/2016	Written	Rense White-Newsits Corporation Newsits wants clarification that the 500' setback applies to new sites constructed. They would also like clarification if the setback requirement would be enforced if a Sundry Notice was submitted.	New sites would be allowed to remain. The installation of additional equipment on an existing site would likely require such equipment to be no closer than the existing equipment.	The Commission's proposed amendment will be adopted without any further modifications.
4/25/2016		Written	Craig Scott--Dakota Resource Council, Board of Directors They believe a setback of 500' from a saltwater handling facility does not protect landowners from the effects of exposure to any of these facilities. Noise, light, and vibration from constant truck traffic will increase and last as long as the facility is in operation. The DRC urges the Commission to increase the setbacks from inhabited dwellings to 1,320' to ensure the exposure to industrialized pollution is minimized.	The 60th Session of the Legislative Assembly of the State of North Dakota passed House Bill 1229, which, inter alia, provided that the Commission may not issue a drilling permit for an oil or gas well that will be located within five hundred feet of an occupied dwelling. The legislation became effective on August 1, 2007. No evidence was submitted to indicate why saltwater handling facilities and treating plants should be subject to a greater setback than the 500' setback requirement for oil or gas wells, nor was any evidence submitted to determine that a 1230' or 2640' setback is necessary.		
4/25/2016		Written	Terry Schuamann--Fargo Wants saltwater handling facilities and treating plants to be at least 2640 feet from an occupied dwelling unless the owner agrees or approved by the Commission after notice and hearing.			
43-02-03-29 Well and Lease Equipment	Moves guidelines for installing pipelines to 43-02-03-29.1	No Comments			Moving the guidelines for installing pipelines to 43-02-03-29.1 will avoid confusion and will place the rules with other design and construction requirements for pipelines.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-29.1 Pipelines (general comments)		4/11/2016	Oral	Kevin Pramis--representing the Laborers' International Union of North America (LIUNA) Supports the proposed pipeline rules.	No response to the comment is necessary.	None
		4/12/2016	Oral	Evan Whiteford--Laborers' International Union of North America (LIUNA) Supports the proposed pipeline rules.	No response to the comment is necessary.	None
		4/12/2016	Oral	Dan Ferage--Self Supports the proposed pipeline rules.	No response to the comment is necessary.	None
		4/14/2016	Oral + exhibit	Troy Coons--Northwest Landowners Association Supports the pipeline rules.	No response to the comment is necessary.	None
		4/25/2015	Written	Debbie Beaver - GPA Midstream has closely reviewed the North Dakota Petroleum Council's (NDPC) April 20, 2016 comments (Comments). GPA Midstream supports fully the NDPC Comments and their suggested revisions.	No response to the comment is necessary.	None
		4/25/2015	Written	Dawn Coughlin - Hess - Objects to the Underground Gathering Pipeline rules, stating that they go beyond legislative intent of HB 1358 and EERC study. Hess requests time for compliance with all retroactive requirements. Hess states CPM is not appropriate for gathering lines. Hess requests that all Leak Detection and Monitoring requirements be postponed until EERC Phase II Pilot demonstration project is complete.		
		4/25/2015	Written	Grant Slick - AE2S Industrial thinks the pipeline rules seem to expand greatly on the intended purpose of HB 1358. AE2S companies participated in the EERC study.		
		4/25/2015	Written	Dan Middlebrooks - Targa supports the North Dakota Petroleum Council's and GPA Midstream Association's previously submitted comments. Targa states the proposed rules go beyond what the Legislature prescribed in H.B. 1358 and what the EERC recommended in its liquid-specific report. For instance, NDAC §§ 43-02-03-29.1(3) - (5), (8), (9), and (12) - (15) appear to apply not only to crude oil and produced water gathering lines, but also to gas gathering lines. Targa respectfully requests that NDIC review and revise its proposed rules for consistency with Legislative prescriptions and EERC recommendations.	HB 1358 addresses new and existing underground gathering pipelines. HB 1358 states, "the industrial commission shall adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity", this includes existing underground gathering pipelines. The proposed rulemaking aligns with HB 1358, the EERC study, HB 1333 and requirements promulgated during the 2014 rulemaking.  The Commission determined that the administrative rule adoption process allows ample time for compliance. Underground gathering pipeline owners will have over 90 days from the time the Commission approves the proposed rules to the effective date of the rules.	
		4/25/2015	Written	Crowly Fleck representing North Dakota Pipeline Company LLC Requests that this new subsection be amended to only apply to underground gathering pipelines put into service after July 31, 2011. The proposed rule would arguably apply to any and all underground gathering pipelines abandoned prior to the adoption date of the subsection. North Dakota Pipeline Company LLC has abandoned pipelines removed from service prior to pipeline abandonment rules. GIS information is not available for pipelines abandoned prior to July 31, 2011.	Computational Pipeline Monitoring (CPM) is currently being utilized on underground gathering pipeline systems in North Dakota. The Commission agrees that any requirements pertaining specifically to CPM should be removed and reconsidered following the EERC Phase II pilot demonstration project. HB 1358 authorizes the Commission to require a plan for leak protection and monitoring. HB 1358 mandates the Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity, this includes leak protection, detection, and monitoring.	
		4/25/2015	Written	Robbie McDonough - Crestwood incorporates by reference the comments of NDPC and GPA regarding this section. Crestwood believes this section exceeds the legislative intent of HB 1358. HB 1358 is expressly written as prospective legislation for underground crude and produced water pipelines in service after August 1, 2015. As written, this section will have a retroactive effect on crude, produced water, gas and carbon dioxide underground gathering pipelines placed into service prior to August 1, 2015. Underground gathering pipelines that transport natural gas or carbon dioxide are distinctly excluded from HB 1358. Accordingly many of the new rules in the section should only apply to underground gathering pipelines that transport crude oil or produced water.		
		4/25/2015	Written	James Cron - Cron Industries, LLC - The requirements for underground gathering pipelines go beyond the legislative intent and the recommendations of the EERC study. Cron requests clear definition between production flow lines and gathering lines as well as a clear distinction between saltwater gathering systems and the systems used for injection of saltwater for secondary recovery, as well as field SWD wells. Cron believes this section goes against what was intended by HB 1358 and subsequent EERC study. In its current form some of the proposed rules contained in this section apply to existing pipelines. Cron states it is impractical to apply many of the requirements contained in this section to existing lines and we do not believe this was legislative intent. Section 2 of HB 1358 is applicable only to pipelines placed into service after August 1, 2015. If this section must apply to lines placed into service after August 1, 2015, a reasonable period of time to bring existing lines into compliance should be identified. Additionally, many of the requirements in this section appear to require approval from the NDIC, this seems very inefficient.	HB 1358 addresses new and existing underground gathering pipelines. HB 1358 states, "the industrial commission shall adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity", this includes existing underground gathering pipelines. The proposed rulemaking aligns with HB 1358, the EERC study, HB 1333 and requirements promulgated during the 2014 rulemaking.  The Commission determined that the administrative rule adoption process allows ample time for compliance. Underground gathering pipeline owners will have over 90 days from the time the Commission approves the proposed rules to the effective date of the rules.	The Commission's proposed adoption will be modified to remove the Computational Pipeline Monitoring requirements.
4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC - The proposed rules would apply to existing pipelines. It is impractical to apply many of the requirements contained herein to existing pipelines and we do not believe that the intent of HB 1358 was to include anything placed into service prior to August 1, 2015. As such we believe the Commission should clarify the applicability of this section. Additionally, many of the rules in this section are worded in such a way as to require approval from the commission for certain actions. As this was not the legislative intent the commission should clarify where notifications are expected and clean up any language that suggests an approval process.	HB 1358 addresses new and existing underground gathering pipelines. HB 1358 states, "the industrial commission shall adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity", this includes existing underground gathering pipelines. The proposed rulemaking aligns with HB 1358, the EERC study, HB 1333 and requirements promulgated during the 2014 rulemaking.  The Commission determined that the administrative rule adoption process allows ample time for compliance. Underground gathering pipeline owners will have over 90 days from the time the Commission approves the proposed rules to the effective date of the rules.			
4/25/2016	Written	Nick Johnson - 1804 Operating - This section goes far beyond what was intended by HB 1358 and the following EERC study. As currently drafted some of the proposed rules in this section apply to existing pipelines. It is impractical to apply many of these requirements to existing lines and 1804 Operating does not believe this was the legislative intent. This issue was clearly discussed, debated and determined that this section NOT be retroactive. Section 2 of HB 1358 is expressly applicable only to pipelines placed into service after August 1, 2015. If this section must apply to lines placed into service before August 1, 2015, a reasonable period of time to bring existing lines into compliance should be identified. PHMSA 192 rulemaking gives two years for previously unregulated facilities to achieve compliance. Additionally, many of the requirements in this section appear to require approval from the Commission. This was also not legislative intent.	Computational Pipeline Monitoring (CPM) is currently being utilized on underground gathering pipeline systems in North Dakota. The Commission agrees that any requirements pertaining specifically to CPM should be removed and reconsidered following the EERC Phase II pilot demonstration project. HB 1358 authorizes the Commission to require a plan for leak protection and monitoring. HB 1358 mandates the Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity, this includes leak protection, detection, and monitoring.			
4/25/2016	Written	Ron Ness - North Dakota Petroleum Council - This section goes far beyond what was intended by HB 1358 and the following EERC study. As currently drafted some of the proposed rules contained in this section apply to existing pipelines. It is impractical to apply many of the requirements contained in this section to existing lines and NDPC does not believe this was legislative intent. This issue was clearly discussed, debated and determined that this section NOT be retroactive. Section 2 of HB 1358 is expressly applicable only to pipelines placed into service after August 1, 2015. If this section must apply to lines placed into service before August 1, 2015, a reasonable period of time to bring existing lines into compliance should be identified. PHMSA 192 rulemaking gives two years for previously unregulated lines to get into compliance. Additionally, many of the requirements in this section appear to require approval from the Commission. This was also not legislative intent.				

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund Rules proposed at NDAC 43-02-03-29.1 represent a critical step towards improving the safety and reliability of gathering lines. Many of the recommendations made by the EERC are reflected in the proposed rules. Where NDIC proposals differ from the EERC recommendations, we suggest that NDIC adapt the rule or provide a justification for the departure. EDF suggests the following: <ul style="list-style-type: none"> <li>Leak detection and monitoring plans providing a regular schedule for leak surveys applicable to all in-service natural gas gathering pipelines should be required (NDAC 43-02-03-29.1(10));</li> <li>A timetable for filing geographic informational system data providing coordinates for all in service natural gas gathering pipeline locations outside the boundary of a wellsite or production facility should be included in the final rule (NDAC 43-02-03-29.1(8));</li> <li>Leak notification reports for natural gas gathering pipelines should provide the estimated date for repair of all leaks and the final rule should provide a maximum time – ideally 60 or fewer days – by which such repairs shall be completed after discovery. (NDAC 43-02-03-30)</li> </ul> EDF recommends that the phrase “produced water” be eliminated to avoid use of a term with many potential definitions, and to better reflect NDIC intent to address pipelines transporting other types of non-freshwater fluids.	The Commission does not agree with the suggestion to eliminate the term “Produced water” and replace it with “non-freshwater fluids”. The term Produced water is consistent with HB 1358, the EERC study, and throughout NDAC chapter 43-02-03 and chapter 43-02-05. The term is used throughout industry and well understood	none
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - The Hiland Entities request the NDIC consider modifying the Proposed Rules to be founded on prescriptive rules, based on accepted safety-engineering consensus design standards, similar to PHMSA and other regulatory agencies. The NDIC should add language to the Proposed Rules that provide the new requirements are not retroactively applied to pipelines constructed prior to the effective date of the Proposed Rules. Many of the Proposed Rules cannot be applied to pipelines constructed prior to the effective date of the Proposed Rules, as they relate to construction of assets rather than operation. If there are some specific rules that the NDIC desires to apply retroactively, the NDIC should provide specifics as to those rules, and operators should be given an opportunity for review and comment as well as sufficient time to make the required modifications.	The proposed rulemaking aligns with HB 1358, the EERC study, HB 1333 and requirements promulgated during the 2014 rulemaking. HB 1358 mandates the Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity, this includes proper handling and installation during construction.  The Commission determined that the administrative rule adoption process allows ample time for underground gathering pipeline owners to comply with any rule that would affect existing operating pipelines. Underground gathering pipeline owners will have over 90 days from the time the Commission approves the proposed rules to the effective date of the rules.	none
		4/25/2015	Written	Laura Erickson - Cardno - Suggests striking “an oil and gas production” and adding “...Any facilities including oil and gas production sites, treating plants, salt water handling facilities, and salt water disposals...”	The Commission does not agree with the suggestion to add treating plant, saltwater handling facilities, and saltwater disposals. The language as proposed is consistent with HB 1358.	none
		4/25/2016	Written	Debbie Beaver - GPA Midstream - GPA Midstream strongly suggests that NDIC apply Section 2 of House Bill 1358 to crude oil and produced water underground pipelines, only. By applying HB1358 Section 2's terms to natural gas and carbon dioxide lines, NDAC Section 43-02-03-29.1 goes beyond the intent of the legislature. The addition of Section 43-02-03-29.1 is intended to implement the authorizations described in HB1358 – an application that reaches crude oil and produced water lines, only. Section 43-02-03-29.1 Proposed Amendment and Addition goes beyond HB1358's authorization. As proposed, this rule applies, not only to crude oil and produced water lines, but also to natural gas and carbon dioxide lines. Accordingly, since HB1358 states that this section should only apply to crude oil and produced water lines, it is without question that, should the NDIC adopt the proposed adjustments to Section 43-02-03-29.1, they will violate HB1358's legislative authorization. As a result, GPA Midstream suggests that the NDIC limit the application of Section 43-02-03-29.1 to underground crude oil and produced water lines.	NDAC Section 43-02-03-29.1 applies to all underground gathering pipelines, including gas gathering. NDAC Section 43-02-03-29.1 is a compilation of HB 1358, HB 1333, the EERC study, and the 2014 rulemaking. The NDIC has made appropriate amendments to the proposed rules to identify which subsections apply to all underground gathering pipelines and which sections apply to crude oil and produced water underground gathering pipelines.	none
	Application of Section (para 1)	4/25/2016	Written	Royce Brown - Enable- Application of section The references to “pipeline manufacturer’s prescribed installation” seem problematic with the exception of specialty pipe products (other than standard carbon steel pipe). We believe that the pipeline operator’s engineering standards, procedures based on federal regulations, and established industry best practices should take precedence in most cases unless you are working with a specialty pipe product. Suggested language revision follows: Application of section. This section is applicable to all underground gathering pipelines designed for or capable of transporting crude oil, natural gas, carbon dioxide, or produced water from an oil and gas production facility for the purpose of disposal, storage, or for sale purposes. If these rules differ from the pipeline manufacturer’s prescribed installation and operation practices, applicable state or federal regulations, the pipeline operator’s established procedures and specifications, or established and accepted industry standards, then the pipeline manufacturer’s prescribed installation and operation practices, applicable state or federal regulations, the pipeline operator’s established procedures and specifications, or established and accepted industry standards will take precedence.	The Commission does not agree with the suggestion that pipeline operator’s engineering standards, federal regulations, and established industry best practices take precedence over the proposed rules. This suggestion would be problematic from the Commission’s perspective and enforcing the operator’s engineering standards may be impossible. There are approximately 40 midstream pipeline companies and approximately 186 oil and gas companies in North Dakota. If each company had three own engineering standards that would be approximately 228 different company engineering standards the Commission would have to enforce.	none
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund EDF applauds the Commissions effort to reduce leaks and spills by promoting leading practices for the design, construction, installation and inspection of gathering pipelines. We respectfully recommend that NDIC clarify that this section applies not only to underground gathering pipeline systems designed for or capable of transporting all types of fluids brought to the surface in connection with oil and gas development, but also to non-freshwater fluids transported to and used in the development and maintenance of oil and gas wells. Suggested Edit Application of section. This section is applicable to all underground gathering pipelines systems designed for or capable of transporting crude oil, natural gas, carbon dioxide, or produced water non-fresh water fluids used or produced in association with oil and gas activities to or from a production facility for the purpose of disposal, storage, or for sale or use purposes. If these rules differ from the pipeline manufacturer’s prescribed installation and operation practices, the operator shall notify the NDIC and shall follow the pipeline manufacturer’s prescribed installation unless the manufacturer’s specification is determined by the NDIC to be less protective than the rule. The pipeline manufacturer’s prescribed installation and operation practices take precedence	The Commission does not agree with the suggestion to eliminate the term “Produced water” and replace it with “non-freshwater fluids”. The term Produced water is consistent with HB 1358, the EERC study, and throughout NDAC chapter 43-02-03 and chapter 43-02-05.  The Commission does not agree with the suggestion to add reused and recycled produced water and other non-freshwater fluids used in development and maintenance of wells. The language as proposed is consistent with HB 1358.	none
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. The Hiland Entities believe gas gathering pipelines should be defined using API RP 80. RP 80 is the established rule for defining gas gathering lines in the industry and will allow consistency with U.S. DOT and PHMSA requirements. Also, not all gathering lines terminate at processing plants; there could be other potential endpoints such as treating facilities, compressor stations, or the last point where gas is commingled before entering a transmission line.	The language found in this subsection is consistent with the statutory definition of underground gathering pipeline and HB 1358.	none
		4/14/2016	Oral and Written	Zeno Farris-Enduro Requests that flowlines in EOR units and commingled leases be differentiated from gathering pipelines and therefore not bound by NDAC section 43-02-03-29.1. If flowlines do fall under NDAC section 43-02-03-29.1 then Enduro requests that language be added to allow for flowlines in EOR units and commingled leases to be repaired, replaced or segments added, without Director approval, but with notification.		
		4/12/2016	Oral	Robert Kelley-Continental / Domestic Energy Alliance Testified that flowlines need to be differentiated from gathering pipelines and the different type of pipeline need to be defined.	The Commission agrees that flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations need to be differentiated from gathering pipelines.	“Flow line” and “injection pipeline” are now defined under NDAC Section 43-02-03-01 Definitions. The Commission added new language to subsection clarifying flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations are not applicable to section 43-02-03-29.1.
		4/11/2016	Written	David Copeland-Oasis Petroleum Requests clarification on whether flowlines that exist between facilities are intended to be regulated as underground gathering pipelines under NDAC section 43-02-03-29.1.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - Separate definitions in section 43-02-03-29.1, and then using the same terms throughout the rest of 43-02-03, the NDIC is promoting confusion and ambiguity. Cron requests the Commission differentiate between the production flow lines and gathering systems and the use of secondary recover or EOR systems. Suggested Language: Definition of “Underground Gas Gathering Pipeline” Strike “ or an underground gathering pipeline designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility”	The Commission agrees that flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations need to be differentiated from gathering pipelines.  The Commission has regulatory authority over high pressure underground gathering pipelines designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility for artificial lift.	“Flow line” and “injection pipeline” are now defined under NDAC Section 43-02-03-01 Definitions. The Commission added new language to subsection clarifying flow lines, injection pipelines, and pipelines operated by an enhanced recovery unit for enhanced recovery unit operations are not applicable to section 43-02-03-29.1.  The Commission added “for artificial lift” to the 2nd sentence of the definition of underground gas gathering pipeline.
		4/25/2016	Written	Laura Erickson - Cardno - Suggests adding “...production facilities, treating plants, salt water handling facilities, and salt water disposals...”	The Commission does not agree with the suggestion to add treating plant, saltwater handling facilities, and saltwater disposals. The language as proposed is consistent with HB 1358.	none
	Defines crude oil/produced water (CO/PW) and gas pipelines (para 2)	4/25/2016	Written	Troy Coons - NW Landowners The definitions for “crude oil or produced water underground gathering pipeline” and “underground gas gathering pipeline” in N.D.A.C. § 43-02-03-29.1 are also ambiguous as drafted. The current definitions could apply to an entire gathering system. The definition refers to transfer from a production facility for disposal, storage, or sale, or from a production facility to a gas processing facility, for example. Generally, numerous wells are connected to a single gathering system, and this definition could be construed to mean that the proposed \$50,000 bond applies to an entire gathering system rather than a single pipeline. Northwest Landowners Association suggests that the NDIC limit the applicability of any given \$50,000 bond to a specific maximum length and diameter of pipeline.	The language found in this subsection is consistent with the statutory definition of underground gathering pipeline and HB 1358.	none
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comments: NDPC specifically recommends striking a portion of 2.b, as the language clearly refers to a distribution line, not a gathering line, and is similar to distribution lines utilized by utilities to provide gas to commercial users. Suggested language: 2.b. “Underground gas gathering pipeline” means an underground gathering pipeline designed or intended to transfer residue gas from a production facility to a gas processing facility; or an underground gathering pipeline designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility; or an underground gathering pipeline designed or intended to transfer carbon dioxide to or within an enhanced recovery project.	The Commission has regulatory authority over high pressure underground gathering pipelines designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility for artificial lift.	The Commission added “for artificial lift” to the 2nd sentence of the definition of underground gas gathering pipeline.

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	<p>Holly Pearson - Environmental Defense Fund To avoid confusion regarding which pipelines and associated facilities are subject to the rules proposed at NDAC 43-02-03-29.1, NDIC should clarify that underground gathering pipeline systems include all pipelines and associated equipment and facilities that connect the lease to storage, disposal or processing sites, including flowlines, trunk lines, facility lines etc. EDF requests for the Commission to clarify that flowlines and other system components are covered under the proposed rule. Suggested Edit:</p> <p>"Crude oil or produced water non-freshwater pipeline system" means an underground gathering pipeline system designed or intended to transfer crude oil or non-freshwater fluids used or produced in association with oil and gas activities to or from a production facility for use, disposal, storage or sale purposes."</p> <p>EDF suggested the following terms be defined Dike means the perimeter of an impounding space forming a barrier to prevent liquid from flowing in an unintended direction. Emergency means a deviation from normal operation, a structural failure, or severe environmental conditions that may cause harm to people or property. Normal operation means functioning within ranges of pressure, temperature, flow, or other operating criteria required by this part. Operator means a person who owns or operates a crude oil or fluids underground gathering pipeline. Pipeline facility means new and existing piping, rights-of-way, and any equipment, facility, or building used in the transportation of crude oil or non-freshwater fluids. Piping means pipe, tubing, hoses, fittings, valves, pumps, connections, safety devices or related components for containing the flow of crude oil or non-freshwater fluids. Storage tank means a container for storing crude oil or non-freshwater fluids.</p>	<p>The Commission does not agree that all pipelines and associated equipment and facilities include flowlines, trunk lines, facility lines, etc. HB 1333 and HB 1338 clearly define underground gathering pipeline.</p> <p>The Commission does not agree with the suggestion to eliminate the term "Produced water" and replace it with "non-freshwater fluids". The term Produced water is consistent with HB 1358, the EERC study, and throughout NDAC chapter 43-02-03 and chapter 43-02-05.</p> <p>The Commission does not feel it is necessary to add the suggested definitions. Many of the suggested definitions do not need defining and others are already defined in the North Dakota Century Code (e.g. pipeline facility).</p>	none
		4/25/2016	Written	<p>Bill Wolf - Kinder Morgan, Inc. Suggested Language: "Underground gas gathering pipeline" means an underground gathering pipeline designed or intended to transfer associated or non-associated gas from a production facility to a gas processing facility or transmission line, or an underground gathering pipeline designed or intended to transfer residue gas from a gas processing facility to an oil and gas production facility, or an underground gathering pipeline designed or intended to transfer carbon dioxide to or within an enhanced recovery project. Operators must use API Recommended Practice 80, "Guidelines for the Definition of Onshore Gas Gathering Lines," 1st edition, April 2000, to determine if a pipeline transporting gas is an onshore gathering line.</p>	<p>The language found in the definition of underground gas gathering pipeline is consistent with the statutory definition of underground gathering pipeline.</p>	none
		4/15/2016	Written	<p>Dewitt Burdeaux-Flexsteel Submitted the following suggestions: adding an "s" to the title of the subsection to read, "Notification s", 43-02-03-29.1 s3a(1)(c) add "if applicable" to read, Type of corrosion control (e.g. cathodic protection and corrosion inhibitors), <u>if applicable</u>.</p>	<p>The Commission agrees with the suggested amendments.</p>	The title to subsection 3 has been changed to Notification s and s3(1)(c) was removed in its entirety.
		4/14/2016	Oral + exhibit	<p>Marvin Nelson-ND House of Representatives (Dist 9) Supports the requirement for advanced notification.</p>	<p>No response to the comment is necessary.</p>	None
		4/25/2015	Written	<p>Dawn Coughlin - Hess - NDIC should clarify the definition of the "start of construction" consistent with other pipeline regulations. NDIC should clarify that the notice to the Commission referenced in Subsection 3.a is intended to be a verbal notification only and not subject to approval by the Commission. NDIC should clarify the definition of the terms "associated pipeline facilities and above ground equipment" and "environmentally sensitive area." Hess requested clarification on subsection 3.b. It is unclear what is meant by "out of service."</p>	<p>The Commission modified the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment" to promote consistency with the statutory definition of underground gathering pipeline. The Commission does not believe the term "environmentally sensitive area" needs to be defined. The proposed rules qualify environmentally sensitive areas as wetlands, streams, or other surface waterbodies.</p> <p>The Commission agrees with the comments pertaining to an "out of service" pipeline. The Commission intent was to be notified when a pipeline that was operational and has been removed from service for over one year.</p>	<p>Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".</p> <p>The Commission modified subsection 3b by removing "out of" and adding "removed from"</p>
		4/25/2015	Written	<p>Grant Slick - AE2S Industrial - Subsection a.(1): In all practicality, the owner or designbuilder will not be able to provide all the data at the level of detail requested in this section prior to commencing new construction. Often, routes change due to unforeseen landowner issues, change in serving more or less well pads, environmental issues, etc. Subsection 3.a(1)(c)(vii) which states that all environmentally sensitive areas will include a proposed plan for horizontal directional drilling. "Environmentally sensitive" is a broad term and asking for a plan prior to construction is difficult. We suggest striking this statement and consider creating a simple draft form for notification of pipeline construction with more minimal information that an owner or designbuilder can update after construction is completed.</p>	<p>The Commission agrees that the submital of a proposed plan for horizontal directional drilling at the time of construction notification is premature. The Commission's intent is to be provided with the proposed pipeline route showing where the proposed route traverses one of these areas.</p>	The Commission removed the language requiring the proposed plan for horizontal directional drilling.
		4/25/2016	Written	<p>Eric Sundberg - Slawson - 43-02-03-29.1 Section 3 (1) (d) &amp; Section 6 Inspection The proposed rule would require a list of all third-party independent inspectors and a description of each independent inspector's qualifications, certifications, experience, or specific training. Companies that already have qualified personnel should have the optionality to conduct their own inspections and certify that the work has been conducted in a manner that meets all local, state and federal regulatory requirements. The need to utilize third-party inspection services should only be required when there are no qualified company personnel available.</p>	<p>The Commission does not agree with the comment third-party inspection services should only be required when there are no qualified company personnel available. HB 1358 requires a list of independent inspectors and the EERC study recommended the use of third-party inspectors to ensure proper installation.</p>	none
		4/25/2016	Written	<p>Kevin Pranis - LIUNA - supports proposal to require seven-day notification of new gathering line construction. LIUNA recommends requiring the operator to provide a list of all contractors that will perform work on the project to identify problem contractors and requiring the operator to provide the same notification to landowners, or make the notification publicly available so it can be accessed by landowners. LIUNA supports immediate notification of all line strikes</p>	<p>The Commission does not agree with the suggestion to require a list of all contractors. HB 1358 requires a list of independent inspectors. HB 1358 does not address notification of the landowner.</p>	none
		4/25/2016	Written	<p>Robbie McDonough - Crestwood - Recommends striking Subsections 3.a.(1)(b) &amp; 3.a.(2)(b) on the basis that providing shape files prior to the installation of the pipeline is costly and burdensome. Crestwood supports and incorporates herein the comments of NDPIC concerning the provisions of subsection 3.a.(1)(c). Crestwood recommends changing the language in 3.b. to provide for a notification within one (1) year of abandonment of a pipeline. Subsection 3.c. should be stricken as it is redundant with One Call System. The Commission should note that the term "damage" is not defined and it is unclear how it should be applied. Crestwood recommends the following language: "If any damage occurs to an underground gathering pipeline as a result..." Additionally, the excavating party should be responsible for reporting the damage and not necessarily the underground gathering pipeline owner. Finally, Crestwood cannot determine any public policy reason for immediate reporting. Companies should be given at least 24 hours to report.</p>	<p>The Commission agrees with comments pertaining to the centerline location of the pipeline. The intent of the Commission is to be notified of the proposed pipeline route, not necessarily the exact location of the centerline. The pipeline centerline is required 180 days after the pipeline goes into service.</p> <p>Subsection 3a(1)(c)The Commission removed the requirements to provide the anticipated operating pressure, the proposed test procedure, the type of corrosion control and the horizontal directional drilling plan. The Commission's intent is to obtain important information for the construction of the pipeline.</p> <p>Subsection 3bThe Commission does not agree with the suggested language for companies notification within one year of abandonment. HB 1333 mandates the owner or operator shall submit a GIS shapefile within 180 days of pipeline abandonment. The Commission intent is to receive notification for a pipeline that was operational and has been removed from service for over one year.</p> <p>Subsection 3c:The Commission's intent is to verbally notified immediately by the responsible party if damage occurs to any underground gathering pipeline, flow line, other underground equipment under the Commissions jurisdiction during construction, repair, or abandonment of an underground gathering pipeline. The Commission does not agree that this requirement is redundant with the one-call system. One-call requires the responsible party notify the owner of the object that was damaged. This requirement is for the Commission to be notified. The verbal immediate notification is consistent with NDAC section 43-02-03-30. The Commission wants the opportunity to respond and inspect damage before the owner buries it.</p> <p>Subsection 3d: The requirement to provide a list of all third party independent inspectors has been moved to a subsection 6 inspections. This will allow owners to file and list with the Commission and update the list if it changes over time.</p>	<p>Amendments to Subsection 3 Subsections 3a(1)(b): The Commission amended Subsection 3a(1)(b) and 3a(2)(b) by removing "location" and "centerline" and adding "route". The requirement now is for the owner to notify the commission of the proposed pipeline "route".</p> <p>Subsection 3a(1)(c):Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".</p> <p>Subsection 3a(1)(c)(vii):The Commission removed this provision in its entirety.</p> <p>Subsection 3a(1)(c)(viii):The Commission removed the requirement to include "the proposed test procedure" and adding "composition".</p> <p>Subsection 3a(1)(c)(ix):The Commission removed this requirement in its entirety.</p> <p>Subsection 3a(1)(c)(x):The Commission modified the requirement by changing "will" to "may" and by removing the requirement for a proposed horizontal directional drilling plan.</p> <p>Subsection 3b:The Commission modified subsection 3b by removing "out of" and adding "removed from"</p> <p>Subsection 3c:The Commission amended subsection 3c as follows: if any damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water, produced in association with oil and gas, as a result of excavation for during construction, repair, or abandonment of an underground gathering pipeline, the responsible party shall immediately verbally notify the director immediately.</p> <p>Subsection 3d: The Commission moved the language in subsection 3d to a more appropriate subsection 6</p>
	Outlines notification requirements prior to commencing new construction (para 3)	4/25/2016	Written	<p>Royce Brown - Enable Midstream Partners Enable requests clarification on how to notify the Commission for new construction (e.g., electronic or hardcopy submital, location for submital, etc.) and the form of notification should be clearly defined (e.g., a standard notice of intent form). The NDIC must provide the regulated industry with assurances that the detailed and sensitive information identified for inclusion in project notifications to the NDIC will be treated and maintained with appropriate confidentiality and protected from public disclosure. Enable requests additional clarification on the one-year out of service notice. Enable requests specific reporting criteria and reporting process be defined for notifying the Commission of damage. The term "immediate" is not specific or clearly defined. The method of reporting (e.g., by phone, electronic form submital, etc.) needs to be specified. It is not all wetlands or environmentally sensitive areas requires horizontal directional drilling with the words "if applicable" and would encourage the commission to reconsider the requirement in section 4(b) that ALL environmentally sensitive areas be horizontal direction drilled. Bridger does not believe that this section is appropriate in any "notice to construct" and should be stricken. Bridger requests the Commission clarify the phrase "out of service". Bridger recommends remove the requirement to report damage to the Commission.</p>	<p>The Commission agrees with comments pertaining to the centerline location of the pipeline. The intent of the Commission is to be notified of the proposed pipeline route, not necessarily the exact location of the centerline. The pipeline centerline is required 180 days after the pipeline goes into service.</p> <p>Subsection 3a(1)(c)The Commission removed the requirements to provide the anticipated operating pressure, the proposed test procedure, the type of corrosion control and the horizontal directional drilling plan. The Commission's intent is to obtain important information for the construction of the pipeline.</p> <p>Subsection 3bThe Commission does not agree with the suggested language for companies notification within one year of abandonment. HB 1333 mandates the owner or operator shall submit a GIS shapefile within 180 days of pipeline abandonment. The Commission intent is to receive notification for a pipeline that was operational and has been removed from service for over one year.</p> <p>Subsection 3c:The Commission's intent is to verbally notified immediately by the responsible party if damage occurs to any underground gathering pipeline, flow line, other underground equipment under the Commissions jurisdiction during construction, repair, or abandonment of an underground gathering pipeline. The Commission does not agree that this requirement is redundant with the one-call system. One-call requires the responsible party notify the owner of the object that was damaged. This requirement is for the Commission to be notified. The verbal immediate notification is consistent with NDAC section 43-02-03-30. The Commission wants the opportunity to respond and inspect damage before the owner buries it.</p> <p>Subsection 3d: The requirement to provide a list of all third party independent inspectors has been moved to a subsection 6 inspections. This will allow owners to file and list with the Commission and update the list if it changes over time.</p>	<p>Amendments to Subsection 3 Subsections 3a(1)(b): The Commission amended Subsection 3a(1)(b) and 3a(2)(b) by removing "location" and "centerline" and adding "route". The requirement now is for the owner to notify the commission of the proposed pipeline "route".</p> <p>Subsection 3a(1)(c):Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".</p> <p>Subsection 3a(1)(c)(vii):The Commission removed this provision in its entirety.</p> <p>Subsection 3a(1)(c)(viii):The Commission removed the requirement to include "the proposed test procedure" and adding "composition".</p> <p>Subsection 3a(1)(c)(ix):The Commission removed this requirement in its entirety.</p> <p>Subsection 3a(1)(c)(x):The Commission modified the requirement by changing "will" to "may" and by removing the requirement for a proposed horizontal directional drilling plan.</p> <p>Subsection 3b:The Commission modified subsection 3b by removing "out of" and adding "removed from"</p> <p>Subsection 3c:The Commission amended subsection 3c as follows: if any damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water, produced in association with oil and gas, as a result of excavation for during construction, repair, or abandonment of an underground gathering pipeline, the responsible party shall immediately verbally notify the director immediately.</p> <p>Subsection 3d: The Commission moved the language in subsection 3d to a more appropriate subsection 6</p>
		4/25/2016	Written	<p>James Cron - Cron Industries, LLC - Cron states, "Sections 3.a(1)(c)(iii), 3.a(1)(c)(v), 3.a(1)(c)(vi), and 3.a(1)(c)(viii) are over-reaching, ambiguous and outside the intent of the legislation." The notification language is vague in regards to the notification process, when the seven day notice period begins and ends. Cron believes the proposed requirement to report damage is redundant with the "One-Call" system.</p>	<p>The Commission agrees with comments pertaining to the centerline location of the pipeline. The intent of the Commission is to be notified of the proposed pipeline route, not necessarily the exact location of the centerline. The pipeline centerline is required 180 days after the pipeline goes into service.</p> <p>Subsection 3a(1)(c)The Commission removed the requirements to provide the anticipated operating pressure, the proposed test procedure, the type of corrosion control and the horizontal directional drilling plan. The Commission's intent is to obtain important information for the construction of the pipeline.</p> <p>Subsection 3bThe Commission does not agree with the suggested language for companies notification within one year of abandonment. HB 1333 mandates the owner or operator shall submit a GIS shapefile within 180 days of pipeline abandonment. The Commission intent is to receive notification for a pipeline that was operational and has been removed from service for over one year.</p> <p>Subsection 3c:The Commission's intent is to verbally notified immediately by the responsible party if damage occurs to any underground gathering pipeline, flow line, other underground equipment under the Commissions jurisdiction during construction, repair, or abandonment of an underground gathering pipeline. The Commission does not agree that this requirement is redundant with the one-call system. One-call requires the responsible party notify the owner of the object that was damaged. This requirement is for the Commission to be notified. The verbal immediate notification is consistent with NDAC section 43-02-03-30. The Commission wants the opportunity to respond and inspect damage before the owner buries it.</p> <p>Subsection 3d: The requirement to provide a list of all third party independent inspectors has been moved to a subsection 6 inspections. This will allow owners to file and list with the Commission and update the list if it changes over time.</p>	<p>Amendments to Subsection 3 Subsections 3a(1)(b): The Commission amended Subsection 3a(1)(b) and 3a(2)(b) by removing "location" and "centerline" and adding "route". The requirement now is for the owner to notify the commission of the proposed pipeline "route".</p> <p>Subsection 3a(1)(c):Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".</p> <p>Subsection 3a(1)(c)(vii):The Commission removed this provision in its entirety.</p> <p>Subsection 3a(1)(c)(viii):The Commission removed the requirement to include "the proposed test procedure" and adding "composition".</p> <p>Subsection 3a(1)(c)(ix):The Commission removed this requirement in its entirety.</p> <p>Subsection 3a(1)(c)(x):The Commission modified the requirement by changing "will" to "may" and by removing the requirement for a proposed horizontal directional drilling plan.</p> <p>Subsection 3b:The Commission modified subsection 3b by removing "out of" and adding "removed from"</p> <p>Subsection 3c:The Commission amended subsection 3c as follows: if any damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water, produced in association with oil and gas, as a result of excavation for during construction, repair, or abandonment of an underground gathering pipeline, the responsible party shall immediately verbally notify the director immediately.</p> <p>Subsection 3d: The Commission moved the language in subsection 3d to a more appropriate subsection 6</p>
		4/25/2016	Written	<p>Nick Johnson - 1804 Operating - 1804 is concerned that this rule could be interpreted to require the Commission's approval prior to construction which would clearly go beyond the legislative intent and results of the EERC study. 1804 recommends the Commission to the proposed rule. 1804 recommends striking subsections 3.a(1)(c)(iii), 3.a(1)(c)(v), 3.a(1)(c)(vi), 3.a(1)(c)(vii), 3.a(1)(c)(viii), 1804 believes the proposed operating pressure will be imprecise due to difference from one end of the pipeline to the other. 1804 suggests striking the requirement for submission of the proposed test procedure. Subsection 3.a(1)(c)(v) is unnecessary and again, a detail level beyond legislative intent. It is also a non-issue for non-metallic pipelines. Subsection 3.a(1)(c)(viii) is impractical due to the use of the word "all". Depending on how large a project is and how far in advance the "notice of intent to construct" is being filed, this may be impossible. As noted above, we recommend striking this subsection. Subsection 3.a(1)(c)(viii) removes flexibility of an operator to adjust routes on site. 1804 is concerned about being able to change inspectors during a job. 1804 requests clarification on what is meant by "out of service". 1804 believes the requirement to notify the Commission of damage is redundant with the One Call System. 1804 states the expectation to notify the Commission "immediately" is unreasonable. 1804 recommends striking this subsection, but if it is to be retained, the period of time should be changed from immediately to within 24 hours.</p>	<p>The Commission agrees with comments pertaining to the centerline location of the pipeline. The intent of the Commission is to be notified of the proposed pipeline route, not necessarily the exact location of the centerline. The pipeline centerline is required 180 days after the pipeline goes into service.</p> <p>Subsection 3a(1)(c)The Commission removed the requirements to provide the anticipated operating pressure, the proposed test procedure, the type of corrosion control and the horizontal directional drilling plan. The Commission's intent is to obtain important information for the construction of the pipeline.</p> <p>Subsection 3bThe Commission does not agree with the suggested language for companies notification within one year of abandonment. HB 1333 mandates the owner or operator shall submit a GIS shapefile within 180 days of pipeline abandonment. The Commission intent is to receive notification for a pipeline that was operational and has been removed from service for over one year.</p> <p>Subsection 3c:The Commission's intent is to verbally notified immediately by the responsible party if damage occurs to any underground gathering pipeline, flow line, other underground equipment under the Commissions jurisdiction during construction, repair, or abandonment of an underground gathering pipeline. The Commission does not agree that this requirement is redundant with the one-call system. One-call requires the responsible party notify the owner of the object that was damaged. This requirement is for the Commission to be notified. The verbal immediate notification is consistent with NDAC section 43-02-03-30. The Commission wants the opportunity to respond and inspect damage before the owner buries it.</p> <p>Subsection 3d: The requirement to provide a list of all third party independent inspectors has been moved to a subsection 6 inspections. This will allow owners to file and list with the Commission and update the list if it changes over time.</p>	<p>Amendments to Subsection 3 Subsections 3a(1)(b): The Commission amended Subsection 3a(1)(b) and 3a(2)(b) by removing "location" and "centerline" and adding "route". The requirement now is for the owner to notify the commission of the proposed pipeline "route".</p> <p>Subsection 3a(1)(c):Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".</p> <p>Subsection 3a(1)(c)(vii):The Commission removed this provision in its entirety.</p> <p>Subsection 3a(1)(c)(viii):The Commission removed the requirement to include "the proposed test procedure" and adding "composition".</p> <p>Subsection 3a(1)(c)(ix):The Commission removed this requirement in its entirety.</p> <p>Subsection 3a(1)(c)(x):The Commission modified the requirement by changing "will" to "may" and by removing the requirement for a proposed horizontal directional drilling plan.</p> <p>Subsection 3b:The Commission modified subsection 3b by removing "out of" and adding "removed from"</p> <p>Subsection 3c:The Commission amended subsection 3c as follows: if any damage occurs to any underground gathering pipeline, flow line, or other underground equipment used to transport crude oil, natural gas, carbon dioxide, or water, produced in association with oil and gas, as a result of excavation for during construction, repair, or abandonment of an underground gathering pipeline, the responsible party shall immediately verbally notify the director immediately.</p> <p>Subsection 3d: The Commission moved the language in subsection 3d to a more appropriate subsection 6</p>

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Ron Hess - North Dakota Petroleum Council - NDPC is concerned that this rule could be interpreted to require the Commission's approval prior to construction which would clearly go beyond the legislative intent and results of the EERC study. NDPC recommends changing the notification to the proposed route. NDPC recommends striking subsections 3.a(1)(c)(ii), 3.a(1)(c)(iii), 3.a(1)(c)(iv), 3.a(1)(c)(v), 3.a(1)(c)(vi), 3.a(1)(c)(vii), 3.a(1)(c)(viii). NDPC believes the proposed operating pressure will be imprecise due to difference from one end of the pipeline to the other. NDPC suggests striking the requirement for submission of the proposed test procedure. Subsection 3.a(1)(c)(v) is unnecessary and again, a detail level beyond legislative intent. It is also a non-issue for non-metallic pipelines. Subsection 3.a(1)(c)(vii) is impractical due to the use of the word "all". Depending on how large a project is and how far in advance the notice of intent to construct is being filed, this may be impossible. As noted above, we recommend striking this subsection. Subsection 3.a(1)(c)(viii) removes flexibility of an operator to adjust routes on site. NDPC is concerned about being able to change inspectors during a job. NDPC requests clarification on what is meant by "out of service". NDPC believes the requirement to notify the Commission of damage is redundant with the One Call System. NDPC states the expectation to notify the Commission "immediately" is unreasonable. NDPC recommends striking this subsection but if it is to be retained, the period of time should be changed from immediately to within 24 hours.		appropriate subsections
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund supports the notification requirements. EDF suggests that NDPC adopt the recommendation by the EERC, and require notice at least 30 days prior to construction commencing, rather than the proposed 7 days. EDF suggests a corrosion control plan that reflects industry leading practices such as 49 CFR 195, ASME B31.3, ASME B31.4, ASME B31.8, and NACE Standard RP-01-69. EDF suggests modifying the one-year requirement for out of service pipelines to 60 days. EDF is in favor of the requirement to notify the Commission of damage.	The Commission does not agree with the suggested language for 30 days advanced notice of pipeline construction. The Commission feels 7 days is sufficient time for Commission staff to review and plan for inspection. The EERC study recommended 30 days, but the Commission felt 7 days advanced notice would be more efficient to manage. At this time the Commission does not feel a corrosion control plan is necessary. The Commission does not think a corrosion control plan is necessary to be submitted at the time of construction notification. The Commission does not agree with the suggestion for a 60 day notice for out of service pipelines. The Commission believes a one year notification is appropriate and consistent with NDAC chapter 43-02-03.	None
		4/15/2016	Written	Dewitt Burdeaux-Flexsteel Submitted the following suggestions: 43-02-03-29.154a add last sentence to paragraph, "Coatings which can be verified post-construction to be holiday free are considered to be sufficiently protected." 43-02-03-29.1 54e add "Unless the manufacturer's installation procedures and practices provide guidance, pipeline trenches must be constructed to allow for the pipeline to rest on undisturbed native soil and provide continuous support along the length of the pipe." 43-02-03-29.1 54e add language to read, "When a trench for an underground gathering pipeline is backfilled it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment of from backfill material. Backfill shall be conducted in accordance with manufacturers' practices or sufficient backfill material must be placed in the haunches of the pipe to provide long-term support..."	The Commission agrees with the suggestion to add "unless the manufacturer's installation procedures and practices provide guidance". The Commission does not agree with the suggestion to add "Backfill shall be in accordance with manufacturers' practices", if the manufacturer's specifications address backfill and the specifications differed from the proposed rules the manufacturer's specifications take precedence.	The Commission amended Subsection 4e by adding "unless the manufacturer's installation procedures and practices provide guidance"
		4/25/2016	Written	Dawn Coughlin - Hess - The phrase "...tracer wire shall be buried with any nonconductive pipe installed." Hess proposes that this requirement, if retained, be included as a separate subsection. The NDPC should provide explanation and justification the requirement for a registered surveyor or strike the requirement. The NDPC should explain why the location of the proposed drilling must pit is required or strike this requirement. These locations are not typically shown on plats.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement is from the 2014 rulemaking which applied to all underground gathering pipelines. The Commission had to retain the requirement for gas gathering based on the 2014 rulemaking. The Commission added a sentence that clarifies the rest of the subsection is applicable to all newly constructed crude oil and produced water underground gathering pipelines. Newly constructed refers to pipelines that are currently under construction and will begin construction on the date the proposed rules become effective. Subsection 4a: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4b: The Commission removed newly constructed because it is stated in the introductory sentence above. Based on comments received the Commission changed "internal integrity inspection" to "integrity testing". The intent is for crude oil and produced water underground gathering pipelines to be designed to demonstrate integrity. Subsection 4c: Based on comments the Commission modified this requirement to ensure installation crews are trained in the practices for which they are tasked to perform. Subsection 4d: The Commission agrees with the suggestion to change the "tracer wire" language. Subsection 4e: The Commission agrees with comments that trench bottoms must be free of rocks greater than two inches and free of debris not required for installation. The Commission removed the requirement for 6" of clearance to now require adequate clearance to account for multiple installation methods and equipment utilized to excavate the trench. Subsection 4f: The Commission struck "all" because this provision applies to crude oil and produced water underground gathering pipelines. The Commission added "township, county, or state" to clarify the types of graded roads that must be bored. Subsection 4g: In order to clarify the requirement the Commission struck "in a pipeline system"	
		4/25/2016	Written	Grant Slick - AES - Requests clarification on the term "newly constructed". AES is unclear what periodic line cleaning means. The requirement that restricts the width of the trench to a minimum of 6 inches of clearance on each side of the pipe eliminates the possibility of "plowing". AES requests the requirement that all graded roads must be bored if a pipeline is to cross be modified for crossing county, state, or township roads. The requirement to horizontally drill environmental sensitive areas has the ability to create inconsistent designs, undue administrative costs, and loss of flexibility during construction. During construction, decisions are made to alter pipeline paths due to additional well pad or reduced well pad connections, landowner easements, right of way, and other items that can occur throughout the process. This level of design detail is not justified for a vast majority of bores on a project and makes it difficult to add or modify bores in the field.	Subsection 4b: The Commission modified the requirement to allow backfill material within 2 feet of the pipe must be free of rocks greater than 2". The backfill material must be compacted as appropriate. Subsection 4k: The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill, a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	
		4/25/2016	Written	Laura Erickson - Cardno - 4k(1) questions whether "any registered surveyor" is allowed	Subsection 4e: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4f: The Commission struck "in a pipeline system"	
		4/25/2016	Written	Kevin Pranis - LIUNA - Recommend the Commission come up with more specific guidance on the definition of "thoroughly trained". In our interviews with pipeline and review of public records, we have found multiple examples where pipelines were apparently laid in trenches with foreign debris, rocks, and/or poorly compacted soil that is susceptible to settling over time, as well as examples where rocks and other debris were dumped on top of the pipe. LIUNA has witnessed backfilling practices that don't properly pad pipe or sift rocks from dirt. Future spills are often caused through improper handling of the pipe during stringing along the right of way and lowering in to the trench. Directional drilling has become a standard technique for building pipelines through wetlands and across streams and rivers, but proper planning and execution is essential to achieve the desired goal.	Subsection 4i: The Commission modified the requirement to allow backfill material within 2 feet of the pipe must be free of rocks greater than 2". The backfill material must be compacted as appropriate. Subsection 4k: The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill, a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	
		4/25/2016	Written	Robbie McDonough - Crestwood incorporates by reference the comments of NDPC and GPA regarding this section. The proposed requirement for horizontal directional drilling environmentally sensitive areas is beyond the scope of HB 1358. Wetlands, streams, and other surface water bodies are already regulated by U.S. Army Corps of Engineers through its nationwide permit system. The USACE regulations are established, and contain publically-vetted, time tested requirements that have balanced the interests of commerce and the environment for some time. Should the Commission choose to implement this section, the term "environmentally sensitive area" should be a newly proposed defined term subject to public comment as, in its current use, it is overly broad, vague, and over-reaching in scope.		
		4/25/2016	Written	Eric Sundberg - Slawson - Slawson utilizes a low pressure crude oil gathering system that is made up of polyurethane pipelines. This type of system is very difficult to conduct smart pigging operations on, that would be required for internal integrity verifications. Operational flexibility is needed under this proposed rule to address gathering systems such as this that do not require the same cleaning and internal corrosion verification that other pipeline systems might need.		
		4/25/2016	Written	Royce Brown - Enbridge Midstream Partners - The requirement for pipelines to be designed for internal integrity inspection fails to take into account the fact that the smallest available inline inspection diameter is six inches. Additionally, inline inspection technology would be of no beneficial use on the pipe materials commonly being used for produced water gathering pipelines. We recommend that the NDPC consider revising this section to include only metallic pipe with a minimum diameter of 8 inches. The proposed requirement for backfilling the trench should be revised to read: "backfill material must be free of non-native rocks and foreign debris." U.S. Army Corps of Engineers (USACE), rather than the NDPC, is the regulatory entity that has jurisdictional authority pursuant to Section 404 of the Clean Water Act over fill and construction related disturbance to wetlands, streams, and other surface waterbodies (i.e., waters of the United States). Further, the USACE, through its Nationwide Permit and Individual Permit programs, provides pipeline operators with a means to obtain permit authorization for activities associated with the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States. Requiring the survey of entry and exit location points prior to execution of project does not appear to be beneficial as these locations would only provide the proposed locations. We recommend the following changes to the language: "An engineered HDD design plan, developed by operator, showing the locations of the entry and exit points with reference to true north and the nearest lines of a governmental section, the latitude and longitude of the proposed locations of the entry and exit points to the nearest tenth of a second, and the ground elevation of the entry and exit points." We suggest that the proposed requirement for a channel degradation and scour analysis be eliminated altogether.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement was moved from NDAC Section 43-02-03-29 and now applies to gas gathering only. Subsection 4a: The Commission removed "newly constructed". Subsection 4b: The Commission removed "newly constructed", changed "internal integrity inspection" to "integrity testing" by striking "internal" and "inspection" and adding "testing". Subsection 4c: The Commission removed "thoroughly", "manufacturer prescribed" and "procedures" and added "practices for which they are tasked to perform." Subsection 4d: The Commission added a second sentence starting with "Tracer wire". Subsection 4e: The Commission added "greater than 2 inches" and "not required for pipeline installation" and deleted "a minimum of 6 inches" and added	

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	Outlines design and construction requirements for constructing new pipelines (para 4)	4/25/2016	Written	James Cron- Cron Industries, LLC - Cron doesn't see how the requirement to design pipelines in a manner that allows for maintenance, cleaning and internal inspection pertains to non-metallic pipelines, such as Flexsteel. The requirement for installation crews to be trained is vague and unneeded, as is the scope of the NDIC's review. The requirement for trenching creates excessive trenching, and maximum disturbance of the soil profile, while creating additional costs that are unneeded. We would suggest the use of API RP 1102 and ASME 631.4-2002 pg (40-42) as representative documents that offer guidance. As written, the language may also block the use of plowing or knifing techniques which can result in less impact to the land and lower construction costs. We recommend removing this requirement. The requirement for pipe to be visually inspected is vague without technical direction. We suggest ASME 631.4-2002, paragraph 436 being the more appropriate reference. The proposed requirement for horizontal directional drilling is over-reaching and is an instrument for permitting which was not the intent of HB 1358. We feel it should be stricken.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement is from the 2014 rulemaking which applied to all underground gathering pipelines. The Commission had to retain the requirement for gas gathering based on the 2014 rulemaking. The Commission added a sentence that clarifies the rest of the subsection is applicable to all newly constructed crude oil and produced water underground gathering pipelines. Newly constructed refers to pipelines that are currently under construction and will begin construction on the date the proposed rules become effective. Subsection 4a: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4b: The Commission removed newly constructed because it is stated in the introductory sentence above. Based on comments received the Commission changed "internal integrity inspection" to "integrity testing". The intent is for crude oil and produced water underground gathering pipelines to be designed to demonstrate integrity. Subsection 4c: Based on comments the Commission modified this requirement to ensure installation crews are trained in the practices for which they are tasked to perform. Subsection 4d: The Commission agrees with the suggestion to change the "tracer wire" language. Subsection 4e: The Commission agrees with comments that trench bottoms must be free of rocks greater than two inches and free of debris not required for installation. The Commission removed the requirement for 6' of clearance to now require adequate clearance to account for multiple installation methods and equipment utilized to excavate the trench. Subsection 4f: The Commission struck "all" because this provision applies to crude oil and produced water underground gathering pipelines. The Commission added "township, county, or state" to clarify the types of graded roads that must be bored. Subsection 4g in order to clarify the requirement the Commission struck "in a pipeline system" Subsection 4i: The Commission modified the requirement to allow backfill material within 2 feet of the pipe must be free of rocks greater than 2". The backfill material must be compacted as appropriate. Subsection 4k: The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill, a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	"adequate". Subsection 4f: The Commission removed "all" and added "township, county, or state" Subsection 4g: The Commission struck "in a pipeline system" Subsection 4i: The Commission added "that will be within 2 feet of the pipe", "greater than 2 inches" and Subsection 4k: The Commission amended subsection 4k to remove the requirements of filing a horizontal drilling plan.
		4/25/2016	Written	Kan Dockweiler - Bridger Pipeline, LLC - Encourage the NDIC to retain the language regarding design of gathering pipelines currently found in the second paragraph of 43-02-03-29. If the NDIC is determined to provide more specific design standards there are many already in print that could be referenced and we would encourage the NDIC to reference those already in place rather than attempt to write technical standards. Bridger suggests that the Commission the effective date of the rules changes rather than the term "newly constructed". The requirement that pipelines must be designed in a manner that allows for maintenance, cleaning, and internal inspection is impractical. Bridger does not build each well tie-in to be "piggable". The requirement to properly train installation crews is over-reaching. The requirement to minimize interference with agriculture, road and utility construction, etc. is redundant and unnecessary. As infrastructure continues to grow, there are often times that a gathering line will cross another utility or gathering line. In some cases this will result in the pipe resting on soil that is less than "undisturbed". Bridger recommends that the NDIC reference industry standards rather than attempt to write new rules. The width of ditch restriction is unclear and would at times create more unsafe conditions than providing any measure of safety. States and counties all have permit processes that require boring as necessary to meet their needs. The decision to directionally drill or not should be left in the hands of the landowners or the trustees of those lands. If the NDIC is determined to retain any of this language they should consider limiting the requirements to wetlands/sensitive areas greater than 150' in width.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement is from the 2014 rulemaking which applied to all underground gathering pipelines. The Commission had to retain the requirement for gas gathering based on the 2014 rulemaking. The Commission added a sentence that clarifies the rest of the subsection is applicable to all newly constructed crude oil and produced water underground gathering pipelines. Newly constructed refers to pipelines that are currently under construction and will begin construction on the date the proposed rules become effective. Subsection 4a: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4b: The Commission removed newly constructed because it is stated in the introductory sentence above. Based on comments received the Commission changed "internal integrity inspection" to "integrity testing". The intent is for crude oil and produced water underground gathering pipelines to be designed to demonstrate integrity. Subsection 4c: Based on comments the Commission modified this requirement to ensure installation crews are trained in the practices for which they are tasked to perform. Subsection 4d: The Commission agrees with the suggestion to change the "tracer wire" language. Subsection 4e: The Commission agrees with comments that trench bottoms must be free of rocks greater than two inches and free of debris not required for installation. The Commission removed the requirement for 6' of clearance to now require adequate clearance to account for multiple installation methods and equipment utilized to excavate the trench. Subsection 4f: The Commission struck "all" because this provision applies to crude oil and produced water underground gathering pipelines. The Commission added "township, county, or state" to clarify the types of graded roads that must be bored. Subsection 4g in order to clarify the requirement the Commission struck "in a pipeline system" Subsection 4i: The Commission modified the requirement to allow backfill material within 2 feet of the pipe must be free of rocks greater than 2". The backfill material must be compacted as appropriate. Subsection 4k: The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill, a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	
		4/25/2016	Written	Nick Johnson - 1804 Operating - The Commission should replace this with "underground gathering pipelines constructed after October 1, 2016, as newly constructed is too vague of terminology and doesn't allow for a specific timeframe moving forward. The requirement for line maintenance, cleaning, and internal inspection are neither practical nor necessary for non-metallic gathering systems. Suggested language: "Installation crews must be trained in all installation practices for which they are tasked to perform." The requirement to minimize interference with agriculture, road and utility construction, etc. is already required in the North Dakota One-Call Law. 1804 suggests reliance on some industry standard, such as ASME or API that can be incorporated by reference to provide needed clarity on trenching requirements. It is common practice to use gravel to support pipelines. As gravel may be interpreted to be "rocks", we suggest clarifying language, potentially with a 2 inch cutoff, as usage may vary based on the situation. In addition, the usage of trench breakers or sandbags should be allowed. Trenches to have 6' of clearance on either side of the pipe would restrict most (if not all) trenchers currently being utilized in ND for any pipe larger than 8 inches. The rule as written may also block the use of plowing or knifing techniques which result in less impact to the land and lower construction costs. --Trench bottoms must be free of rocks greater than 2 inches, debris, trash and other foreign material not required for pipeline installation.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement is from the 2014 rulemaking which applied to all underground gathering pipelines. The Commission had to retain the requirement for gas gathering based on the 2014 rulemaking. The Commission added a sentence that clarifies the rest of the subsection is applicable to all newly constructed crude oil and produced water underground gathering pipelines. Newly constructed refers to pipelines that are currently under construction and will begin construction on the date the proposed rules become effective. Subsection 4a: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4b: The Commission removed newly constructed because it is stated in the introductory sentence above. Based on comments received the Commission changed "internal integrity inspection" to "integrity testing". The intent is for crude oil and produced water underground gathering pipelines to be designed to demonstrate integrity. Subsection 4c: Based on comments the Commission modified this requirement to ensure installation crews are trained in the practices for which they are tasked to perform. Subsection 4d: The Commission agrees with the suggestion to change the "tracer wire" language. Subsection 4e: The Commission agrees with comments that trench bottoms must be free of rocks greater than two inches and free of debris not required for installation. The Commission removed the requirement for 6' of clearance to now require adequate clearance to account for multiple installation methods and equipment utilized to excavate the trench. Subsection 4f: The Commission struck "all" because this provision applies to crude oil and produced water underground gathering pipelines. The Commission added "township, county, or state" to clarify the types of graded roads that must be bored. Subsection 4g in order to clarify the requirement the Commission struck "in a pipeline system" Subsection 4i: The Commission modified the requirement to allow backfill material within 2 feet of the pipe must be free of rocks greater than 2". The backfill material must be compacted as appropriate. Subsection 4k: The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill, a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council- The Commission should replace this with "underground gathering pipelines constructed after October 1, 2016, as newly constructed is too vague of terminology and doesn't allow for a specific timeframe moving forward. The requirement for line maintenance, cleaning, and internal inspection are neither practical nor necessary for non-metallic gathering systems. Suggested language: "Installation crews must be trained in all installation practices for which they are tasked to perform." The requirement to minimize interference with agriculture, road and utility construction, etc. is already required in the North Dakota One-Call Law. NDPC suggests reliance on some industry standard, such as ASME or API that can be incorporated by reference to provide needed clarity on trenching requirements. It is common practice to use gravel to support pipelines. As gravel may be interpreted to be "rocks", we suggest clarifying language, potentially with a 2 inch cutoff, as usage may vary based on the situation. In addition, the usage of trench breakers or sandbags should be allowed. Trenches to have 6' of clearance on either side of the pipe would restrict most trenchers currently being utilized in ND for any pipe larger than 8 inches. It may also block the use of plowing or knifing. NDPC recommends removing this requirement. NDPC recommends only requiring county, state and township roads require boring. The proposed language does not specify who is responsible for the visual inspection. NDPC also recommends striking the phrase "in a pipeline system" and clarifying the term "component". NDPC has concerns as to what would constitute "stresses" in subsection 4h and how these requirements could be documented. Care must be taken not to over compact the soil in an effort to allow crops to grow properly. Discing the soil to complete reclamation is common practice. It is common practice to use gravel to support pipelines. As gravel may be interpreted to be "rocks", we suggest clarifying language, potentially with a 2 inch cutoff, as usage may vary based on the situation. The requirement for horizontal directional drilling removes all flexibility in on-site relationships with landowners. Recommends the underground gathering pipeline traverse an environmentally sensitive area for a minimum distance of 150 feet before horizontal drilling be required. The proposed language does not specify how, when or to whom the plan is to be submitted. Additionally, NDPC also objects to the requirement of a registered surveyor as companies have individuals qualified and experienced in these tasks and it was not required in statute.	Subsection 4: The Commission added a paragraph to address underground gas gathering pipelines. This requirement is from the 2014 rulemaking which applied to all underground gathering pipelines. The Commission had to retain the requirement for gas gathering based on the 2014 rulemaking. The Commission added a sentence that clarifies the rest of the subsection is applicable to all newly constructed crude oil and produced water underground gathering pipelines. Newly constructed refers to pipelines that are currently under construction and will begin construction on the date the proposed rules become effective. Subsection 4a: The Commission removed newly constructed because it is stated in the introductory sentence above. Subsection 4b: The Commission removed newly constructed because it is stated in the introductory sentence above. Based on comments received the Commission changed "internal integrity inspection" to "integrity testing". The intent is for crude oil and produced water underground gathering pipelines to be designed to demonstrate integrity. Subsection 4c: Based on comments the Commission modified this requirement to ensure installation crews are trained in the practices for which they are tasked to perform. Subsection 4d: The Commission agrees with the suggestion to change the "tracer wire" language. Subsection 4e: The Commission agrees with comments that trench bottoms must be free of rocks greater than two inches and free of debris not required for installation. The Commission removed the requirement for 6' of clearance to now require adequate clearance to account for multiple installation methods and equipment utilized to excavate the trench. Subsection 4f: The Commission struck "all" because this provision applies to crude oil and produced water underground gathering pipelines. The Commission added "township, county, or state" to clarify the types of graded roads that must be bored. 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		4/25/2016	Written	Troy Coons - NW Landowners - V. Design and construction standards and third party inspections The addition of specific design and construction standards and third party inspection requirements at N.D.A.C. § 43-02-03-20.1 is a significant improvement to the NDIC rules and should be commended. The standards regarding pipelines resting on undisturbed native soil, and requiring at least six inches of clearance on each side of the pipe are preferable to standards such as "minimizing interference with agriculture" because they are objectively verifiable by a third party inspector. It is suggested that the NDIC consider drafting greater specificity into these standards.	The NWLA commends the Commission for the proposed rules, although greater specificity into standards is requested. The Commission is in its infancy in pipeline rulemaking and it is premature to be too specific.	None
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund concurs with NDIC regarding the importance of specifying that backfill materials be free of rocks and foreign debris, but suggests one modification to reflect guidance from the EERC. EDF suggests that NDIC explicitly limit rocks and foreign debris in backfill to no larger than 2 inches in diameter. EDF applauds NDIC's efforts and urges adoption of most proposed language in this section. EDF recommends including certain key worker safety requirements, such as appropriate cave-in protection for larger pipeline installations. Protection systems such as shoring, shielding and sloping for larger trenches could help protect workers, pipes and components during construction. Trenches 5 feet deep or greater shall have a protective system (benching, sloping, shoring, and shielding). Trenches 20 feet deep or greater require that the protective system be designed by a registered professional engineer. Trench walls must be excavated to ensure minimal shifting of sidewall material into the trench. EDF supports the proposed language regarding gathering pipelines be bored under graded roads. EDF respectfully suggests that NDIC clarify that pipe running underneath graded roads must be designed and constructed to withstand overburden stresses, and that such protections extend at least from one edge of the right of way to the other. Suggested Edit: ".... across a graded road must be bored, and designed and constructed to withstand live and dead load overburden stresses throughout the right of way crossing, unless the responsible owner or governing agency specifically permits the owner to open a cut road." EDF recommends that NDIC avoid unnecessarily limiting the requirement to avoid physical damage to the pipe. Suggested Edit: h. The pipe shall be handled in a manner that minimizes stress and avoids physical damage to the pipe, during stringing, joining, or lowering in. EDF recommends increasing the minimum burial depth of at least six feet to top of pipe, rather than feet as proposed. EDF strongly supports the inclusion of robust design and construction requirements for environmentally sensitive areas. The EERC also identified the need for enhanced design, construction and installation requirements for pipelines that may impact environmentally sensitive areas. NDIC is justified in requiring the use of horizontal directional drilling (HDD) to avoid construction in or over environmentally sensitive areas such as waterways, lakes and wetlands. EDF recommends that NDIC require pipeline owners to submit a pipeline crossing plan approved by registered professional engineer to not impair environmentally sensitive area. Additionally, EDF suggests that NDIC incorporate requirements to case the pipeline throughout the environmentally sensitive area and install shut off valves on either side of the environmentally sensitive area. NDIC may also wish to prohibit the construction of associated facilities in environmentally sensitive areas to limit surface disturbance, minimize servicing requirements and reduce the potential for higher consequence releases.	The Commission agrees with that trench bottoms must be free of rocks greater than two inches and backfill material within 2 feet of the pipe must be free of rocks greater than 2". Worker safety and trench safety were not addressed by the legislature, therefore not addressed in this rulemaking. The cover depths proposed in the rules are consistent with the EERC study and the Public Service Commission. The Commission removed all requirements prescribing what must be included in a horizontal directional drilling plan. The Commission's intent is to ensure pipelines are installed in a manner that minimizes impacts to environmentally sensitive areas. When an owner decides to horizontal directionally drill a plan may be submitted to the Commission or the Director may require a plan. The Commission will monitor horizontal directional drilling and determine if more prescribed rules are necessary in the future.	Subsection 4: The Commission added "greater than 2 inches" The Commission added "that will be within 2 feet of the pipe" and "greater than 2 inches"
		4/25/2016	Written	Dawn Coughlin - Hess - Subsection 5.a "topsoil" is defined within this section. The NDIC should incorporate the definition of "topsoil" into 43-02-03-01 Definitions as it is referenced in both 43-02-03-29 and 43-02-03-19. Suggested language: "All stakes, construction markers, cables, ropes, skids, and any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of within 30 day of completion of construction. Permanent pipeline markers should be set as necessary for safe operations...."	The Commission does not feel it is necessary to define "topsoil" in 43-02-03-01. Topsoil is clearly defined in the proposed language. The Commission added "temporary construction markers" to clarify what exactly must be removed.	Subsection 5b: The Commission added "temporary construction markers".
		4/25/2016	Written	Kevin Pranis - LUNA - Removal and segregation of up to 1.2' of topsoil - In our experience, failure to properly remove, segregate, and replace topsoil during the construction of gathering lines is a serious problem in North Dakota. On many occasions, our staff and members have witnessed practices that include the mixing of topsoil and subsoil, stripping only the ditch line, and in some cases the construction of pipelines directly on the grass with no stripping at all.	The Commission believes this regulation can be enforced through Commission inspections and third party inspectors.	None
		4/25/2016	Written	Robbie McDonough - Crestwood Incorporates by reference the comments of NDPC and GPA regarding this section. Crestwood finds that this section exceeds the legislative intent of HB 1358. With the exception of subsection f, this section should be stricken in its entirety. The issue of regulating pipeline reclamation has come before the Legislature in at least the last two legislative sessions and in both sessions the legislature declined to direct any agency to assume regulation of the issue. Because every parcel of land is unique, Crestwood believes that landowners and pipeline professionals are in the best position to determine proper reclamation and maintenance of a right-of-way.		

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Outlines requirements for reclaiming pipeline right-of-way (para 5)		4/25/2015	Written	Royce Brown - Enable - Enable proposes allowing the landowner or land management agency to approve otherwise the requirement to prevent the mixing of topsoil with subsoil based on land use (cultivated or tilled croplands, and managed pastures, residential areas, hayfields, and other areas at the landowner's or land managing agency's request). The proposed rule indicates that "All must be removed from the right-of-way and lawfully disposed of." The proposed rule needs to address pipeline markers and/or warning signs. The goal of pipeline right-of-way restoration and reclamation measures is to alleviate soil compaction, which may contribute to reduced productivity. It is therefore unclear why the proposed rules specify that soils should be "compacted" during reclamation. It is unfair and impractical for NDIC to impose rules holding pipeline owners accountable for all maintenance and reclamation on their pipeline right-of-ways. Rather, pipeline owners should be held accountable for those maintenance and reclamation practices that result from and are inherent to the construction, operation, and maintenance of the pipeline.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - We feel that this language is vague and incorrect in its intent, especially in regards to ASME B31.4.	The Commission does not agree that the landowners ROW agreements should take precedence over the proposed rules. The proposed rules are minimum standards intended to ensure the land is reclaimed properly and returned as close as practicable to its original condition.	Subsection 5 title was amended by striking "right-of-way" and replacing it with "Reclamation"
		4/25/2016	Written	Ken Dockweiler - Bridger Commends the Commission for their use of definitions especially with regards to topsoil, but has some concerns with a lack of clarity in some of the language in this section as further discussed below. The use of the word "all" when discussing the removal of stakes markers etc. Many gathering pipeline operators utilize "line markers" to give the public notice that a pipeline is buried in the area. Requiring the removal of "all" markers is therefore detrimental to pipeline safety and Bridger recommends that the NDIC insert the words "unnecessary or temporary" after the word "All" in the second sentence such that permanent markers can continue to be maintained along the right of way. Subdivisions 5.e and 5.f would be more appropriate in the abandonment sections and we suggest that the NDIC consider deleting them from this section. If this language is retained in this section the NDIC should clarify that "maintenance" required of the operator is only that maintenance that is related to the operator's activities.	The Commission changed the title of the Subsection from "Pipeline right-of-way" to "Pipeline Reclamation". Subsection 5a: The Commission amended this language by adding "When utilizing excavation for pipeline installation, repair, or abandonment". The Commission removed "from pipeline right-of-way" and "right-of-way". The amendments allow pipeline owners more flexibility in pipeline construction while ensuring the surface is properly reclaimed.	Subsection 5a: The Commission added "When utilizing excavation for pipeline installation, repair, or abandonment". The Commission removed "from pipeline right-of-way" and "right-of-way". Subsection 5b: The Commission added "temporary construction markers". Subsection 5c: The Commission corrected "topsoil"
		4/25/2016	Written	Nick Johnson - 1804 Operating -The proposed language in subsection 5.b. states that all markers must be removed from the ROW. It is assumed the Commission does not intend that pipeline markers be removed. The markers are usually posted within line of site to help in inspection and provide damage prevention precautions. The proposed language regarding "markers" should be changed to either "temporary" or "construction". Suggested language: "... All stakes, construction markers, cables, ropes, skids, and any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of. Permanent pipeline markers should be set as necessary for safe operations..."	Subsection 5d: The Commission removed "compacted and". The intent of the Commission is to ensure proper reclamation of subsoils and topsoils in a manner that prevents settling, erosion, etc. Subsection 5e: The Commission modified the requirement to address reclamation and maintenance related to the owners activities. The Commission modified the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment" to promote consistency with the statutory definition of underground gathering pipeline. Subsection 5f: The Commission modified the requirement to address reclamation and maintenance related to the owners activities.	Subsection 5d: The Commission removed "compacted and". Subsection 5e: The Commission changed "the" to "their". Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment". Subsection 5f: The Commission changed "the" to "their".
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council The proposed language in subsection 5.b. states that all markers must be removed from the ROW. It is assumed the Commission does not intend that pipeline markers be removed. The markers are usually posted within line of site to help in inspection and provide damage prevention precautions. The proposed language regarding "markers" should be changed to either "temporary" or "construction". Suggested language: "... All stakes, construction markers, cables, ropes, skids, and any other debris or material not native to the area must be removed from the right-of-way and lawfully disposed of. Permanent pipeline markers should be set as necessary for safe operations..."	Subsection 5e: The Commission modified the requirement to address reclamation and maintenance related to the owners activities.	Subsection 5e: The Commission changed "the" to "their".
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Clarification is necessary as to width of ROW to have topsoil separated. Landowners often request double ditching in pipeline installation. In those situations landowners ROW agreements should have priority over NDIC rules. The Hilland Entities are concerned that this section would require operators to take responsibility for soil degradation over the ROW that is unrelated to pipeline operations or pipeline construction.		
Requires all newly constructed COPWP pipelines have third-party inspector (para 6)		4/15/2016	Written	Dewitt Burdoux - Flexsteel Submitted the following question: Can a manufacturer's representative serve as the independent inspector provided that individual is only responsible for supervising the installation and possibly, performing the installation of the manufacturer provided fittings and the individual is delegated the authority to stop work for non-conforming activities?	The Commission agrees that the pipeline manufacturer's representative can serve as 3rd party independent inspector	none
		4/25/2016	Written	Dan Middlebrooks - Targa - Any other role for independent third party inspectors not only exceeds Legislative directives, but also is unnecessary and impractical. For instance, in proposed NDAC § 43-02-03-29.1(6), NDIC requires all newly constructed crude oil and produced water underground gathering pipelines to be "inspected by third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the requirements of this section," and that "no person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected." Targa strongly believes that this should be a role for operator personnel and not third-party independent inspectors. Whether there are enough qualified inspectors available to perform this role is of serious concern. Further, Targa believes that its personnel are better qualified, more reliable, and more conscientious than independent third parties. As such, the extra-statutory independent inspector provisions in NDIC's proposed rules will unnecessarily cause delays and impose needless expenses on operators, with no benefit to pipeline safety.		
		4/25/2016	Written	Eric Sundberg - Slawson - 43-02-03-29.1 Section 3 (1) (d) & Section 6 Inspection The proposed rule would require a list of all third-party independent inspectors and a description of each independent inspector's qualifications, certifications, experience, or specific training. Companies that already have qualified personnel should have the optionality to conduct their own inspections and certify that the work has been conducted in a manner that meets all local, state and federal regulatory requirements. The need to utilize third-party inspection services should only be required when there are no qualified company personnel available.		
		4/25/2015	Written	Royce Brown - Enable Midstream Partners - Inspection (including third party inspection) a. This section infers that all inspection will be done by 3rd party inspection. While 3rd party inspection is typically utilized, we do withhold the right to have an internal inspector perform inspection duties. All inspection, whether 3rd party or internal, will be performed within the guidelines of PHMSA and DOT CFR 49 Part 195.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - We feel that this language is too vague and does not speak to the qualifications of the inspector.	The Commission does not agree that a company inspectors can take the place of a third-party independent inspector. The Commission disagrees with the comment to remove the term "independent". HB 1358 requires a list of independent inspectors and the EERC study recommends independent inspectors should have the responsibility to ensure that the manufacturer specifications are precisely followed. HB 1358 mandates the Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity, this includes the third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with NDAC section 43-02-03-29.1.	The Commission added "A list of all third-party independent inspectors and a description of each independent inspector's qualifications, certifications, experience, and specific training shall be provided to the commission upon request"
		4/25/2016	Written	Nick Johnson - 1804 Operating - Comment: Statute only requires a certificate of hydrostatic or pneumatic testing by a third party inspector. NDCC 38-08-27 states, "Upon request, the operator shall provide the commission the underground gathering pipeline engineering construction design drawings and specifications, list of independent inspectors, and a plan for leak protection and monitoring the underground gathering pipeline. Within sixty days of an underground gathering pipeline being placed into service, the operator of that pipeline shall file with the commission an independent inspector's certificate of hydrostatic or pneumatic testing of the underground gathering pipeline." Once again, the proposed language in subsection 6 reaches beyond the legislative intent in requiring the inspector to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the additional proposed requirements.	The Commission moved the proposed language requiring a list of all third-party independent inspectors from Subsection 3a(1)(d) to this subsection. The Commission can request the list at anytime.	
		4/25/2016	Written	1804 Operating recommends this section be struck, as statute is clear. (NDPC) 43-02-03-29.1.7 Associated pipeline facility (page 24 of proposed rules)		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: Statute only requires a certificate of hydrostatic or pneumatic testing by a third party inspector. NDCC 38-08-27 states, "Upon request, the operator shall provide the commission the underground gathering pipeline engineering construction design drawings and specifications, list of independent inspectors, and a plan for leak protection and monitoring the underground gathering pipeline. Within sixty days of an underground gathering pipeline being placed into service, the operator of that pipeline shall file with the commission an independent inspector's certificate of hydrostatic or pneumatic testing of the underground gathering pipeline." Once again, the proposed language in subsection 6 reaches beyond legislative intent in requiring the inspector ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the additional proposed requirements. NDPC recommends this section be struck, as statute is clear.		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Comments: The requirement to use "Third Party" inspectors goes beyond requirements applied by other state and federal agencies, including PHMSA requirements for interstate transmission lines. If the intent of this section is to keep personnel from inspecting their own work, then the paragraph should be rephrased to allow operators to use internal personnel to perform the inspection who are independent from the task they are inspecting. This is the requirement PHMSA imposes on hazardous liquid pipeline construction in §195.206.  Suggested Language: All newly constructed crude oil and produced water underground gathering pipelines must be inspected by third-party independent inspectors to ensure the pipeline is installed as prescribed by the manufacturer's specifications and in accordance with the requirements of this section. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected. An inspector shall be independent if the inspector did not perform the construction task requiring inspection. Nothing in this section prohibits the from inspecting construction tasks with operator personnel who are trained and did not perform the construction task requiring inspection.		
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund EDF strongly supports the proposed requirement for third-party independent inspections. According to EERC's analysis, lack of inspection is likely to be one of the primary causes of gathering line leaks. NDIC may wish to add language clarifying the role of state inspectors. Pursuant to NDCC 38-08-04, the commission is charged with making investigations in order to enforce oil and gas statutes and regulations. EDF suggests language for requirements for NDIC inspectors.	The Commission does not feel the suggested requirements for State regulatory inspectors are necessary. The Commission and its representatives enforce North Dakota statutes and rules. The Commission does not typically promulgate requirements as suggested.	none
		4/12/2016	Oral	Kathryn Hilton--Self + rep various landowners she works with in NW ND She believes "sufficiently impermeable" should be defined since it is too vague in the diking rule	The Commission does not agree with the comment that "sufficiently impermeable" should be defined. Sufficiently impermeable is a term that allows for advances in technology while accounting for historic construction practices.	none
		4/25/2016	Written	Troy Coons - NW Landowners - The requirement to erect dikes around associated pipeline facilities at 43-02-03-29.1(7) and saltwater handling facilities at 43-02-03-53.3(5) require a dike "of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid throughput." Northwest Landowners Association suggests that this rule should also take into account rainfall events. For example, rules promulgated by the North Dakota Department of Health with respect to waste management facilities are instructive. For certain facilities, these rules require secondary containment systems to be "[d]esigned or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event..." 33-24-05-106. Northwest Landowners Association suggests inclusion of this or similar language into the diking requirements of 43-02-03-29.1(7) and 43-02-03-53.3(5), as well as for perimeter berms as required by 43-02-03-49, 43-02-03-51.3(6) and 43-02-03-53.3(6).	The Commission does not take into account rainfall events when determining containment volume. The Commission prefers to account for the amount of fluid being handled to determine the required containment capacity.	none
		4/25/2016	Written	Dawn Coughlin - Hess - Comment: The NDIC should clarify the process that would be employed if the owner and commission disagree on permitting installation within 500'.	The pipeline owner would be required to submit to the Commission a signed and notarized affidavit stating the owner of the occupied dwelling agreed to allow the associated above ground equipment within 500' of the dwelling or after notice and hearing the Commission may authorize approval by Order of the Commission.	None
		4/25/2016	Written	Grant Slick - AES - The first paragraph notes that no associated pipeline facilities and above ground equipment shall be installed less than five hundred feet from an occupied dwelling... It is unclear if this applies to minor facilities such as gate valves, etc.	NDCC Section 38-08-02 §10 states, "associated above ground equipment" means equipment and property located above ground level, which is incidental to and necessary for or useful for transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas from a production facility. As used in this subsection, "equipment and property" includes a pump, a compressor, storage, leak detection or monitoring equipment, and any other facility or structure.	None
		4/25/2016	Written	Debbie Beaver - GPA Midstream - NDIC's Associated Pipeline Facilities Regulation Should Expressly Preempt Political Subdivision Ordinances, Permitting or Other Regulations  NDIC's Proposed Amendments and Additions to Section 43-02-03-29.1 (7) should expressly preempt related regulatory requirements of the state's political subdivisions. As written, this section states, among other things, that "[n]o associated pipeline facilities and above ground equipment shall be installed less than five hundred feet [152.40 meters] from an occupied dwelling unless agreed to in writing by the owner of the dwelling or authorized by order of the commission." Id. at (7). Currently, many state political subdivisions apply their regulatory requirements, including but not limited to, zoning criteria to above ground facilities regardless of their connection to NDIC regulations. In an effort to avoid dual and potential conflicting regulations and requirements, GPA Midstream recommends that the NDIC incorporate language at the end of Section 43-02-03-29.1 (7) that expressly preempts these requirements. This language could read as follows: "Associated pipeline facilities and above ground equipment that are otherwise subject to this section shall not fall within the regulatory jurisdiction of the state's political subdivisions that would otherwise regulate the associated pipeline facility or above ground equipment."	The Commission does not feel it would be appropriate to incorporate language that expressly preempts these requirements from regulatory jurisdictions of the state's political subdivisions.	none
		4/25/2016	Written	Eric Sundberg - Slawson - 43-02-03-29.1 Section 7 Associated Pipeline Facility The proposed rule states that unused tanks and associated above ground equipment must be removed from the site or placed into service, within a reasonable time period, not to exceed one year. Pipeline facilities often times have equipment stored there that is not currently in use, but will be utilized in operations at some point in the near future. We request a clarification of the language be made, or removal all together, as the current text would limit a pipeline operator's ability to maintain equipment yards necessary for ongoing operations and future construction projects.	Unused equipment must be removed from the site as required.	none
	Outlines requirements for associated pipeline above ground facilities (para 7)	4/25/2016	Written	Royce Brown - Enable Midstream Partners - Most of the language here is comparable to the federal regulations for SPCC, except for the statement "Dikes must be of sufficient dimension to contain the total capacity of the largest tank plus one day's fluid throughput." Not only is this language excessive, it is unnecessary. The federal regulation 40 CFR 112.8(c)(2) states: "Construct all bulk storage tank installations (except mobile retulers and other non-transportation related tank trucks) so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation." We recommend the NDIC proposed rule be rewritten to be in compliance with the federal regulation.	The Commission does not agree with the comment that the proposed rule be rewritten to be in compliance with the federal regulation.	none
43-02-03-29.1 Pipelines HB 1338		4/11/2016	Written	David Copeland--Oasis Petroleum Requests the proposed language "associated pipeline facilities and above ground equipment" be consistent with the term "associated above ground equipment" defined in NDCC 38-08-02 (18).		
		4/25/2016	Written	James Cron - Cron Industries, LLC - Berm requirements in the last paragraph of subsection being without merit as state regulations already address dike requirements for oil production tanks. Cron rejects the notion that the language as noted 'required capacity of the dike may be lowered by the director if the necessity thereof can be demonstrated to the director's satisfaction' is applied justly and consistently in its current form. Due to the language of Subsection 7, a number of questions of clarity arise. The terms 'associated pipeline facility' and 'above ground equipment' is undefined and could vary the interpreted intent of this section greatly and cause significant issues. This section also needs clarification that it is only applicable prospectively. All of the requirements of the second paragraph of this section should include the good-cause exemption at the Director's discretion due to market conditions. Bridger suggests accomplishing this by moving the second sentence in the paragraph to the end of the paragraph. The final paragraph of the subsection prohibits storage of solids at pipeline facilities, but does not account for soils being treated. Bridger suggests excluding soils being treated using the language suggested below. Bridger provides suggested language.		
		4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC - Comment: The terms 'associated pipeline facility' and 'above ground equipment' are undefined and could vary the interpreted intent of this section greatly and cause significant issues. All of the requirements of the second paragraph of this section should include the good-cause exemption at the Director's discretion due to market conditions. NDPC suggests accomplishing this by moving the second sentence in the paragraph to the end of the paragraph. The dike requirements in the third paragraph of subsection 29.1.7 are also inappropriate, as state regulations already address dike requirements for oil production tanks. Additionally, the experience of NDPC members indicates the 'required capacity of the dike may be lowered by the director if the necessity thereof can be demonstrated to the director's satisfaction' is inconsistently applied. The final paragraph of the subsection prohibits storage of solids at pipeline facilities, but does not account for soils being treated. NDPC provides suggested language	The Commission modified the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment" to promote consistency with the statutory definition of underground gathering pipeline.  The Commission added language to the proposed rule requiring the owner take steps to minimize solids stored. The proposal allows for the remediation of solids onsite if approved by the director.	Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".  The Commission removed "The storage of solids is prohibited at any pipeline facility. Any solids generated at a pipeline facility must be removed and properly disposed of in an authorized facility in accordance with all applicable local, state, and federal laws and regulations." and added "The underground gathering pipeline owner shall take steps to minimize the amount of solids stored at the pipeline facility, although the remediation of such material may be allowed onsite, if approved by the director."
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council The terms 'associated pipeline facility' and 'above ground equipment' are undefined and could vary the interpreted intent of this section greatly and cause significant issues. All of the requirements of the second paragraph of this section should include the good-cause exemption at the Director's discretion due to market conditions. NDPC suggests accomplishing this by moving the second sentence in the paragraph to the end of the paragraph. The dike requirements in the third paragraph of subsection 29.1.7 are also inappropriate, as state regulations already address dike requirements for oil production tanks. Additionally, the experience of NDPC members indicates the 'required capacity of the dike may be lowered by the director if the necessity thereof can be demonstrated to the director's satisfaction' is inconsistently applied. The final paragraph of the subsection prohibits storage of solids at pipeline facilities, but does not account for soils being treated. NDPC provides suggested language		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - Equipment "waived by the director" should be inspected regularly - a minimum of monthly for leaks and signs of integrity failure. Additionally, NDIC's waiver should not last indefinitely. Associated facilities constructed of incompatible materials should be promptly replaced rather than repaired if any of these inspections reveal failures, compromised equipment or other deficiencies. In this way, the use of sub-par materials will not be prolonged, and will be phased out at a reasonable pace as equipment ages. EDF provides suggested language: EDF encourages adoption of these proposed rules, with some changes and additions for clarity and consistency with leading practices. Specifically, the proposed rule requires secondary containment surrounding "all produced water or crude oil tanks at any new facility" and at "any above ground equipment" when "deemed necessary by the director." NDIC should require integrity testing, prior to placing new tanks into service or, for existing tanks, within a reasonable time after adoption of this rule. NDIC may also wish to specify the type of dike required, to ensure the use of steel dikes. EDF provides suggested language for steel dikes. The proposed language uses the term "fluid throughput," which is ambiguous for several reasons. EDF suggests that requirements in this section be modified for clarity, and to ensure that secondary containment is sufficient to accommodate a single tank, connected tanks, and precipitation events. To minimize the potential impacts of leaks and spills from crude oil and fluids gathering pipeline systems, EDF recommends that NDIC prohibit the construction of associated facilities in floodplains, and require additional protections for the pipeline segments located within a 100-year floodplain. EDF provides suggested language.	The Commission does not agree with the suggestion that equipment "waived by the director" should be inspected regularly, a minimum of monthly, for leaks and signs of integrity failure. The proposed rule allows the director to waive the requirement for tanks in "good condition". The Commission does not think it is cost-effective or feasible to require steel containment. The Commission intends to promote flexibility for owners to construct berms of any sufficiently impermeable material.	none
		4/11/2016	Oral + exhibit	Gregory Johnson-North Dakota Society of Professional Land Surveyors (NDSPLS) Supports the proposed requirement, with the addition to correcting the proper GIS DATUM realization reporting requirements to comply with NDCC 38-08-26 and NDCC 47-22-03 describing the North Dakota coordinate system. NDSPLS suggests the following amendments: "along with the associated spatial realization reference/projection information describing the North Dakota Coordinate System (NDCC 47-20-2-03) locating the centerline of the pipeline as constructed from origin to terminating point. The submitted shapefiles must have a completed attribute table, datum realization listing (NAD 83 (1996) (NRSR2007) (2011) or most recent listing) with the proposed NDAC 43-02-03-29.1 required data." Also to 43-02-03-29.1.4k(1) amend wording to "(1) An accurate plat certified by a North Dakota registered surveyor" showing the locations of the entry and exit points.	The Commission modified the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment" to promote consistency with the statutory definition of underground gathering pipeline.	Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".
		4/12/2016	Oral + exhibit	Curtis Glasoe-North Dakota Society of Professional Land Surveyors (NDSPLS) Repeated testimony given by NDSPLS on 4-11-2016 + same exhibit	The Commission agrees with the comments regarding the datum realization listing. The Commission has been collecting the datum realization since the 2014 rulemaking. The Commission amended the rule to include a requirement that the shapefile must have a completed attribute table containing the required data.	The Commission added "The shape file must have a completed attribute table containing the required data."
		4/13/2016	Oral + exhibit	Ed Rintamak-North Dakota Society of Professional Land Surveyors (NDSPLS) Repeated testimony given by NDSPLS on 4-11-2016 + same exhibit		
		4/15/2016	Written	Dewitt Bureaux-Flexsteel Submitted the following suggestions: 43-02-03-29.18a(2) add language, "The outside diameter, minimum wall thickness, composition, internal yield pressure or nominal pressure rating established by the manufacturer, and maximum temperature, or any other specifications deemed necessary by the director." 43-02-03-29.18a(2) add language, "if applicable, the specified minimum yield strength of the pipeline."	The Commission does not agree with the suggestion to add "nominal pressure rating established by the manufacturer". The Commission has been requiring owners to submit the maximum operating pressure since the 2014 rulemaking.	none
		4/25/2015	Written	Royce Brown - Enable Midstream Partners - Underground gathering pipeline as built The proposed notification rules would require that proponents of new gathering pipelines provide detailed geographic information system (GIS) pipeline centerline data, as well as other detailed design drawings. Such data that provide detailed location information for pipeline facilities are normally regarded as Critical Energy Infrastructure Information (CEII) and/or Privileged & Confidential (P&C) information that is not made publicly available and that is protected from disclosure under the Freedom of Information Act and state sunshine laws. The NDIC must provide the regulated industry with assurances that the detailed and sensitive information identified for inclusion in project notifications to the NDIC will be treated and maintained with appropriate confidentiality and protected from public disclosure.	Confidentiality is addressed in NDCC 38-08-26 states, "shape files and the resulting geographic information system database are exempt from any disclosure to parties outside the commission and are confidential except as provided in this section. The information may be used by the commission in furtherance of the commission's duties."	none
	Outlines requirements for underground gathering pipelines as built (para 8)	4/25/2016	Written	James Cron - Cron Industries, LLC - We find this language over-reaching and not in the spirit of legislative intent of HB 1358. We find this language impractical and if implemented too costly to apply. This was not meant for a permitting vehicle and in itself would not provide any relief from possible spills. Subsection 8.b We think this section should expressly convey that this requirement is not intended to cover flowlines, as only gathering pipeline systems were the focus of the legislative intent of HB 1358. The language in this subsection contradicts the statutory definitions of gathering pipelines and systems. We request language be introduced offers a clear exclusion of all flowlines from the proposed rules.	The Commission added language to clarify flow lines are not required to be submitted. The Commission does not agree with the statement that the language in this subsection contradicts the statutory definitions of gathering pipelines and systems. The majority of the language in this subsection was promulgated following HB1333, and the creation of NDCC section 38-08-26.	Subsection 8b The Commission added "flow lines, injection pipelines, pipelines operated by an enhanced recovery unit or enhanced recovery unit operations, or on"
		4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC - Comment: Bridger is also concerned with subsection 8. We believe the language proposed in this section goes far beyond the legislative intent of HB 1358. NDCC 38-08-27 clearly limits the application of requirements in this section to lines placed into service after August 1, 2015, and Bridger strongly objects to the proposed rules adding an additional three years by using August 1, 2011 as the cutoff. Again, NDCC 38-08-27 only requires engineering construction design drawing and a plan for leak detection and monitoring be submitted only upon request. The legislative committees discussed this requirement at length, and were clear in their intent. As written, this section requires automatic submission of information far beyond that requirement, creating a deluge of paperwork for both operators and DMR staff. Additionally, many of the requirements of the proposed language provide no benefit to preventing leaks or spills.	HB 1333 and the subsequent 2014 Rulemaking established the requirement for underground gathering pipeline owners submit GIS shapefiles showing the location of the pipeline. The requirement applies to underground gathering pipelines placed into service after August 1, 2011.	none
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council NDPC is also concerned with subsection 8. We believe the language proposed in this section goes far beyond the legislative intent of HB 1358. NDCC 38-08-27 clearly limits the application of requirements in this section to lines placed into service after August 1, 2015, and NDPC strongly objects to the proposed rules adding an additional four years by using August 1, 2011 as the cutoff. Again, NDCC 38-08-27 only requires engineering construction design drawing and a plan for leak detection and monitoring be submitted only upon request. The legislative committees discussed this requirement at length, and were clear in their intent. NDPC recommends striking the last sentence of subsection 8.a, and subsections 8.a.(1)-(8) and 8.a.(10)-(11). Subsection 8.a.(5) asks for the direction of fluid flow. NDPC believes this is not pertinent and has no value, as if a line is breached, the direction of flow will change toward the breach and not stay in the original direction of flow. On complex gathering systems, it is common for segments to be activated as construction is completed and tested individually. The NDIC database would need to be able to accept a value of "multi". Subsection 8.b, should clarify that this requirement is also not intended to cover flowlines, only gathering pipelines systems as was legislative intent. The language in this subsection creates uncertainty and is contradictory to statutory definitions of gathering pipelines and systems. NDPC requests clear exclusion of all flowlines from the proposed rules.	HB 1333 and the subsequent 2014 Rulemaking established the requirement for underground gathering pipeline owners submit GIS shapefiles showing the location of the pipeline. The requirement applies to underground gathering pipelines placed into service after August 1, 2011. The Commission agrees that the direction of fluid flow is not pertinent. The Commission included "protection" to now require leak detection, protection, and monitoring methods. The Commission added language to clarify flow lines are not required to be submitted. The Commission does not agree with the statement that the language in this subsection contradicts the statutory definitions of gathering pipelines and systems. The majority of the language in this subsection was promulgated following HB1333, and the creation of NDCC section 38-08-26.	Subsection 8a Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment". The Commission added "The shape file must have a completed attribute table containing the required data." Subsection 8a(5) The Commission removed "and direction of fluid flow." Subsection 8a(9) The Commission added "protection" Subsection 8b The Commission added "flow lines, injection pipelines, pipelines operated by an enhanced recovery unit or enhanced recovery unit operations, or on"
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - EDF supports the retention of the rule requiring the owner of any underground gathering pipeline placed into service after July 31, 2011 to file a GIS layer and other information with the NDIC within 180 days of placing the pipeline into service. This useful information regarding the extent and location of the state's gathering pipeline system will markedly enhance NDIC's ability to oversee these networks. However, we note that the EERC recommended that the state increase its efforts to obtain information regarding pipelines constructed prior to August, 2011. EDF recommends the NDIC use this opportunity to require that all operating underground pipelines placed into service prior to August, 2011 file GIS layers with NDIC according to a reasonable schedule. EDF provides suggested language.	HB 1333 did not grant the Commission the authority to require all pipelines before July 31, 2011 to have 1 year to submit GIS data. The EERC study recommends The state should continue to work with industry stakeholders to inventory and catalog existing pipeline locations for pipelines that were installed prior to the new GIS reporting rule.	none
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - Operating requirements a. Part 192 of CFR 49 references Maximum Allowable Operating Pressure (MAOP) for natural gas pipelines, whereas Part 195 references Maximum Operating Pressure (MOP) for liquid pipelines. We recommend that this language be revised to address not only MAOP, but Maximum Operating Pressure (MOP) as well. b. The second part of this proposed rule states that "The underground gathering pipeline must be equipped with pressure-regulating devices to prevent the pipeline from operating above the maximum allowable pressure." We recommend this language be revised to read "Each operator of a gathering pipeline system must provide adequate controls and protective equipment to control operating pressures below maximum allowable operating pressure for natural gas pipelines or maximum operating pressure for liquid pipelines."		
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Comments: There are multiple types of devices that can be used to protect the maximum allowable pressure of any particular pipeline system. As currently written, this section would limit operators to only using regulators. The NDIC should consider revising this section to allow operators the ability to design their pipeline systems using the types of devices best suitable to that pipeline. Suggested Language: The maximum allowable operating pressure shall not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The underground gathering pipeline must be equipped with pressure limiting devices, relief devices, or overpressure shut-in devices where the maximum allowable pressure could be exceeded during normal operation. Protected equipment with pressure regulating device to prevent the pipeline from operating above the maximum allowable pressure.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - The language is vague in regards to what a "pressure-regulating device" is and needs to follow a standard such as ASME B31.4 or rely on PHMSA guidelines. The lack of definition on this term leaves this regulation open to potential misinterpretation and expectations of technology that is unnecessary or possibly inappropriate.		The Commission amended this section as follows: The maximum allowable operating pressure for all crude oil and produced water underground gathering pipelines shall not exceed the manufacturer's specifications of the pipe or the manufacturer's specifications of any other component of the pipeline, whichever is less. The crude oil or produced water underground gathering pipeline must be equipped with pressure-regulating devices-adequate controls and protective equipment to prevent the pipeline from operating above the maximum allowable operating pressure.
		4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC - Comment: Bridger believes that the term "pressure regulating device" is too narrow to meet the intent of this paragraph. PHMSA uses the terms "pressure limiting device, relief valve, pressure regulator or other item of pressure control" which we believe would be more appropriate. In some cases pressure can be controlled with the use of pumps which are not capable of exceeding the pressure limitation of the pipeline. By mirroring the PHMSA language NDIC can accomplish the goal of requiring a pipeline to be operated within its design limits. To require the addition of a mechanical device that is subject to failure when one is not needed is detrimental to the safety of the pipeline system.	To be consistent the Commission will use the term maximum operating pressure. This section only applies to crude oil and produced water gathering pipelines. The Commission agrees with the suggestion to replace "pressure regulating devices" with "adequate controls and protective equipment to control MOAP and MOP"	

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
	requirements for operating pipelines (para 9)	4/25/2016	Written	Nick Johnson - 1804 Operating - Comment: Without further definition, the use of the term 'pressure-regulating devices' in subsection 9, is inappropriate. PHMSA uses the term 'pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment' in their section title 'Overpressure safety devices and overflow equipment' which encompasses a large variety of options. 'Pressure regulating devices' can insinuate an automated control device that is not necessarily appropriate nor practical on all systems. In some cases a pipeline may be protected from overpressure by installing pumps which cannot develop a pressure beyond the specification of the pipe. The lack of definition on this term leaves this regulation open to potential misinterpretation and expectations of technology that is unnecessary or possibly inappropriate. 1804 Operating recommends using the PHMSA term as it leaves the options of relief devices, regulating devices, pump limitations or pressure control valves all in the scope and allows engineering to drive the best solution for the application. PHMSA acknowledges that in instances where there is no potential for over-pressurization, pressure regulating devices are unnecessary. (NDPC)		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: Without further definition, the use of the term 'pressure-regulating devices' in subsection 9, is inappropriate. PHMSA uses the term 'pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment' in their section title 'Overpressure safety devices and overflow equipment' which encompasses a large variety of options. 'Pressure regulating devices' can insinuate an automated control device that is not necessarily appropriate or practical on all systems. In some cases you may protect your pipeline from being over pressured by installing pumps which cannot develop a pressure beyond what your pipe can withstand. The lack of definition on this term leaves this regulation open to potential misinterpretation and expectations of technology that is unnecessary or possibly inappropriate. NDPC recommends using the PHMSA term as it leaves the options of relief devices, regulating devices, pump limitations or pressure control valves all in the scope and allows engineering to drive the best solution for the application. In addition, PHMSA acknowledges that in instances where there is no potential for over-pressurization, pressure-regulating devices are unnecessary.		
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - Pipeline maintenance is a critical component of gathering pipeline system operations. According to EERC, spill statistics show that regular maintenance is one of the top three ways to minimize pipeline failures. Accordingly, EERC recommended that NDIC should address maintenance in its rulemaking, and EDF concurs. EDF recommends that NDIC include requirements for maintenance in the proposed gathering pipeline system rules. EDF provides suggested language. Shut-off valves, particularly those with remote operating capabilities, can limit the volume of fluid released into the environment in the event of a leak or spill if placed along regular intervals of a pipeline gathering system. EDF respectfully suggests that NDIC consider including a similar requirement in the proposed underground pipeline gathering system regulations. EDF provides suggested language.	Maintenance is addressed in subsection 4 Design and construction, subsection 12 corrosion control, and subsection 13 pipeline integrity, and subsection 14 pipeline repair. The EERC study did not specifically address shut-off valves to limit a releases.	none
		4/13/2016	Oral	Laura Erickson - Cardno will submit written comments suggesting changes the proposal requiring a data sharing plan.		
		4/25/2016	Written	Grant Slick - AE25 - In the last paragraph in this section there is language pertaining to "real-time" shared access to data between operator of the production facility, the crude oil and produced water gathering pipeline owner, and the operator at the point or points of disposal, storage, or sale. Real time shared data access may not be a possibility due to security procedures, software incompatibilities, and operator specific proprietary information. Well pads are typically brought on-line in advance of the operators communications system infrastructure and it is not always feasible to install temporary communications facilities. Real time language should be reworded to include a grace period of a certain amount of time.		
		4/25/2016	Written	Laura Erickson - Cradno - 3rd ¶ Recommends striking "real time" to allow the operator and gathering PL owner to determine frequency of data exchange and access, due to the added record-keeping requirements, all data can be audited by NDIC. Real-time systems do not seem a reasonable requirement at this time with additional operational controls and practices that will be required as part of this new rulemaking.		
		4/25/2016	Written	Dan Middlebrooks - Targa interprets NDIC's leak detection proposal at NDAC § 43-02-03-29.1(10) not as requiring a specified form of leak detection, and instead as requiring all owners of crude oil and produced water gathering lines to file leak detection and monitoring plans, if any, with the NDIC. Further, if an owner installs a computational pipeline monitoring system on a gathering line, NDIC proposes to require that it be "operated, maintained, and tested" in accordance with API's recommendation practices, which is consistent with PHMSA's CPM rules in 49 C.F.R. Part 195. However, NDIC also proposes to require all such owners to "develop and maintain a data sharing plan." The data to be shared would most likely be obtained from Targa's SCADA systems, and Targa and others in the industry consider that information highly proprietary and confidential. As such, Targa respectfully requests that NDIC remove the data sharing requirement from the rules.		
		4/25/2016	Written	Robbie McDonough - Crestwood incorporates by reference the comments of NDPC and GPA regarding this section. Crestwood is concerned with the sharing plan included in this section. If the Commission chooses to implement this rule, it should include an "opt out" provision for underground gathering pipeline owners that measure every input and output on its system. Additionally, the term "real time" is ambiguous and vague. Depending on the definition of "real time," this rule potentially puts impracticable, if not impossible, burdens on operators.		
		4/25/2016	Written	Debbie Beaver - GPA Midstream - NDIC's Proposed Amendment and Addition requiring data sharing is not needed, is overly burdensome and should be eliminated from the proposal. NDIC's Section 43-02-03-29.1 (10) requires crude oil and produced water underground gathering pipeline owners to develop and maintain data sharing plans. Many North Dakota underground pipeline operators gather crude oil and production water from thousands of well sites. The connections tying these well sites into the downstream gathering systems, while safe and efficient, are manually gauged. This type of measurement is not real time and volumes are not, and cannot, be reported until the associated production tank has been emptied. Requiring the development of real time gauging systems would not only be overly burdensome (requiring the installation of, at a minimum, electronic meters, flow computers and communications equipment at thousands of locations), but also expensive and should be eliminated from the Proposed Amendments and Additions. At a minimum, NDIC's Proposed Amendments and Additions should state that data sharing discrepancy submissions will be kept confidential. These data sharing plans are required to provide shared access to data between the production facility operator, pipeline operator and the operator at the point of disposal, storage, or sale. GPA Midstream suggests that NDIC add a statement to the end of 43-02-03-29.1 (10) stating that "All copies of records so filed with the commission shall be maintained as confidential and proprietary and shall be afforded the protections of the State of North Dakota's confidential document status."		
		4/25/2016	Written	Eric Sundberg - Slawson - 43-02-03-29.1 Section 10 Leak Detection & Monitoring The proposed rule states that all crude oil and produced water underground gathering pipeline owners must file with the commission any leak detection and monitoring plan prepared by the owner or required by the director. The proposed rule provides the example of a computational pipeline monitoring leak detection system. We would like to ensure that other leak detection systems will be considered under the new rule as the computational monitoring system is not a practical solution for all gathering systems. We utilize a line balancing system that is monitored with SCADA and is more than efficient for leak detection in our low pressure crude oil gathering pipeline network. It would cause unnecessary cost to the company to install the necessary equipment and software to implement a computational pipeline monitoring system.		
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - We have no objection to development and submittal of a leak detection plan, but this does not appear to be mandatory based on the language of this proposed rule unless required by director. Traditional CPM's are designed and used on transmission pipelines typically with one input and one output. A real time data sharing plan is not reasonable or achievable. First, the definition of real time could be many things and is dependent on poll interval, calculations, etc. Second, technology and coordination of such an effort is prohibitive. This will essentially force pipeline operators to provide SCADA systems for interconnected operators. To make real-time data sharing possible, without violating cybersecurity policies and recommendations from API RP 1164, each interconnection with other parties will require confidentiality agreements, background screening and training awareness for interconnected underground pipeline operators. Third, managing discrepancies between data or lack of data will detract from an operator's ability to truly focus on operations, thus creating the potential Who notifies whom and who is responsible for the investigation? What details should be recorded and how long should the records be kept? This uncertainty will discourage operators from installing CPM systems.	The Commission modified the title to Leak protection, detection, and monitoring. The Commission included leak protection and detection because HB 1358 addressed both "protection" and "detection". The EERC study analyzed leak detection and the phase II pilot demonstration is specifically testing leak detection technologies. The Commission added "pursuant to section 38-08-27 of the North Dakota Century Code" to clarify leak protection, detection, and monitoring plans can only be required pursuant to the statute. The Commission removed the provision requiring owners that utilize computational pipeline monitoring to operate, maintain, and test in accordance with API 1130.	Subsection 10: The title was amended to Leak protection, detection, and monitoring. The Commission added "protection, detection" in the first paragraph. The Commission also added, pursuant to section 38-08-27 of the North Dakota Century Code. The Commission removed: <del>Computational pipeline monitoring leak detection systems installed on a crude oil and produced water underground gathering pipeline must be operated, maintained, and tested in accordance with American petroleum institute's recommended practice for Computational Pipeline Monitoring for Liquids- Record keeping and dispatcher training of the computational pipeline monitoring leak detection system must be followed in accordance with American petroleum institute's recommended practice for Computational Pipeline Monitoring for Liquids-</del> The Commission removed "shared access" and replaced it with "sharing of". The Commission also deleted "all parties involved in the data sharing shall be notified immediately" and added "the party observing the data discrepancy shall notify all other parties"
		4/25/2016	Written	James Cron - Cron Industries, LLC - According to API RP 1130, "CPM systems that use algorithmic approach to detect hydraulic anomalies in pipeline operating parameters." The primary purpose of these systems is to provide tools that assist pipeline controllers in detecting commodity releases that are within the sensitivity of the algorithm." It also states that the RP refers to single phase systems which may not be applicable in all cases. In addition the implementation on all gathering systems of such a system would be too costly for small gathering systems making them uneconomical. We feel that the CPM language should be deleted from this section. We find the data-sharing plan without merit as the language does not set a standard, nor does it provide any guidance on what should be done with this data.	Based on proprietary concerns the Commission removed the requirement to share access to data. Owners are now required to share data as opposed to access. The Commission also clarified that the party observing the data discrepancy shall notify all other parties. The Commission will not include an "opt out" provision for owners that measure every input and output on its system. The data sharing requirement is a recommendation from the study.	

NDAC	PURPOSE/AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
	Outlines requirements for leak detection and monitoring (para 10)	4/25/2016	Written	Ken Dockweller - Bridger Pipeline, LLC - Bridger has a number of concerns with this section. First, we believe that proposing this requirement at this time is premature. In fact the legislature in HR 1358 prescribed a pilot project to be conducted on the use of leak detection systems on gathering lines and the EERC is currently putting together that work to provide real information regarding cost benefit analysis. The use of the term "leak detection" and "leak detection systems" can be misleading as no system can detect leaks 100 percent of the time. The statute was clear on having leak protection. The first paragraph is unclear and may be overly burdensome. Adding another plan to be submitted to the director creates yet another pile of paperwork with little or no benefit. The second paragraph which gets into Computational Pipeline Monitoring or CPM is particularly premature. CPM is currently deployed and is somewhat effective on transmission pipelines where the inputs, outputs pressures and flow rates are somewhat constant. Bridger suggests that the NDIC return to this issue after the EERC has completed the pilot program and can provide better data regarding effectiveness and the cost benefit analysis associated therewith. The third paragraph should be struck. If not struck entirely all references to crude oil should be eliminated. As this paragraph is in the leak protection section it is assumed that the NDIC is most concerned with the data necessary to protect from leakage. We do not share data with the producer, but receive all of the data necessary for any leak protection from the LACT units on the location.		
		4/25/2016	Written	Nick Johnson - 1804 Operating- The term 'leak detection' should not be used in the title and the following subsection, as there is no system that can detect leaks 100 percent of the time, and the intent of statute is 'protection'. There is uncertainty as to whether a plan is required, or just required to be submitted if an operator has a plan. It also seems unnecessary to file a leak detection and monitoring plan with the director, as this creates yet another pile of paperwork without any benefit. Second, 1804 is concerned with the language regarding computational pipeline monitoring leak detection systems. These systems are not appropriate for gathering lines, as they are intended for transmission lines. Language in this subsection should be altered so that it is clear that a CPM program is not required. 1804 is also concerned with the language in this subsection referencing data sharing plans. First, 'real-time shared access' is commonly considered a serious data security risk and threat to the nation's energy supply. There are options for data sharing within reasonable periods of time that are not 'real-time.' Additionally, these sharing plans should only be required when the leak detection system requires multiple party inputs to correctly detect leaks. This is not clear in the currently proposed language. 1804 also recommends removing crude oil from the final paragraph of subsection 10. Oil shippers are already monitoring volumes due to the nature of oil sales. 1804 provides suggested language.		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council The term 'leak detection' should not be used in the title and the following subsection, as there is no system that can detect leaks 100 percent of the time, and the intent of statute is 'protection'. There is uncertainty as to whether a plan is required, or just required to be submitted if an operator has a plan. It also seems unnecessary to file a leak detection and monitoring plan with the director, as this creates yet another pile of paperwork without any benefit. Second, NDPC is concerned with the language regarding computational pipeline monitoring leak detection systems. These systems are not appropriate for gathering lines, as they are intended for transmission lines. Language in this subsection should be altered so that it is clear that a CPM program is not required. NDPC is also concerned with the language in this subsection referencing data sharing plans. First, 'real-time shared access' is commonly considered a serious data security risk and threat to the nation's energy supply. There are options for data sharing within reasonable periods of time that are not 'real-time.' Additionally, these sharing plans should only be required when the leak detection system requires multiple party inputs to correctly detect leaks. This is not clear in the currently proposed language. NDPC also recommends removing crude oil from the final paragraph of subsection 10. Oil shippers are already monitoring volumes due to the nature of oil sales. NDPC provides suggested language.		
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Comments: The Hiland Entities have over 1,800 crude well sites where manual tank gauging is used for measurement of crude oil into gathering pipelines. This type of measurement is not real-time and volumes are not reported until after a tank has been emptied. Additionally, the gathering pipelines do not have steady state flows and pressures. Tank volumes are pumped into the pipelines after the tank has been manually gauged which results in numerous pumps starting and stopping at various times. The result is there is not a steady state of pressures or flow where a computational monitoring system would be appropriate for a gathering system. The Proposed Rules state that the operator must develop a data sharing plan with real-time access. This is not feasible in most instances, where crude oil is manually gauged at its input into a gathering system. Additionally, most operators measure into their own gathering pipelines, which would make data sharing unnecessary. To the extent the Proposed Rules require real-time measurement, the costs would be extraordinary and therefore this request should be eliminated in the new rules.		
		4/25/2016	Written	Craig Scott - Dakota Resource Council - "23-02-03-29.1 is aimed to improve the underground gathering pipeline safety and integrity." "Section 10 states that the operator is required to file with the commission any leak detection and monitoring plan. This does not require the operator to state where the location of the controls must be. Dakota Access Pipeline, for example, will run under two critical areas of the Missouri River. Controls for this pipeline are expected to be located in Texas, increasing the damages of any area of rupture that may be left for an unnecessary amount of time. It does make a difference where these controls are monitored, especially in relation to emergency first responders." "Members of Dakota Resource Council strongly urge that controls for monitors, valves, and pressure monitors be located within state to mitigate the cost of and time to respond to an undesired event."	The Commission does not agree with the suggestion to require controls for monitors, valves, and pressure monitors be located within state. The Phase II pilot demonstration project will be looking at this type of remote controls and may offer valuable information regarding the necessity of having the control room located in North Dakota or locally.	none
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - EDF strongly supports the NDIC in its efforts to promote the widespread use of leak detection and monitoring systems to minimize the impacts of leaks and spills. NDIC's proposed leak detection and computational pipeline monitoring rules are progressive and represent a positive step towards leveraging best management practices to reduce the impacts of spills and leaks from crude oil and fluid pipelines. Despite the many benefits of leak detection systems, however, the EERC determined that operators are not certain to use leak detection systems if not required by regulation. EDF strongly encourages NDIC to require operators to prepare and act upon effective leak detection plans. However, as currently drafted, it is unclear whether operators must create and employ a leak detection system. It is also unclear whether operators must file a leak detection plan for every gathering system, or must only file if a plan is prepared or otherwise requested by the director. Due to the critical importance of leak detection systems, EDF urges NDIC to make clear that each operator should prepare and act in accordance with a leak detection and monitoring plan. EDF provides suggested language. EDF recommends that computational pressure monitoring be required for transmission and collection mains, which tend to have higher operating pressures that are more conducive to CPM capabilities. For flowlines and other small diameter pipeline segments servicing single facilities, operators may be able to design leak detection and monitoring systems that are similarly, or more effective than computational pipeline monitoring (CPM). In no circumstance, however, should flowlines go without leak detection and monitoring. EDF provides suggested language. EDF applauds NDIC for including in the proposed rule the requirement that operators develop a "real time data sharing plan." The proposed rule should not be difficult to comply with. In fact, EERC observed that many pipeline operators in the state currently employ real time data sharing. Operators still without real-time measurement data communication capabilities can easily select from the numerous options available, including those outlined and evaluated in the study.	The leak protection, detection, and monitoring plan must be submitted if it is prepared. Also the director can require a leak protection, detection, and monitoring plan pursuant to NDCC section 38-06-27.	none
	Requires a spill response plan to be maintained (para 11)	4/13/2016	Oral	Laura Erickson-Cardno Suggests to strikethrough language as follows, "...The spill response plan must be developed in conjunction with the local emergency manager and tailored to the specific risks in the localized area." Cardno stated that local emergency managers are overwhelmed and developing a spill response plan would be too much. Cardno suggested developing a spill response plan on a field wide level.		
		4/14/2016	Oral	Reice Haase-Cardno Same testimony as Laura Erickson above		
		4/25/2016	Written	Laura Erickson - Cardno - "Consider allowing a systemic, field-wide, or unit-wide plan; however, county-wide is probably too broad to appropriately address localized changes in topography, hydrology, geology, etc." recommends striking " developed in conjunction with the local emergency manager and..." as this requirement will overwhelm local officials		
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - This section is much too vague and allows for too much individual interpretation. We currently implement an Emergency Response Plan (ERP) for our North Dakota gathering system. The ERP is a DOT regulated plan and goes above the minimum requirements stated here. Compliance with 49 CFR 194 and the spill response noted therein, must supersede this section. We recommend a change to the language stating that those having an Emergency Response Plan established under 49 CFR 194 meets or exceeds the State of North Dakota's Spill Response requirements.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - By this language we interpret that the NDIC want to get into the ND Health department's jurisdiction for spills that occur off site. We feel if that is so, then it needs to be changed through the legislative process and not at the whim of the pen.	The Commission agrees with the comment that the proposed spill response plan will overwhelm local emergency managers The Commission does have jurisdiction on underground gathering pipeline spills	The Commission struck "developed in conjunction with local emergency manager and". The Commission also replaced "must" with "should"
		4/25/2016	Written	Ken Dockweller - Bridger Pipeline, LLC believes that this paragraph should be struck in its entirety. Owners of crude oil gathering lines are already required to maintain several different plans under several different federal regulations and are already required to report any spills off location to the North Dakota Department of Health		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Nick Johnson - 1804 Operating Comment: Some of the proposed language in subsection 11 is inappropriate, as the North Dakota Department of Health has jurisdiction over spills that occur offsite, and each company's spill plan may differ. Additionally, requiring local emergency managers to work on every spill plan will overwhelm the local agencies and bombard them with paperwork. This is extremely onerous and will significantly slow down the process. 1804 Operating recommends striking the last two sentences of this subsection. (NDPC)		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: Some of the proposed language in subsection 11 is inappropriate, as the North Dakota Department of Health has jurisdiction over spills that occur offsite, and each company's spill plan may differ. Additionally, requiring local emergency managers to work on every spill plan will overwhelm the local agencies and bombard them with paperwork. This is extremely onerous and will significantly slow down the process. NDPC recommends striking the last two sentences of this subsection.		
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - In general, the NDIC's proposed spill response regulation is a strong, common sense requirement that will facilitate collaboration between entities likely to respond to spills and leaks. We recommend that the response plan should be updated bi-annually to accommodate changing circumstances, staff, and evolving best management practices. EDF also recommends that a final copy of the spill response plan should be provided to local emergency responders. Local emergency responders are often the first on the scene of a leak or spill, and operators should endeavor to maintain open lines of communication, beginning with up to date and collaboratively developed plans for handling emergencies. This is consistent with EERC recommendations, which suggests that local emergency managers "work closely with pipeline operators to tailor response capabilities for the specific risks in their jurisdiction." EDF provides suggested language.	The Commission will revisit this requirement in future rulemaking to determine if additional regulations or modifications are necessary. The Commission is concerned the suggested requirement would overwhelm local emergency responders.	none
		4/12/2016	Oral	Kathryn Hilton--representing herself + rep various landowners she works with in NW ND Testified stating concerns that "sufficient corrosion control" was too vague and specific corrosion control standards should be outlined.	Sufficient corrosion control allows for flexibility and advancements in technology while accounting for historically accepted corrosion control practices	none
		4/15/2016	Written	Dewitt Burdeaux--Flexsteel Submitted the following suggestions: 43-02-03-29.1§12b add language, "All metallic underground gathering pipelines installed must have sufficient corrosion control. External corrosion control may be achieved through the application of cathodic protection or demonstration of coating integrity post construction," 43-02-03-29.1§12b add language, "Where installed, cathodic protection systems..."	The Commission does not agree with the suggested changes	none
		4/25/2016	Written	Grant Slick - AE2S - Section b: This section notes that all metallic underground gathering pipelines installed must have sufficient corrosion control. This statement is broad and without parameters. We would suggest using PHMSA's requirements as it pertains to this section.		
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - The requirement that pipeline be designed to withstand corrosion seems open to interpretation and does not provide clear guidance. We suggest the adoption of the applicable sections of 49 CFR 192 (natural gas) & 195 (hazardous liquids), Implementing operator requirements based on this established set of Federal Regulations will make it more effective for NDIC to regulate and for operators to implement. This requirement that all metallic pipe be installed with sufficient corrosion control does not provide clear guidance. As indicated above, we suggest the adoption of the applicable sections of 49 CFR 192 (natural gas) & 195 (hazardous liquids). Federal code language is preferable to Paragraph 12c. It is our suggestion to adopt the applicable sections of 49 CFR 192 (natural gas) & 195 (hazardous liquids). We believe that the phrase "Prompt remedial action" is too open to interpretation. This term should either be removed or replaced with a specified timeframe. Paragraph e.(1) internal corrosion coupon examination interval differs from federal code. We propose that the last sentence of paragraph e. (1) be revised to read: "The coupons or other monitoring equipment must be examined at least twice each calendar year, but with intervals not exceeding 7.5 months."		
	Requires a corrosion control system to be implemented (para 12)	4/25/2016	Written	Kan Dockweiler - Bridger Pipeline, LLC suggests that a timeline be added to when any corrosion control system should be active on a newly constructed pipeline. PHMSA has maintained the standard that within one year of construction a pipe is to be protected. Bridger agrees that a one year timeframe is adequate and encourages NDIC to adopt similar language. Additionally, we believe this section is overly limiting and would suggest that the NDIC reference an existing standard.	The corrosion control requirements are a combination of the recommendations from the EERC study and PHMSA requirements. The Commission removed language so the requirement remains consistent with PHMSA	The Commission deleted: Coupons or other monitoring equipment must be used to determine the effectiveness of the inhibitors in mitigating internal corrosion. The coupons or other monitoring equipment must be examined at least twice a year, but with intervals not exceeding six months.
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: NDPC requests clarification as to when corrosion control must be installed as required in subsection 12.b. NDPC recommends using PHMSA's requirement of within one year post construction (192.456(a)(2)). NDPC is also concerned that as written, the language in subsection 12.e.(1) does not allow for a number of industry standard methods. For example, sampling for iron levels is an acceptable method of evaluation corrosion. Suggested language: "...Coupons or other monitoring equipment or methods must be used to determine the effectiveness of the inhibitors in mitigating internal corrosion. The coupons or other monitoring equipment or methods must be examined at least twice a year, but with intervals not exceeding six months. Operators may demonstrate that an alternative examination period greater than six months is acceptable based on prior long term testing which can demonstrate that a longer timeframe for testing is reasonable."		
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Comments: This section should be specific as to which part of NACE SP 0169 is being incorporated into the Proposed Rules. This section is specific to Cathodic Protection Criteria, so it should only incorporate paragraphs 6.2.2, 6.2.3, 6.2.4, 6.2.5 and 6.3. Also, the NDIC should incorporate the 2007 version of NACE SP 0169 to be consistent with PHMSA. Operators with assets regulated under PHMSA would have written their operating procedures based on the 2007 version. Suggested Language: Cathodic protection systems shall meet or exceed the minimum criteria set forth in the National Association of Corrosion Engineers standard practice SP 0169-2007, Paragraphs 6.2.2, 6.2.3, 6.2.4, 6.2.5 and 6.3. Control of External Corrosion on Underground or Submerged Metallic Piping Systems.		
		4/25/2016	Written	Dawn Coughlin - Hess - Comment: NDIC should clearly define the term "pressure test" and set clear guidance for compliance while allowing operational flexibility. There are various methods of pressure testing, therefore NDIC should provide flexibility as appropriate to accommodate various methodologies. For example, testing can be accomplished using service fluid which would not require shutting in the line. In addition, air or nitrogen testing can be performed and water can be used for pressure testing. Additionally, Hess suggests striking subsection 13.a. Pressure testing is not typical for minor repairs such as installing a sleeve or grinding out a gouge. In subsection 13.c, The NDIC should consider and clarify whether this requirement is better placed as an obligation of the operator or owner.		
		4/25/2016	Written	Grant Slick - AE2S- Section c: This subsection mentions that pipeline integrity can be demonstrated through "periodic" pressure testing. Periodic needs a defined time line. We would suggest annual testing.		
		4/25/2016	Written	Debbie Beaver - GPA Midstream - NDIC's Proposed Amendments and Additions should not require notice prior to conducting pipeline integrity tests. NDIC's Section 43-02-03-29.1 (13) (a) requires underground gathering pipeline owners to "notify the commission at least forty-eight hours prior to commencement of any pipeline integrity test . . ." Id. at (13) (a). In addition, subsection (b) requires the pipeline owner to submit "[a]n independent inspector's certificate of hydrostatic or pneumatic testing . . . within sixty days of the test . . ." Id. at (13) (b). As written, the rules require an NDIC mandated independent inspector to witness the underground gathering pipeline owner's hydrostatic test along with an additional NDIC representative. These two rules, taken together, are redundant. Requiring forty-eight hour prior notice to flow for an NDIC representative to witness a test that is already witnessed by an independent inspector provides little if any additional security or integrity enhancement. In contrast, the notice provision will likely create unneeded service and repair delays. GPA Midstream suggests NDIC eliminate Section 43-02-03-29.1 (a) from its Proposed Amendments and Additions.		
		4/25/2016	Written	Eric Sundberg - Slawson - 43-02-03-29.1 Section 13 Pipeline Integrity. The proposed rule states that no owner may return to service a portion of the pipeline that has been repaired, replaced, relocated, or otherwise changed until it has been pressure tested. We request that when a section of a pipeline is being replaced, the operator has the ability to pre-test that section of pipe for integrity and x-ray the welds without pressure testing the entire pipeline section. This could be accomplished through field inspector notification and approval. Depending on the gathering system design and location of pipeline repair, it could be very difficult to pressurize the entire pipeline segment. 43-02-03-29.1Section 1 3(b) Pipeline Integrity Request the ability to use a qualified employee to certify the hydrostatic tests instead of requiring the use of third-party inspectors. We also request that the ability to pressure test a crude oil pipeline segment after a repair with the crude oil product and a pressure gauge at each end of the pipeline segment. This process will still meet the intent of the rule and allow for a cost effective means of pressure testing certain gathering systems that might be difficult to pressure test using traditional hydrostatic methods.		

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN	
		4/25/2016	Written	Dan Middlebrooks - Targa - The role of independent inspectors. NDIC's proposed rules contemplate an unnecessarily large role for third-party independent inspectors. In Section 2 of H.B. 1358, the Legislature only required pipeline operators to file an independent inspector's certificate of hydrostatic or pneumatic testing of underground crude oil and produced water gathering pipelines with the NDIC within 60 days of a pipeline being placed into service. As such, Targa supports NDIC's proposed NDAC § 43-02-03-29.1(13)(b) in that it is consistent with H.B. 1358, except that NDIC should require submission of the certificate of hydrostatic or pneumatic testing within 60 days of the pipeline being placed into service instead of "within sixty days of the test."		The Commission added crude oil and produced water throughout Subsection 13.	
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - If ND intends to improve pipeline safety and integrity, it should just adopt the existing requirements of Federal Code 49 CFR, Parts 192 and 195. These federal codes give specific guidance for inspecting liquid could affect segments (CAS) and High Consequence Areas (HCA). By contrast, the NDIC guidance is very vague. There is no guidance provided on the requirement to pressure test. Both test level and applicability to existing, in-service pipelines is currently undefined in 43-02-03-29.1. All of this information is clear in Parts 192 and 195. Enable provides suggested language. Enable strongly recommend the NDIC to rewrite this paragraph and take into account there needs to be an exemption for emergency repair situations and provide certainty on how to notify. Enable requests the Commission strike the requirement to submit a shapelle for the location of the hydrostatic or pneumatic test. Additionally, we believe "Independent" is a vague and overly broad term and that "third party" implies the inspector is not employed by the pipeline operator. We recommend deleting the term "independent" from this section. A third party is company inspector will sign hydrostatic test documents indicating a successful test. Additionally, as currently written, the proposed rules contain inconsistencies between 13(b) and 14(b). First, 13(b) requires a submission of "independent" inspector's certificate of hydro test while the repair in 14(b) requires affidavit of completion by the pipeline owner. Second, a repair with an associated hydrotest would trigger duplicate reporting process, one for the hydrotest and one for the repair, each with individual reporting requirements. We believe that 13(c) Periodic is vague and undefined. Therefore, we recommend the NDIC establish a defined assessment cycle for integrity inspections.		The Commission clarified Subsection 13 applies to crude oil and produced water gathering pipelines only. HB 1358 mandates the Commission to adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity, this includes requirements for the owner to demonstrate integrity. The Commission does not feel it is necessary to define pressure test. Although types of pressure tests may vary, pressure testing is a common practice which is well defined. The Commission agrees that pressure testing may not be necessary for minor repairs. The Commission is requiring a demonstration of integrity, which includes pressure testing, nondestructive testing, pre-tested sections, etc. Subsection 13a The 48 hour advanced notice can be done verbally or in writing. Subsection 13b The Commission agrees with the amendment that the certificate of hydrostatic or pneumatic testing within 60 days of the pipeline being placed into service instead of "within sixty days of the test." The independent inspectors' certificate must be performed by a qualified person not employed by the owner. Subsection 13c Based on comments the Commission removed the requirement to demonstrate continuous pipeline integrity through periodic pressure testing. The proposed language appeared to be problematic and the Commission replaced it with requiring owners to maintain a pipeline integrity demonstration plan. The pipeline integrity demonstration plan is less prescribed than what was originally proposed, allowing owners more flexibility.	The Commission deleted "been pressure tested" and replaced it with "demonstrated integrity" Subsection 13b The Commission deleted "test" and added "underground gathering pipeline being placed into service" Subsection 13c The Commission made the following amendments: <del>The underground gathering pipeline owner must demonstrate continuous pipeline integrity for all in-service underground gathering pipelines. Pipeline integrity can be demonstrated through periodic pressure testing, computational pipeline monitoring, and leak detection systems, or internal integrity inspections. Pipeline integrity records shall be retained for the in-service life of the pipeline and made available upon request by the commission. All crude oil and produced water underground gathering pipeline owners must maintain a pipeline integrity demonstration plan during the service life of any crude oil or produced water underground gathering pipeline. The director may, for good cause, require a pipeline integrity demonstration on any crude oil or produced water underground gathering pipeline.</del>
	Outlines requirements to ensure pipeline integrity (para 13)	4/25/2016	Written	James Cron - Cron Industries, LLC - We feel this language should mirror requirement as much as found ASME B31.4. Subsection 13.c The phrase: "computational pipeline monitoring and leak detection systems" should be changed to "leak protection and monitoring systems". Statutory language is specifically "leak protection and monitoring", NOT leak detection. In addition the first statement in this subsection is too broad and should be removed or the NDIC should provide clarification on "continual pipeline integrity".			
		4/25/2016	Written	Kon Dockweiler - Bridger Pipeline, LLC believes that as written the paragraph is overly burdensome and needs some clarification. We believe that the intent of the entire section was accomplished in a much clearer fashion. We would propose the retention of the first sentence and striking the second. The second sentence as well as sub paragraph a, is overly burdensome and not additive to pipeline safety. We would also suggest deletion of paragraph c. If the NDIC is determined to include paragraph c we would recommend deletion of the word continual in the first sentence as it is confusing and adds little to the sentence. We would recommend deletion of the second sentence as there may be many other methods to demonstrate the integrity of a pipeline including volumetric balancing.			
		4/25/2016	Written	Nick Johnson - 1804 Operating - Comment: Language proposed in subsection 13 is also problematic. It is not practical to leave a gathering system shut-in for 48 hours to wait for testing. Many small repairs can be made the same day they are discovered. Requiring a 48 hour delay would cause unnecessary shut-ins of the gathering system. In comparison, DOT does not require 48 hours' notice, so it would seem inappropriate for the Commission to do so. If the Commission is concerned with operators conducting a valid test, then requiring a certification of calibrated gauges and a signed chart or downloaded data would be more appropriate. Delaying the repair of a leak is counter to the intent of the rulemaking, which is to proactively prevent spills. Pressure testing is also not typical for minor repairs. Other forms of non-destructive examination can be used in lieu of pressure testing and are acceptable by industry standards. (NDPC) In subsection 13.c, the phrase "computational pipeline monitoring and leak detection systems" should be changed to "leak protection and monitoring systems". Statutory language is specifically "leak protection and monitoring", NOT leak detection. In addition the first statement in this subsection is too broad and should be removed or the NDIC should provide clarification on "continual pipeline integrity". NDPC provides suggested language.			
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: Language proposed in subsection 13 is also problematic. It is not practical to leave a gathering system shut-in for 48 hours to wait for testing. Many small repairs can be made the same day they are discovered. Requiring a 48 hour delay would cause unnecessary shut-ins of the gathering system. DOT does not require 48 hours notice, so it seems inappropriate for the Commission to do so. If the Commission is concerned with operators conducting a valid test, then requiring a certification of calibrated gauges and a signed chart or downloaded data would be more appropriate. Delaying the repair of a leak is counter to the intent of the rulemaking, which is to proactively prevent spills. Pressure testing is also not typical for minor repairs. Other forms of non-destructive examination can be used in lieu of pressure testing and are acceptable by industry standards. Additionally, this delay would increase flaring, which is also counter to the Commission's goals. NDPC suggests striking subsection 13.a. In subsection 13.c, the phrase "computational pipeline monitoring and leak detection systems" should be changed to "leak protection and monitoring systems". Statutory language is specifically "leak protection and monitoring", NOT leak detection. In addition the first statement in this subsection is too broad and should be removed or the NDIC should provide clarification on "continual pipeline integrity". NDPC provides suggested language.			
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - NDIC's proposal to require pipeline integrity tests before service and after repairs or other alterations is consistent with best practices and will reduce leaks and spills from gathering pipeline systems. EDF supports this requirement, and respectfully suggests that NDIC add language to the rule to clarify what is considered a successful or passing test result. Some oil and gas regulators specify passing results for required integrity tests to provide certainty to operators, contractors, inspectors and regulators about what is expected, and what is sufficient. In the case of underground gathering pipeline systems, the variety of pipeline system designs, materials and functions, makes a single integrity test result unworkable. However, testing methods for the various configurations and pipeline types are generally described in detail in industry standards, such as ASTM. Therefore, in specifying the use of an industry approved testing method, the state is also clarifying what is considered an acceptable test result. EDF provides suggested language. To the extent that NDIC's proposed rule contemplates additional requirements to employ hydrostatic pressure tests, NDIC may consider mitigating the effects of water used in conducting these tests. EDF recommends the addition of guidance for handling and disposal of water used in hydrostatic pressure tests in compliance with state water quality regulations and soil protection and erosion control requirements. EDF provides suggested language. It is unclear whether the NDIC expects an inspector to witness the hydrostatic or pneumatic test. If this is the intention, the regulation should so specify. Requiring pipeline owners to demonstrate the continuous integrity of pipeline systems is an exemplary regulation and excellent forward progress towards reducing the likelihood of and reducing the potential impacts of leaks and spills from gathering pipeline systems. EDF vigorously encourages the adoption of this proposed rule. Without detracting from our full support for this provision, EDF suggests that NDIC clarify the type of testing that will satisfy this requirement. We also note that to demonstrate "continual pipeline integrity," an operator would ideally utilize computational pipeline modeling or real-time data analysis. Without continuous monitoring systems, demonstration of continual integrity would need to entail frequent periodic pressure testing. Explaining what is intended by the terms "continual" and "periodic" (e.g., "periodic pressure testing") in this way will create certainty for the regulated community, Commission and other stakeholders. EDF provides suggested language.		Subsection 13c The Commission made the following amendments: <del>The underground gathering pipeline owner must demonstrate continuous pipeline integrity for all in-service underground gathering pipelines. Pipeline integrity can be demonstrated through periodic pressure testing, computational pipeline monitoring, and leak detection systems, or internal integrity inspections. Pipeline integrity records shall be retained for the in-service life of the pipeline and made available upon request by the commission. All crude oil and produced water underground gathering pipeline owners must maintain a pipeline integrity demonstration plan during the service life of any crude oil or produced water underground gathering pipeline. The director may, for good cause, require a pipeline integrity demonstration on any crude oil or produced water underground gathering pipeline.</del>	
		4/25/2016	Written	Bill Wolf - Kinder Morgan, Inc. - Comments: The first sentence may limit common repair practices in the pipeline industry such as a "leak clamp". A pressure test is not performed when using a leak clamp for a repair. Also, this section should specify that only the piece of pipe that is being replaced, repaired, relocated, or otherwise changed need be pressure tested. Comments: This section requires a 48 hour notification prior to beginning a pressure test. The notification requirement will be very burdensome and result in a delay of return to service after a routine repair or replacement. It is not uncommon for operators to find a problem on a pipeline, repair it or replace it, and bring back into service within a single day. Also, an operator may use pre-tested pipe for routine repairs and replacements.	The Commission is requiring a demonstration of integrity, which includes pressure testing, nondestructive testing, pre-tested sections, etc. Subsection 13a The 48 hour advanced notice can be done verbally or in writing.	The Commission deleted "been pressure tested" and replaced it with "demonstrated integrity"	
		4/25/2016	Written	Dawn Coughlin - Hess - Comment: Hess cautions that the terms "owner" and "operator" should be used deliberately and should not be interchanged. Therefore, Hess proposes the following language change: Suggested Language: No <del>owner</del> operator may use any pipe, valve, or fitting, for replacement in repairing an underground gathering pipeline, unless it is designed and constructed to meet the pipeline manufacturer's design specifications-maximum allowable pipeline pressure.	The term Underground Gathering Pipeline Owner is consistently used throughout NDAC section 43-02-03-29.1 and subsection 8 of Section 43-02-03-15.	none	
		4/25/2016	Written	Grant Slick - AES2 - Section a: This subsection notes that at least 48-hours prior to any underground gathering pipeline repair or replacement, the underground gathering pipeline owner must notify the commission, as provided by the direct. This would be impossible when responding to emergency repairs and, thus, wording to exclude emergency repairs from this requirement should be included in the section.			

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
	Outlines requirements for pipeline repair (para 14)	4/25/2016	Written	Royce Brown - Enable Midstream Partners - The federal code is becoming very specific about repairs in liquid (CAS and non CAS segments) and gas (HCA, MCA and non-MCA) pipe segments. We believe that these rules should be incorporated instead of manufacturer design specifications. NDIC eventually needs to develop specific standards for FlexSteel pipelines. However our preference is for NDIC to exclude FlexSteel from rule. Enable provides suggested language. We strongly recommend the NDIC rewrite the requirement for notification 48 hours prior to repair and take into account the need for a specific notification process and the need for an exemption for emergency repair situations. Enable strongly urges the Commission to strike the requirement for the location of the repair in a GIS shapefile because this will have minimal value unless the NDIC has a vast amount of GIS data available for the rest of the system. Additionally, the way these proposed rules are currently written creates inconsistencies between 13(b) and 14(b). First, 13(b) requires a submission of "independent" inspector's certificate of hydrotest while the repair in 14(b) requires affidavit of completion by the pipeline owner. Second, a repair with an associated hydrotest would trigger duplicate reporting process, one for the hydrotest and one for the repair, each with individual reporting requirements. If the commission feels operators need to report this information we recommend that one process be utilized that includes both repair and hydrotest which would be sufficient with both hydrotest and repair certified by submission from representative of pipeline owner.		
		4/25/2016	Written	James Cron - Cron Industries, LLC Does the NDIC really want the operator to wait 48 hours to await approval from the NDIC? This language seems erroneous and without and basis in practical thought. The clock is ticking when a leak is detected, and having to wait for several days to get oversight is without merit and promotes damaging the environment further. The question of jurisdiction applies that unless the spill would occur onsite, the ND Dept of Health would be the responsible government agency.  Subsection 14.c The use of clamps or sleeves is permitted via ASME 31.02-2002, 451.6.2 which the latest standard we have access to. We feel this should also be allowed for use in all flow and gathering lines in ND in times of emergency and the line cannot be shut down for long. Or this ban should only pertain to gathering systems though explicit language.	The Commission agrees with comments regarding the repair being designed to meet the maximum operating pressure of the pipeline, not the pipeline manufacturer's design specifications.  Subsection 14 a The Commission agrees that the 48 hour notification may cause unnecessary delays for pipeline repair in cases of emergency. The Commission added language to allow for emergencies situations.	Subsection 14: The Commission deleted "in repairing" and added "or repair of". The Commission struck "and constructed" and "pipeline manufacturer's design specifications" and added "maximum operating pressure"  Subsection 14 a The Commission added "except in an emergency"
		4/25/2016	Written	Ken Dockweiler - Bridger Pipeline, LLC - has several concerns with this paragraph including specifically subparagraph a. We believe that this requirement is actually detrimental to the safety and health of the residents and property of the state of North Dakota. To delay repairs to a pipeline in order to make notification is not in keeping with the intent of these rules updates. Additionally Bridger suggests in sub paragraph c that the commission add the word "permanent" before "repair" to allow for the industry and PHMSA accepted practices of utilizing clamping or squeezing as methods of temporary repair.  <del>NDIC Commission - root operating</del>	The Commission agrees with comments that the use of clamps or sleeves should be allowed in temporary emergency situations. The Commission will allow the use of clamping or squeezing in an emergency, although any portion of pipe damaged due to the clamping or squeezing must be replaced before the pipeline is returned to service.	Subsection 14c The Commission added the following language: <u>except in an emergency. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is returned to service.</u>
		4/25/2016	Written	Comment: It is inappropriate to require an operator to wait 48 hours to repair or replace their gathering system as in subsection 14.a. An operator will commence repairs as close to immediately upon discovery of the situation to ensure that minimal damage is done. Waiting 48 hours would risk further environmental damage and economic harm to an operator. If necessary to retain this subsection, it should make a distinction from an emergency situation where 48 hour prior notification is not feasible. NDPC Operating recommends striking subsection 14.a. (NDPC)		
		4/25/2016	Written	During emergency conditions or after third party damage has occurred, the temporary use of clamps or squeezing is an accepted best practice in mitigating further damage to the environment. The NDIC should make a distinction or take into account these factors when prohibiting the use of such measures for permanent repairs as in subsection 14.c. NDPC provides suggested language.		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: It is inappropriate to require an operator to wait 48 hours to repair or replace their gathering system as in subsection 14.a. An operator will commence repairs as close to immediately upon discovery of the situation to ensure that minimal damage is done. Waiting 48 hours would risk further environmental damage and economic harm to an operator. If necessary to retain this subsection, it should make a distinction from an emergency situation where 48 hour prior notification is not feasible. NDPC recommends striking subsection 14.a.		
	4/25/2016	Written	Kevin Pranis - LIUNA - Elimination of clamping as a repair method - As noted in the EERC report, crimping pipe does permanent damage to the structure and we believe the reputable contractors already avoid the practice.			
	4/25/2016	Written	Holy Pearen - Environmental Defense Fund - EDF is strongly supportive of NDIC's proposed reporting requirements. When operators report the root causes of pipeline failures and the conditions that compromise integrity, all stakeholders - including NDIC, the industry and academia- can assess where the largest problems are and strategically assign resources to address them. In order to ensure that NDIC, academia and the regulated industry receive the best information about the causes of spills and leaks, NDIC should clarify language in this subsection requiring reporting of the causes of pipelines and component repairs and replacement. As currently written, the proposed reporting requirements may be satisfied by cursory responses that do not provide enough information to allow for informative failure analysis. We recommend that NDIC slightly modify language in this subsection to ensure sufficient data regarding pipeline integrity failures is collected, and for consistency with proposed modifications to NDAC 43-02-03-30. EDF provides suggested language. EDF concurs with NDIC's proposal to prohibit clamping and squeezing during repair of certain underground gathering pipelines. Sections of the pipe that are clamped or squeezed may be damaged, and this damage may lead to future leaks and spills. Therefore, we recommend that clamping or squeezing be prohibited for any underground gathering line, including pipelines carrying crude oil as well as non-fresh water. However, EDF acknowledges that squeezing and clamping may be useful in emergencies to rapidly stop flow from a compromised pipeline. We believe the proposed language accommodates this application, and would allow for clamping and squeezing as an emergency measure. To address potential damage to sections of a pipeline caused by this method of emergency flow management, we suggest that NDIC require that sections of pipe clamped or squeezed must be replaced before the pipe is placed back into service. EDF provides suggested language.	The Commission does not agree with the comment to add "root cause" to information accompanying the shape file. Root cause is more appropriately required for a spill under the proposed changes to NDAC section 43-02-03-30.  The Commission agrees with the comment that squeezing and clamping may be useful in emergencies. The Commission will allow the use of clamping or squeezing in an emergency, although any portion of pipe damaged due to the clamping or squeezing must be replaced before the pipeline is returned to service.	Subsection 14c The Commission added the following language: <u>except in an emergency. Any damaged portion of a produced water underground gathering pipeline that has been clamped or squeezed must be replaced before it is returned to service.</u>	
	4/12/2016	Oral	Kathryn Hilton--representing herself + rep various landowners she works with in NW ND Testified stating concerns that pipe scale in addition to the fluids, needs to be removed during the abandonment process.	The Commission does not agree with the comment that pipe scale and fluids must be removed. The pipeline is required to be purged to remove the transported fluids. It would be unreasonable and not cost effective for pipe scale and purging fluids to be completely removed from the pipe.	none	
	Outlines requirements for abandoning a pipeline (para 15)	4/25/2016	Written	Trevor Hunter - Crowley Fleck representing North Dakota Pipeline Company, LLC - North Dakota Pipeline Company LLC requests that this new subsection be amended to only apply to underground gathering pipelines put into service after July 31, 2011. Under the current proposed language, the provision would arguably apply to any and all underground gathering pipelines abandoned prior to the adoption date of the subsection. North Dakota Pipeline Company LLC, as well as other similarly situated companies, had many lines put into service as long as 65 years ago and which have long since been removed from service. GCS and Esri information is simply not available for these lines. As such, a service date of July 31, 2011 is more appropriate as GCS and Esri information for lines installed after this date should be readily available.		
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - This section is consistent with our current abandonment procedures. However section 15.b.2 needs to be consistent with section 15.a.3.		
		4/25/2016	Written	James Cron - Cron Industries, LLC - Subsection 15.a. The language requires purging of a pipeline to a state that is not practical as non-hazardous fluids, such as freshwater, are left behind. The rule needs to accommodate for this, and clarify that the line should be void of produced fluid.		
		4/25/2016	Written	Ken Dockweiler - Bridger proposes the addition of the term permanent/permanently to add clarity to this section. To the title of the section add the word "Permanent" before "Pipeline Abandonment" and add the word "permanently" before the word "abandoned" in paragraph a. The terms "associated pipeline facility" and "above ground equipment" are undefined and could vary the interpreted intent of this section greatly and cause significant issues. Section 18 of 38-08-02 clearly defines "associated above ground equipment" and is clear, and Bridger is unsure why the proposed language aims to create two separate things. Bridger recommends limiting the proposed language in subsection a.6, to "associated above ground equipment" as defined in 38-08-02. The reclamation laid out in 43-02-03-34.1 and prescribed here would not be appropriate for the removal of corrosion line markers and in many cases would be overkill for cathodic protection test stations. Finally in b.2, we recommend that the "type of fluid" be replaced with "medium" to recognize that something other than liquid may be used for the purging process including inert gas such as nitrogen.	The Commission agrees that clarity is needed as to when a abandoned pipeline would be subject to this requirement. The Commission began regulating pipeline abandonment when the 2014 rulemaking became effective April 1, 2014. All pipelines abandoned prior to this date are not subject to this requirement as long as they meet the definition of "abandoned pipeline" under NDCC 38-08-02 31.  The Commission does not agree with the comment to replace "type of fluid" with "medium". This language has been moved to this subsection from 43-02-03-29. The requirement has been in effect since April 1, 2014.	The Commission removed "oil and gas" and added "as defined under subsection 1 of section 38-08-02 of the North Dakota Century Code after March 31, 2014"  Throughout the proposed rule the Commission amended the term "associated pipeline facilities and above ground equipment" to "associated above ground equipment".
	4/25/2016	Written	Nick Johnson - 1804 Operating - Comment: Subsection 15.1 requires purging of pipeline in a manner that effectively removes all fluid. This is impractical because the methods used to purge a line may leave behind acceptable harmless fluids, such as water. The rule needs to accommodate for this, and clarify that the line should be void of produced fluid. 1804 Operating also requests language that limits this requirement to only lines being permanently abandoned, not those that are temporarily out of service. Suggested Language: "...a. When an oil and gas underground gathering pipeline or any part of such pipeline is permanently abandoned, the owner shall... (3) Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all produced fluid..." (NDPC)			

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN	
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: Subsection 15.a. requires purging of pipeline in a manner that effectively removes all fluid. This is impractical because the methods used to purge a line may leave behind acceptable, harmless fluids, such as water. The rule needs to accommodate for this, and clarify that the line should be void of produced fluid. NDPC also requests language that limits this requirement to only lines being permanently abandoned, not those that are temporarily out of service. Suggested language: ...a. When an oil and gas underground gathering pipeline or any part of such pipeline is permanently abandoned, the owner shall... ... (3) Purge the pipeline with fresh water, air, or inert gas in a manner that effectively removes all produced fluid ...			
		4/25/2016	Written	Holly Pearen - Environmental Defense Fund - EDF is pleased to see that NDIC included minimum standards and criteria for pipeline abandonment. To avoid confusion, we respectfully suggest that NDIC clarify that the proposed regulations apply to permanently abandoned gathering pipeline systems, as defined in NDCC 38-08-02. Definitions ("Abandoned pipeline" means an underground gathering pipeline that is no longer in service, is physically disconnected from in-service facilities, and is not intended to be reactivated for future use.) Additionally, to minimize the risk of leaks and spills from temporarily abandoned pipeline systems, we urge NDIC to include regulations specifically addressing pipelines or pipeline segments temporarily out of service for longer than thirty days. Pressurized pipeline systems full of crude oil or non-fresh water may rupture whether the pipeline is in service or not. Minimal or reduced monitoring of temporarily out of service pipelines may result in longer detection times and larger volumes of leaks and spills. Thirty days is an appropriate "temporary abandonment" period because it is sufficient to accommodate most construction or repair activities along the pipeline or at facilities on either end of the system. EDF provides suggested language.	The Commission agrees with the suggestion to add "as defined in NDCC 38-08-02"	The Commission does not feel it is necessary to create a provision for temporary abandonment or temporary out-of-service. The Commission will monitor pipeline activity and address any need for a temporary status in the future.	The Commission added "as defined under subsection 1 of section 38-08-02 of the North Dakota Century Code after March 31, 2014"
43-02-03-30 (general comments)		4/25/2016	Written	Troy Coone-Northwest Landowners Association They suggest amending the rule to require an incident that travels offsite of a facility to be reported no later than 48 hours to the surface owner.			
		4/25/2016	Written	Renee White-Newalta Corporation One barrel total volume is conservative when compared to other jurisdictions and a trigger of six barrels total volume for an on-site release is better aligned with Colorado, Montana, and Saskatchewan.			
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC believes the current reporting requirement of one barrel onsite is extreme and it should be comparable to other states and federal requirements. The NDPC encourages the Commission to adopt key finding and recommendation (5) of the Energy and Environmental Research Center study, <i>Liquids Gathering Pipelines: A Comprehensive Analysis</i> and recognize the impact the minimum reporting threshold has on statistics and evaluate accordingly how to interpret and report these data. North Dakota has among the lowest minimum reporting thresholds of the top seven oil-producing states, which creates the potential to skew the comparison of spills between states with higher reporting thresholds, making it appear that North Dakota has more spills than other oil-producing states. Paralleling North Dakota's reporting requirements with federal on other states' requirements will result in more accurate and consistent reporting. The Bureau of Land Management separates spills into major spills and minor spills. Minor spills in non-sensitive areas involving less than 10 barrels of liquid or 50 MCG of gas do not require oral or written reports.	The Commission believes it is not fair to compare spills in North Dakota with other states that have different reporting thresholds, notwithstanding, the comment is addressing a specific section of 43-02-03-30 that the Commission had not advertised for proposed rule changes, therefore comments to a change were not afforded since due notice of any possible change was not given.	The Commission's proposed amendment will be adopted without any further modifications.	
		4/25/2016	Written	Fred and Joyce Evans-Stanley They believe oil spills remaining onsite should not have to be reported to the Commission unless it is 10 barrels or greater since it's organic matter that can be easily cleanup.			
43-02-03-30 Notification of Fires, Leaks, Spills or Blowouts		4/25/2016	Written	Holly Pearen-Environmental Defense Fund Amending "pipelines" under this rule to be "underground gathering pipelines", essentially removes the requirement to report leaks on "above-ground pipelines", therefore "underground gathering" should be stricken from the proposed amendment. EDF believes the root cause of the incident is essential to facilitate continuous improvement in industry practices and responsive regulation and commends the Commission for including it in their proposed amendments.	The Commission agrees that above-ground pipelines should also be included in the rule and "underground gathering" should be removed.	The proposed amendment will be modified. Reference to "pipelines" will not be changed to "underground gathering pipelines".	
		4/25/2016	Written	Royce Brown - Enable Midstream Partners - The proposed language in this section did not change much from the existing language. The existing language mentions pipelines. The proposed language calls out underground gathering pipelines specifically. The remainder of the notification requirements is basically the same as before. We are already complying with this section. Consequently, the change will not have an adverse impact on our operations.			
		4/25/2016	Written	James Cron - Cron Industries, LLC - We think the term "root cause" is too vague, as root cause analysis can be a lengthy process and not cost effective or reasonable for a minimum spill volume. In addition, freshwater should not be a party to this section. The question of jurisdiction applies that unless the spill occurs onsite, the ND Dept. of Health would be the responsible government agency.			
		4/25/2016	Written	Ken Dookweiler - Bridger Pipelines, LLC As noted previously the NDDOH has jurisdiction over spills that occur off location and as such we recommend that the NDIC delete the term "underground gathering pipeline" from the opening sentence in this section.			
		4/25/2016	Written	Nick Johnson - 1804 Operating - Comment: 1804 Operating objects to the addition of 'root' to this section. To most operators, 'root cause' is a term indicating that a full official root cause analysis must be performed. This is not a reasonable requirement for small spills. Fresh water should be exempted from this section. The addition of gathering pipelines to this section leads to the question of what defines 'onsite' when dealing with a gathering pipeline leak. Unless the leak occurs on a well site, a release would fall under the jurisdiction of the North Dakota Department of Health. (NDPC)	The Commission agrees with the comment that determining the root cause may not be necessary for small pipeline spills.  Both the Commission and North Dakota Department of health have jurisdiction over underground gathering pipeline spills.		
		4/25/2016	Written	Ron Ness - North Dakota Petroleum Council Comment: NDPC objects to the addition of 'root' to this section. To most operators, 'root cause' is a term indicating that a full official root cause analysis must be performed. This is not a reasonable requirement for small spills. Fresh water should be exempted from this section. The addition of gathering pipelines to this section brings about the question of what defines 'onsite' when dealing with a gathering pipeline leak. Unless the leak occurs on a well site, a release would fall under the jurisdiction of the North Dakota Department of Health.	The Commission agrees that the language specifically including "underground gathering pipelines" would exclude from notification requirements any pipelines located at the surface.		
		4/25/2016	Written	Holly Pearen - EDF While EDF is sympathetic to NDIC's efforts to clarify notification requirements to reflect the new regulations pertaining to underground gathering pipeline systems, proposed modifications to this Section would unnecessarily limit the notification requirements, and may create uncertainty regarding applicable spill requirements. Underground gathering pipelines were covered under existing language. Unfortunately, language specifically including "underground gathering pipelines" would exclude from notification requirements any pipelines located at the surface. Spills and leaks from surface lines should be subject to the same notification rules as other oil and gas related fires, leaks, spills or blowouts. Different rules for surface pipelines are unnecessary and would cause confusion. We respectfully urge NDIC to strike the proposed addition of "underground gathering" from this Subsection and retain the current rule. Suggested Edit: "All persons controlling or operating any well, underground-gathering pipeline..." Comment 2 For the reasons expressed in Comment 14.1, EDF commends NDIC on its modification of written follow up notification requirements to include a root cause of spills, leaks or releases. Obtaining this information is essential to facilitate continuous improvement in industry practices and responsive regulation. NDIC, pipeline owners and other stakeholders will benefit tremendously from this information.		The proposed amendment will be modified. The followup report will still require the root cause to be included, although the Director will have the ability to waive the requirement if the incident was minor in nature. If the root cause was not yet determined, or for other good cause.  The proposed amendment will also be modified to clarify that leaks and spills involving only untreated freshwater are not subject to the notification requirements.	
	4/25/2016	Written	Roger Kelley-Continental Resources, Inc. Continental objects to the requirement to notify the Commission of a leak involving an underground gathering system unless the leak occurs on a well site because if the leak is off a well site it falls under the jurisdiction of the NDDOH. Continental also objects to providing the "root cause analysis" as this implies a specific investigation process that is not appropriate for small incidents and spills. Continental recommends the use of "primary cause" or other such verbiage.	Most leaks on underground gathering systems will occur offsite, although they could occur onsite within a diked area at associated above ground equipment which might include a			

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes the term "root cause" is too vague and might not be cost effective or a minimal spill. In addition, freshwater would not be a party to this section. He believes if the spill occurs offsite, the NDDH has jurisdiction.	pump, a compressor, storage, leak detection or monitoring equipment, and any other facility or structure. The NDDH and Commission typically have dual jurisdiction on an underground gathering system leak that occurs offsite. If the leak if it is not a threat to freshwater sources, the Commission would have sole jurisdiction.  The proposed amendment does not require a "root cause analysis" to be performed, it rather indicates the "root cause" of the incident must be submitted. The Energy and Environmental Research Center study, <u>Liquids Gathering Pipelines: A Comprehensive Analysis</u> recognized the value of reporting the root cause and possibility of preventing future spills by lessons learned. The Commission acknowledges that the root cause of certain incidents could be determined almost immediately, while others could take months to determine, therefore flexibility in providing such information should be given.	
		4/25/2016	Written	Gerbert Schoonman-Hess Corporation The Commission's proposed changes are unclear, including the terms "receptacle" and "facility associated with oil, gas or water production, injection, processing or well servicing". In addition, fresh water wells should be excluded from the reporting requirements and "well servicing" is undefined. (see suggested language)	Leaks and spills involving only untreated freshwater do not present an environmental concern and should not be required to be reported to the Commission pursuant to 43-02-03-30, although blowouts should be reported.	
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council Most operators believe "root cause" is a term indicating that a full official root cause analysis must be performed. This not a reasonable requirement for small spills.  The NDPC also wants clarification on what is interpreted as "onsite" when dealing with a gathering pipeline leak, since they believe any release occurring offsite would be under the jurisdiction of the North Dakota Department of Health.  Fresh water should be should be exempted from this section.	The Commission believes receptacle is adequately defined under 43-02-03-19.3 and both receptacle and facility are further identified under 43-02-03-30.	
43-02-03-30.1 Leak and Spill Cleanup	Requires responsible parties to clean up spills	4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton The NDPC believes the term "responsible parties" should be stricken or defined.	The purpose of the proposed amendment is to eliminate ambiguity in the rule by clarify that all responsible parties must respond with appropriate resources to contain and clean up spills, not just operators.	The Commission's proposed amendment will be adopted without any further modifications.
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC believes the term "responsible parties" is too broad and needs further definition if it is to be included.		
	Requires CBL to be run no later than 6 months after reaching total depth			No Comments	Requiring a log to be run to evaluate cement bonding within six months of drilling a well will assure that cement evaluation is timely.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-31 Well Log, Completion & Workover Reports	Allows permit date, confidential period, and volumes injected to be released	4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He asks "how does this proposed change account for electronic only reports".	Electronic reporting to the Commission will not be affected by this proposed change.	
		4/25/2016	Written	Terry Schuamann-Fargo All information should be available on a confidential well to assure that cement evaluation is timely.	The confidentiality provision refers to records within the Commission's database that are not available for other parties to obtain. The Commission has "timely" access to all well records, including the cement bond log, to ensure the cement is properly evaluated.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-34 Method of Plugging	Requires csg cap to include file number			No Comments	Inscribing the file number on the metal cap welded on the casing when plugging a well will assist in the identification of plugged wells.	The Commission's proposed amendment will be adopted without any further modifications.
	43-02-03-34.1 Reclamation of Surface (general comments)	4/14/2016 4/25/2016	Oral + exhibit + written	Troy Koons-Northwest Landowners Association  Objects to current reclamation requirements requiring the site to be reclaimed as close as practicable to its original condition-they want reclaimed to pre-disturbance conditions since that is common language contained in most pipeline easements and surface use agreements. They believe testing should be conducted to determine background levels for SAR, pH, electrical conductivity, the four major cations (sodium, calcium, magnesium, and potassium) and the four major anions (chloride, sulfate, carbonate, and bi-carbonate), and also ammonia, nitrate, nitrite, exchangeable sodium percentage, calcium carbonate equivalent, cation exchange capacity, USDA texture, and organic matter percentage. Compaction tests should also be conducted. Testing for petroleum constituents should also be performed, including total petroleum hydrocarbons. Spill sites should also be returned to pre-contamination status based on testing for background levels.  The rule also requires operators to provide a copy of the proposed reclamation plan to the surface owner at least ten days prior to commencing the work. They believe the surface owner needs additional time and the notice should be provided to the surface owner at the time the sundry notice is filed with the director.	The Commission did not proposed changes in reclamation requirements. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
43-02-03-34.1 Reclamation of Surface	Clarifies that treating plants and facility sites must be properly reclaimed	4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC believes the term "facilities" should be defined.		
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes the term "facilities" should be defined.	The Commission agrees that "facility" is referring to "saltwater handling facility" and should be changed.	The proposed amendment will be modified. Reference to "facility" in the rule will be changed to "saltwater handling facility".
		4/25/2016	Written	Troy Koons-Northwest Landowners Association Reference to "or facility" is ambiguous and should specifically refer to "saltwater handling facility".		
		4/25/2016	Written	Gerbert Schoonman-Hess Corporation The term "apertures" should either be clarified or defined.	The paragraph "Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the well site or facility, access road, and other associated facilities constructed for the well apertures shall be reshaped as near as is practicable to original contour." was inadvertently included in the proposed rules and should be entirely removed.	The paragraph "Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the well site or facility, access road, and other associated facilities constructed for the well apertures shall be reshaped as near as is practicable to original contour." will be removed.
43-02-03-40 Gas-Oil Ratio Tests	Requires subsequent GOR tests when gas significantly changes	4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC believes the term "significant" change in GOR seems too vague and should be removed.		
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes the term "significant" change in GOR seems too vague, although he does not what change would clarify the term.	The Commission agrees that a "significant" change in the GOR could be interpreted many ways and the term is too vague and should be removed from the proposed amendment.	The proposed amendment will be modified. The proposal to add "or there is a significant change" will be stricken.
		4/25/2016	Written	Gerbert Schoonman-Hess Corporation Hess believes the proposed amendment requiring subsequent GORs should be addressed in the field rules, as applicable, not in the administrative rules. If the proposal moves forward, Hess suggests requiring subsequent gas-oil ratio "measurements" through metering. (see suggested language)		
43-02-03-48 Measurement of Oil	Requires oil vol determination before removing oil from treating plant or SHF			No Comments	Requiring oil tanks to be composed of materials resistant to the produced fluids and chemicals will assure integrity of the tank composition will not be compromised.	The Commission's proposed amendment will be adopted without any further modifications.
		4/22/2016	Written	Shelly Ventsch-New Town There should be adequate dikes around everything where there is a possibility of contamination of the surrounding area. There should also be listed specific reasons why the Director can grant a waiver and she does not believe expense, inconvenience, or burdensome are legitimate reasons.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None

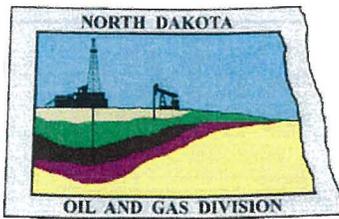
NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
	43-02-03-49 Oil Production Equip, Dikes, and Seals (general comments)	4/14/2016 4/25/2016	Oral + exhibit + written	Troy Coons--Northwest Landowners Association In oral testimony the NWLA objected to current diking requirements--wants capacity of dikes either to take into account the highest historical daily rainfall event or 150% of capacity of largest tank on location.  In written testimony the NWLA stated the diking rules should also take into account rainfall events and language such as the NDDH could be used "to require secondary containment systems to be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five year, twenty-four hour rainfall event..."  The rule should also contain guidelines for disposing of water within the dike or perimeter berm that becomes mixed with contaminants onsite from spilled reduced water and hydrocarbons.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	The Commission's proposed amendment will not be amended to incorporate the suggested change.
	Requires oil tanks composed of materials resistant to produced fluids	4/25/2016	Written	Laura Erickson--Cardno Inc. Cardno recommends adding language about Director's discretion to require sloping specifications in addition to diking.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
	Requires oil tanks composed of materials resistant to produced fluids			No Comments	The proposed amendment requiring oil tanks and equipment to be resistant to produced fluids will increase environmental protection on oil sites.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Troy Coons--Northwest Landowners Association Dikes and berms are currently required to be constructed "of sufficiently impermeable materials" and this should be amended to require clay or synthetic liners or a material that is equally or more impermeable.	Clays and synthetic liners are examples of "impermeable materials" that industry typically uses to construct dikes. Attempting to define the term may have unintended consequences and could eliminate the use of technologically advanced products in the future.	The term "sufficiently impermeable materials" will not be modified.
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He is vehemently opposed to requiring berms, which will increase the surface footprint, and he indicates the Director already has the authority to require berms. He estimates the cost to construct berms on new locations between \$8,000-\$35,000, plus a 10-20% maintenance cost from original cost, plus an additional 10-30% cost to remove snow melt and storm water. He notes the federal rules do not require such berms due to the unavoidable accumulation of runoff water from rain or snow. He states many spills are carried off-site by the wind which would not be prevented by a perimeter berm and he believes the threshold limit for reporting spills should be increased to 10 barrels if the berm is required. He also indicates the cost-to-benefit ratio is incredibly disproportionate, although no example ratios were offered.  Additionally, the term "sufficiently impermeable material" seems to imply only clay is acceptable and ignores the plethora of products in the market place to erection retention dikes.  He is also concerned how to calculate the required capacity of dikes and suggests the Commission publish a logical calculation.	The Commission does not believe the term "sufficiently impermeable material" seems to imply only clay is acceptable. Clays and synthetic liners are examples of "impermeable materials" that industry typically uses to construct dikes. Attempting to define the term may have unintended consequences and could eliminate the use of technologically advanced products in the future. The Commission believes industry is capable of calculating the capacity of dikes without guidance from the Commission.	None
		4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to perimeter berm requirements & wants the berm capable of holding the capacity of all tanks. She also objects to "Director waiver" allowed--she believes IC should be giving waivers, but prefers that none ever be given.	The Commission believes it is unnecessary for a perimeter berm to hold the capacity of all tanks, especially since secondary dike containment surrounds most tank currently. Waivers are necessary to provide timely flexibility without causing undo expense and regulation.	None
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council Objects to requiring dikes on existing wells and tanks since the Director already has the authority to require dikes and berms when deemed necessary.	proposed rule is more strict since previously required dikes around all oil tanks at production facilities built after July 1, 2000, when deemed necessary by the Director.	None
		4/14/2016	Oral + exhibit	Representative Marvin Nelson--ND House of Representatives, representing District 9 Supports the proposed perimeter berm requirement	No response to the comment is necessary.	None
		4/8/2016	Written	David Copeland--Oasis Petroleum Oasis constructs new sites with perimeter berms, but requiring them to construct berms one foot in height would cost approximately \$12,000 per site for a total cost of approximately \$4,200,000. The would like the perimeter berm requirement to only apply to new locations--grandfather in existing sites.		
		4/14/2016 4/20/2016	Oral + written	Alexis Brinkman-Baxley--NDPC Objects to requiring perimeter berms around all locations--this should be on a case-by-case basis as determined by the Director. Industry will incur a \$12,000-\$30,000 cost of constructing a berm plus up to \$35,000 (per company) for disposing of storm water captured on the site, which would increase truck traffic and cause the abandonment of a large number of wells. They are hoping the proposed amendment does not apply to existing wells. Berms will not "contain" pipeline leaks or vapor releases and the cost-to-benefit ratio is incredibly disproportionate, although she could not provide any details of the calculation. Operators typically reduce the size of the site after completing all wells, although requiring a berm will result in a larger footprint, since operators will not want to disturb the original berm and thus incur additional expenses.		
	Requires a perimeter berm to be at least 1' high & divert drainage from site	4/14/2016 4/22/2016	Oral + written	Zeno Farris--Enduro Enduro believes requiring berms on newly permitted wells when deemed necessary is appropriate, but objects to berms being required on existing sites. At the hearing on April 14, Enduro estimated the berm would cost approximately \$20,000 per berm, which could cost Enduro \$12,000,000 for its 600 wells. In Enduro's written testimony they estimate the cost from \$3,000 to \$15,000 for partial or full perimeter berms, which could cost between \$1.8-\$9 million for their 600 wells. There would also be an additional yearly cost for maintenance and storm water disposal. Since 2014 Enduro had spills on approximately 9% of its properties, with 82% contained on the well sites. Of the 15% that went offsite, 9% were pipeline or treater spray leaks that would not have been contained by perimeter berms. Enduro believes the perimeter berms will not significantly contain leaks and spills, therefore they do not want the perimeter berm required.	The Commission believes a 6" berm can provide the needed protection to keep leak and spill fluids on location. Some leaks in the past have flowed off location, therefore it should apply to existing sites. Some modification of the perimeter berm should be allowed if other factors are present that provide sufficient protection from environmental impacts.	
		4/25/2016	Written	Roger Kelley--Continental Resources, Inc. Spills experienced by Continental during 2014-2015 resulted in 86% less than 5 barrels of fluid, of which 91% were contained on location. 75% of the remaining 9% were misting or other activities that a berm would not have contained. The berm requirement would cost an average of over \$10,000 to construct, an additional \$40,000 in annual de-watering costs, and as much as \$50,000 in site reconstruction costs after one season of storm water held on the facility premises, resulting in a total of \$100,000 expense for the first year. Berms are impractical on many locations and can create hazardous conditions with pooled water/ice, breed mosquitoes and other insects in the summer, and create an ice hazard in the winter. Approximately 25% of all Continental well locations already have complete or partial berms as required by the Commission due to the proximity to environmentally sensitive areas and a very minimal number of spills will actually be contained on location by these very costly and hazardous structures.		The Commission's amendment will be further modified to allow a 6" berm and allow the Director to modify the requirements in certain circumstances. It will also allow the Director to grant an extension of time to implement these new requirements.
		4/25/2016	Written	Mike Henderson--Marathon Oil Company This expanded requirement would greatly increase the cost of operations and would offer little if any environmental benefit. The estimated cost to construct berms around all of Marathon's estimated 280 unpermed locations would be a multimillion-dollar requirement and is estimated to average nearly \$16,000 per pad, plus a yearly expense for maintenance and storm water removal. They believe the current policy requiring berms based on environmental sensitivity on a case-by-case basis is effective and the proposed change will not greatly reduce releases leaving the location. Marathon's own spill tracking from Jan 2012 to Feb 2016 shows the majority of Marathon spill originating on a pad and went off location are in the form of a mist that a perimeter berm would not have prevented. Only 3% would have stayed on location with a berm, but 60% of those spills involved freshwater--other than freshwater, the berm would have prevented less than one barrel from leaving the location.		
		4/25/2016	Written	Fred and Joyce Evans Perimeter dikes is one of the worst ideas approved and implemented by the Commission. It traps water in the dike, is a working condition hazard, and before it can be drained off location to help adjacent crops. Berms are not necessary when wells are being drilled and certainly not on producing oil well pads. Regulate dikes around tanks, not berms around pads.	The Commission agrees that perimeter berms are probably unnecessary in most cases around producing oil well pads, but there are certain artificial lift methods that employ fairly large volumes of fluid stored at the surface (i.e. hydraulic lift) and consideration of the pumping method should be considered in the perimeter berm requirement.	

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council Strikes the phrase "sufficiently impermeable material" since the proposed language already requires the berm to provide "emergency containment".	The Commission believes the phrase "sufficiently impermeable material" compliments the emergency containment requirement and should remain in the proposed amendment.	
		4/25/2016	Written	Gerbert Schoonman-Hess Corporation This proposal will have significant costs, safety, feasibility and long-term operation and maintenance impacts and the cost to retrofit existing well pad sites alone can easily cost into the tens of millions of dollars to industry. Hess has designed and implemented a containment system for new well pad installations, but the prescriptive berm the Commission is proposing would not allow Hess to retain this current design, which has been effective. Industry needs to have a reasonable timeframe to bring existing sites into compliance. Hess requests the Commission postpone promulgating this proposed regulatory requirement to allow for industry to work collaboratively with the Commission to explore a solution that will achieve the intended goal.	The proposed language allows the Director to grant waivers to the perimeter berm requirement and consideration of Hess' containment system could be given.	
	Seals on oil tanks must be "weather-resistant", no longer just metal			No Comments	The proposed amendment will allow for oil seal flexibility to use weather-resistant security seals.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-51.1 Treating Plant Requirements	43-02-03-51.1 Treating Plant Requirements (general comments)	4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He asks if "temporary" plants such as oil presses for reclaiming tank bottoms is under this jurisdiction and who permits them.	Mobile treating plants are under the jurisdiction of the Commission. Some activities could be approved with a Sundry Notice, while others may require a hearing. The Commission will consider each on a case-by-case basis.	None
	Removes legal street address to be included in application I/TP	4/14/2016	Oral	Relle Haase-Cardno Supports this change	No response to the comment is necessary.	None
		4/25/2016	Written	Wade Enget and Donald Longmuir-Planning & Zoning Board, County of Mountrail It does not make any sense to remove the requirement to request a legal street address, as it is imperative the emergency responders be able to be directed to an exact location in the event of a mishap on that site.	The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Troy Koons-Northwest Landowners Association Objects to removal of requiring legal street address since they believe it is a minimal burden to help emergency responders located sites during emergencies.		
		4/25/2016	Written	Terry Schaanaman-Fargo Objects to removal of requiring legal street address of a treating plant.		
		4/25/2016	Written	Terry Schaanaman-Fargo Wants the schematic drawings to include a calculated containment volume.	The Commission's proposed amendment requires schematic drawings of the proposed diking and containment, including the calculated containment volume.	The Commission's proposed amendment will be adopted without any further modifications.
Requires a calculated containment volume to be included in appl I/TP						
43-02-03-51.3 Treating Plant Construction and Operation	Requires the perimeter berm to be at least 1' high & divert drainage from site	4/14/2016	Oral + exhibit	Marvin Nelson-ND House of Representatives (Dist 9) Supports the proposed perimeter berm requirement	No response to the comment is necessary.	
		4/22/2016	Written	Shelly Ventsch-New Town There should be adequate dikes around everything where there is a possibility of contamination of the surrounding area. There should also be listed specific reasons why the Director can grant a waiver and she does not believe expense, inconvenience, or burdensome are legitimate reasons.	It is the Commission's policy to consider dikes around tankage. The Director will be able to grant modifications to the perimeter berms only if other factors are present that provide sufficient protection from environmental impacts.	
		4/12/2016	Oral	Kathryn Hilton-rep herself + rep various landowners in NW ND-Mandan Objects to "Director waiver" allowing no perimeter berm-she believes IC should be giving waivers, but prefers that none ever be given.	The Commission believes it is appropriate to allow the Director to modify the requirements if other factors are present that provide sufficient protection from environmental impacts.	
		4/25/2016	Written	Troy Coons-Northwest Landowners Association Dikes and berms are also currently required to be constructed "of sufficiently impermeable materials" and this should be amended to require clay or synthetic liners or a material that is equally or more impermeable.  The rule should also contain guidelines for disposing of water within the dike or perimeter berm that becomes mixed with contaminants onsite from spilled reduced water and hydrocarbons.	Clays and synthetic liners are examples of "impermeable materials" that industry typically uses to construct dikes. Attempting to define the term may have unintended consequences and could eliminate the use of technologically advanced products in the future.  The NDDH has jurisdiction on the discharge of water collected on sites. It is not appropriate for the Commission to establish guidelines for such. The Commission notes current rules prohibit the	The Commission's amendment will be further modified to allow a 6" berm and allow the Director to modify the requirements in certain circumstances. It will also allow the Director to grant an extension of time to implement these new requirements.
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes the amendment requires the perimeter berm only on "existing" treating plants and he believes they should not be required at all, but at a minimum only on new treating plants. He also believes "sufficiently impermeable material" needs further definition. He also asks how this rule applies to "temporary" treating plants.	43-02-03-51.3 outlines not only construction requirements, but also "operation" requirements and the perimeter berm requirement would affect existing and new treating plants.	
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC believes the perimeter berm, if it is required at all, should only be on new treating plants. The NDPC also believes "sufficiently impermeable material" needs further definition.	The Commission believes the phrase "sufficiently impermeable material" compliments the emergency containment requirement and should remain in the proposed amendment.	
	Removes requirement to file an annual TP report			No Comments	The annual treating plant report provided no additional benefit to the Commission, therefore the unnecessary report will no longer be required.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-52 Report of Oil Production	Clarifies oil prod report must be filed for months well was SI	4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He is confused what the Commission means by the phrase, "when production occurs or could occur", and is wondering if the Commission wants operators to pick a number from the sky to fulfill its data needs.	Some operators have indicated that they are not required to submit an oil production report for months in which their well was not produced. The proposed amendment clarifies that an oil production report is due for any month that a well was completed in the pool but shut in.	The Commission's proposed amendment will be adopted without any further modifications.
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC is confused what the Commission means by the phrase, "when production occurs or could occur", and is wondering if the Commission is asking operators to make up a number.		
43-02-03-52.1 Report of Gas Produced with Oil	Clarifies gas prod report must be filed for months well was SI	4/11/2016	Written	Peter Mueller-EcoVapor Recovery Systems Clarify if gas coming off the well, treaters, vapor towers, or tanks must be reported on Form 5b.	Note: 43-02-03-44 indicates any gas produced and used on lease for fuel purposes or flared must be estimated and reported on Form 5b. 43-02-03-45 indicates all vented casinghead gas shall be burned and the estimated volume of gas used and flared shall be reported on Form 5b.	
		4/20/2016	Written	Ron Ness-North Dakota Petroleum Council The NDPC is confused what the Commission means by the phrase, "when production occurs or could occur", and is wondering if the Commission is asking operators to make up a number.	Some operators have indicated that they are not required to submit a gas production report for months in which their well was not produced. The proposed amendment clarifies that a gas production report is due for any month that a well was completed in the pool but shut in.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He is confused what the Commission means by the phrase, "when production occurs or could occur", and is wondering if the Commission wants operators to pick a number from the sky to fulfill its data needs.		
43-02-03-53 Saltwater Handling Facilities (general comments)		4/11/2016	Oral	Wendy Ross-representing the United States National Park Service Supports our proposed SHF proposals.	No response to the comment is necessary.	None
		4/11/2016	Oral	Kevin Pranis-Laborers' International Union of North America (LIUNA) Supports our proposed SHF proposals	No response to the comment is necessary.	None
		4/20/2016	Written	Ron Ness-representing the ND Petroleum Council The NDPC believes changing the term to "saltwater handling and disposal facility" and defining in 43-02-03-01 as previously mentioned will clarify the rule.	The Commission clarified the definition of saltwater handling facility in 43-02-03-01. It should now be clear that a saltwater handling facility could be an appurtenance to an existing treating plant, well, disposal, or injection facility, but it could also be a stand alone facility, such as tankage located on a service company's site storing heavy saltwater.	The Commission's proposed amendment will not be amended to incorporate the suggested change.
		4/25/2016	Written	Jim Cron-Non-operating WIO-Flaxton He believes amendments should apply to only new commercial disposal facilities and not secondary recovery injection plants or operator-owned SWD wells.		The Commission's proposed amendment will not be amended to incorporate the suggested change.

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN	
43-02-03-53 Saltwater Handling Facilities		4/14/2016	Oral + exhibit	Troy Koons--Northwest Landowners Association Objects to current diking requirements--wants capacity of dikes either to take into account the highest historical daily rainfall event or 150% of capacity of largest tank on location.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
	Requires all SHFs be bonded if not already bonded as an appurtenance	4/13/2016	Oral	Laura Erickson--Cardno Inc. She believes the language stating "the bonding for a saltwater handling facility is not to be construed to be required if the facility is bonded as a well or treating plant appurtenance" clarifies some of her concerns, but she thinks there still needs to be clarification on what a saltwater handling facility means.	The Commission received several comments requesting clarification of the meaning of the term "saltwater handling facility" and the Commission will further amend the definition to clarify the term.	The Commission's proposed amendment will be adopted without any further modifications.	
	Requires any SHF not currently bonded to apply for a SHF permit			No Comments			
	SHF construction requirements were deleted and moved to 43-02-03-53.3			No Comments			
	SHF diking requirements were deleted and moved to 43-02-03-53.4			No Comments		The proposed amendments clarify and streamline the saltwater handling facility rules and assure that saltwater handling facilities are being properly regulated and clarifies that saltwater handling facilities constructed by service companies must conform to the rule.	The Commission's proposed amendment will be adopted without any further modifications.
	Requirement to minimize solids stored was deleted and moved to 43-02-03-53.3			No Comments			
	Requirement to report all oil recovered was deleted and moved to 43-02-03-53.4			No Comments			
43-02-03-53.1 Saltwater Handling Facility Permit Requirements		4/20/2016	Written	Ron Ness--representing the ND Petroleum Council He is concerned the language does not differentiate between secondary recovery injection and SWD by operators and commercial plants. He believes the GIS requirements are onerous and would be expensive, especially for small operators. He also believes subsections 2 (permits can contain such terms) and 5 (permits are transferable only by the Commission) are very open-ended and should be stricken and subsection 1.e. is a repeat of subsection 1.c. They also request the amendment be modified to allow permits to be renewed for a second year.	Section 43-02-03-53 clearly states the permitting and bonding requirements for a saltwater handling facility set forth in sections 43-02-03-53, 43-02-03-53.1, and 43-02-03-53.3 are not to be construed to be required if the facility is bonded as a well appurtenance. Such facilities will be considered in the permit application for the well or treating plant. The saltwater handling facilities Mr. Cron is concerned about are appurtenances and are not subject to this rule.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
	43-02-03-53.1 Saltwater Handling Facility Permit (general comments)	4/25/2016	Written	Wade Enget and Donald Longmuir--Planning & Zoning Board, County of Mountrail They believe the legal street address of the facility should be a permit requirement.	The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
	43-02-03-53.1 Saltwater Handling Facility Permit Requirements	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He is concerned the language does not differentiate between secondary recovery injection and SWD by operators and commercial plants. He believes the GIS requirements are onerous and would be expensive, especially for small operators. He also believes subsections 2 (permits can contain such terms) and 5 (permits are transferable only by the Commission) are very open-ended and should be stricken and subsection 1.e. is a repeat of subsection 1.c. He also requests the amendment be modified to allow permits to be renewed for a second year.	Section 43-02-03-53 clearly states the permitting and bonding requirements for a saltwater handling facility set forth in sections 43-02-03-53, 43-02-03-53.1, and 43-02-03-53.3 are not to be construed to be required if the facility is bonded as a well appurtenance. Such facilities will be considered in the permit application for the well or treating plant. The saltwater handling facilities Mr. Cron is concerned about are appurtenances and are not subject to this rule.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
	Requires a SHF permit prior to construction			No Comments			
	Requires permit appl to contain plat, schematic, cutoff diagrams, & diking			No Comments		Clays and synthetic liners are examples of "impermeable materials" that industry typically uses to construct dikes. Attempting to define the term may have unintended consequences and could eliminate the use of technologically advanced products in the fut	The Commission's proposed amendment will be adopted without any further modifications.
	Outlines limitations of a SHF permit: transfers, modifications, expiration, AB	4/25/2016	Written	Laura Erickson--Cardno Inc. Consider citing 43-02-03-15 under paragraph (4) on transfer of permit.	The transfer of a permit is appropriately cited under bonding in 43-02-03-15. It is not appropriate for all requirements to be repeated throughout the rules.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
43-02-03-53.2 Saltwater Handling Facility Siting	43-02-03-53.2 Saltwater Handling Facility Siting (general comments)	4/25/2016	Written	Wade Enget and Donald Longmuir--Planning & Zoning Board, County of Mountrail They believe an access permit for the SWD facility should be needed from the governmental entity that has jurisdiction of the public roadway which the facility would be adjacent to.	Only Commission requirements should be considered in Commission rules. The Commission notes that under the provisions of NDCS 38-08-04 (2), the Legislature indicated the Commission may consider the safety of the location and the road access to saltwater disposal wells, treating plants, and all associated facilities.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
	SHFs must not be located in geologically or hydrologically sensitive areas	4/12/2016	Oral	Robert Rubey--1804 Operating He believes "sensitive" areas are pretty ambiguous and it needs to be further clarified.	The Commission believes it would be very difficult to list all the "sensitive" areas, therefore it should be under the discretion of the Director.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
		4/20/2016	Written	Ron Ness--representing the ND Petroleum Council He believes the term "hydrologically sensitive area" is broad and suggests it be changed to "all saltwater handling and disposal facilities shall be sited in such a fashion that they are not located in a geologically or hydrologically sensitive area unless otherwise supported by a hydrogeological study."	The Commission believes a site can be determined to be in a hydrologically sensitive area without an actual hydrogeological study being conducted.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the term "hydrologically sensitive area" is broad and suggests it be changed to "all saltwater handling and disposal facilities shall be sited in such a fashion that they are not located in a geologically or hydrologically sensitive area unless otherwise supported by a hydrogeological study."	The Commission believes a site can be determined to be in a hydrologically sensitive area without an actual hydrogeological study being conducted.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
		4/25/2016	Written	Roger Kelley--Continental Resources, Inc. This proposal is broad and overreaching. It is Continental's experience that the ND State Water aquifer database is based on limited data and what can be perceived as "hydrologically sensitive" at first, may be proven to be a valid site for a saltwater handling facility once the proper investigation is performed.	The Commission agrees that a site could be initially perceived as "hydrologically sensitive", but proven a valid site after performing the proper investigation. Nothing in the Commission rules would preclude such a site from being approved by the Commission.	The Commission's proposed amendment will be adopted without any further modifications.	
43-02-03-53.3 SHF Construction and Operation Requirements (general comments)		4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to "Director waiver" allowed--she believes IS should be giving waivers, but prefers that none ever be given --Note: no change in waivers is in the proposed rules	Waivers are necessary to provide timely flexibility without causing undo expense and regulation.	The Commission's proposed amendment in regard to waivers will not be changed.	
		4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC believes the capacity requirements are too great since many operators have SCADA monitoring or manned operations that should be taken into consideration by allowing an exception for sites manned 24 hours or remotely monitored with shut-down capabilities. They also want the meaning of the intent of subsection 9, which requires continuing surveillance and monitoring and sampling as the commission may require. They are also concerned about waste analyses that may be required in subsection 12 since it is RCRA-exempt and in subsections 14 and 15 operators should not be required to seek Commission approval for changes that do not result in a volumetric capacity change.	Section 43-02-03-53 clearly states the permitting and bonding requirements for a saltwater handling facility set forth in sections 43-02-03-53, 43-02-03-53.1, and 43-02-03-53.3 are not to be construed to be required if the facility is bonded as a well appurtenance. Such facilities will be considered in the permit application for the well or treating plant. The saltwater handling facilities Mr. Cron is concerned about are appurtenances and are not subject to this rule. Continuing surveillance will be as determined by the Director and should be required since saltwater is very harmful to the environment. The Commission should have the authority to require sampling to ensure the waste is RCRA-exempt, it is in doubt.	The Commission's proposed amendment will not be amended to incorporate the suggested change.	
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He asks if the language applies to secondary recovery injection and SWD operations and what is the meaning of subsection 2. Also capacity requirements are too great since many operators have SCADA monitoring or manned operations that should be taken into consideration. Also the term requirement in subsection 6 is unworkable due to the volume of truck traffic. He also wants the meaning of the intent of subsection 9, which requires continuing surveillance and monitoring and sampling as the commission may require. He is also concerned about waste analyses that may be required in subsection 12 since it is RCRA-exempt and in subsections 14 and 15 operators should not be required to seek Commission approval for changes that do not result in a volumetric capacity change.			

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
43-02-03-53.3 SHF Construction & Operation Requirements	Requires a bond in the amt of \$50,000 prior to construction (paragraph 1)			No Comments	A bond would only be required if the saltwater handling facility was not already bonded as an appurtenance to a well or treating plant.	
	Allows Director to require the facility be fenced (paragraph 2)	4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to "Director waiver" allowing no perimeter berm--she believes IC should be giving waivers, but prefers that none ever be given.	Flexibility in the waiver is necessary since not all locations need to be fenced.	
	Requires all wastes to be minimized & properly stored on location (paragraph 3)	4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to "Director waiver" allowed in paragraph 3	There is not any mention of a Director's waiver in the paragraph.	
	Includes requirements on tanks from 43-02-03-53 (paragraph 4)	4/25/2016	Written	Laura Erickson--Cardno Inc. Cardno recommends adding language about Director's discretion to require sloping specifications in addition to diking.	The rule adoption requires the perimeter berm to divert surface drainage away from the site, therefore sloping specifications may not need to be implemented. The Commission notes that under 43-02-03-53.1 the permit may contain such terms and conditions as the Commission deems necessary. A permit stipulation would address this issue if warranted.	
		4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to "Director waiver" allowing the Director to accept certain tanks--she believes IC should be giving waivers, but prefers that none ever be given.	Waivers are necessary to provide timely flexibility without causing undo expense and regulation.	
		4/12/2016 4/25/2016	Oral + Written	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to dike containment volumes and wants the capacity increased to hold the volume of all tanks, plus one day's throughput.	The proposed rule is more strict since previously required dikes around all oil tanks at production facilities built after July 1, 2000, when deemed necessary by the Director.	The Commission's amendment will be further modified to allow a 6" berm and allow the Director to modify the requirements in certain circumstances. It will also allow the Director to grant an extension of time to implement these new requirements.
		4/25/2016	Written	Troy Coons--Northwest Landowners Association They believe the diking rules should also take into account rainfall events and language such as the NDDH could be used "to require secondary containment systems to be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five year, twenty-four hour rainfall event..."	The rule adoption requires the perimeter berm to divert surface drainage away from the site, therefore historical rainfall precipitation events will not have to be considered.	
		4/25/2016	Written	Troy Coons--Northwest Landowners Association Dikes and berms are also currently required to be constructed "of sufficiently impermeable materials" and this should be amended to require clay or synthetic liners or a material that is equally or more impermeable. The rule should also contain guidelines for disposing of water within the dike or perimeter berm that becomes mixed with contaminants onsite from spilled reduced water and hydrocarbons.	The Commission believes the term "of sufficiently impermeable materials" does not need further explanation or definition since field interpretation in the past has not been an issue. Operators discharging of fluids from inside a dike or berm must obtain approval from the NDDH, therefore any requirements on such activity should be addressed in NDDH rules.	
	4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan --Objects to chemical analysis of waste substances being too vague--she wants number of samples listed in rule and all waste streams should be sampled/tested upon arrival at the facility and quarterly updates should be mandatory. --she also believes the geologic formation should be listed in the permit, which is critically important to minimize the risk of disposal leaching into aquifers or contaminating ground water.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.		
Requires report of work done after any modifications			No Comments	Work done should be reported to the Commission so records are up-to-date.		
43-02-03-53.4 SHF Abandonment & Reclamation	Requires approval prior to abandonment operations & submit followup report	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council NDPC believes a job "receipt" would not accomplish what the Commission is looking for and it is more appropriate to request a job "record".	The Commission agrees that a job "receipt" is probably unnecessary in most cases and may include proprietary pricing information.	The Commission's proposed amendment will be modified to allow a job "record" to be submitted.
		4/25/2016	Written	Laura Erickson--Cardno Inc. Cardno recommends replacing job "receipt" with job "record".		
	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He asks why the amendment is needed and why the information cannot be submitted on a Sundry Notice.	The Commission agrees that a job "receipt" is probably unnecessary in most cases and may include proprietary pricing information.		
	Requires site to be reclaimed pursuant to 43-02-03-34.1			No Comments		
43-02-03-55 Abandonment of Wells and Treatment Plants	43-02-03-55 Abandonment of Wells and Treating Plants (general comments)	4/12/2016	Oral	Kathryn Hilton--rep herself + rep various landowners in NW ND--Mandan Objects to "Director waiver" allowed--she believes IC should be giving waivers, but prefers that none ever be given --Note: no change in waivers is in the proposed rules	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	The Commission's proposed amendment will be adopted without any further modifications.
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the abandonment of treating plants and saltwater handling facilities should be listed in their own sections and removed from this rule. He also wants to know how this section relates to secondary recovery injection plants and SWDs.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time. Note: All wells, including SWDs and Unit injection wells, are subject to this section.	
	Outlines what constitutes AB of a TP or SHF			No Comments	Removal of equipment on a treating plant or saltwater handling facility for one year should constitute abandonment.	
	Acknowledges the NDCC states a well not producing in paying quantities may be placed in abandoned-well status.	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes "paying quantities" should be defined.	The Commission believes it is unnecessary to define this term.	
		4/14/2016	Oral + exhibit	Representative Marvin Nelson--ND House of Representatives, representing District 9 Objects to language in the NDAC since already in NDCC	It is necessary to reference the cite indicating a well can be placed in abandoned-well status if not producing in paying quantities since the term is not otherwise reference in the administrative code. Omission of this reference will cause confusion when interpreting compliance with the section.	
	Acknowledges the NDCC states a surface owner may request hearing of a 7 yr old TA well	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC believes the language could be interpreted to mean a surface owner may request a review each of seven years. The suggest the rule be rewritten	The language was approved by the Legislature, therefore any amendments to this language should be address through the Legislative process.	
4/25/2016		Written	Jim Cron--Non-operating WIO--Flaxton He believes the language could be interpreted to mean a surface owner may request a review each of seven years and he believes secondary recovery units should be exempt from the rule, or if included, a review should not occur until ten years.			
4/14/2016	Oral + exhibit	Representative Marvin Nelson--ND House of Representatives, representing District 9 Objects to language in the NDAC since already in NDCC	It is necessary to reference the cite allowing a surface owner to request a review of a well temporarily abandoned for seven years since 43-02-03-55 details the procedure necessary to obtain TA status and also to extend the status. Omission of this reference would leave the surface owner unaware of his rights.			
43-02-03-80 Reports of Purchasers & Transporters of Oil	Requires pur/trans to report oil transporter/purchased from a TP or SHF			No Comments	Purchasers and transporters should be required to report oil taken from a treating plant or saltwater handling facility.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-03-81 Authorization to Transport Oil	Requires operator to file Fm8 w/Director before oil is transported from a SHF			No Comments	The operator of a treating plant or saltwater handling facility should be required to get authorization to purchase and transport oil prior to removing it from the site.	The Commission's proposed amendment will be adopted without any further modifications.

NDAC	PROPOSED AMENDMENT	DATE RECEIVED	ORAL OR WRITTEN	COMMENT	DISCUSSION (Rationale)	ACTION TAKEN
43-02-03-90 Hearings-Complaints-Other Proceedings (general comments)	43-02-03-90 Hearings-Complaints-Other Proceedings (general comments)	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes more hearings should be allowed using an internet format, such as WebEx to help reduce the cost to operators and decrease risk of traffic accidents.	This is just a general statement Commission policy and does not need to be addressed in rulemaking. The Commission is looking at alternatives for participation at hearings.	None
	Allows the Commission to recover republishing cost if exceeds \$50	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council They believe this is a new fee and object to it. If the fee stands, it must be billed in a timely manner to the applicant. (see suggested language)	The Commission rules already allow recoupment of \$25 fee for an operator continuing a case, but occasionally the cost can exceed this amount. The operator should be reimbursing the Commission for costs to re-notice when requested by the operator.	The Commission's proposed amendment will be modified to indicate the Commission "may" bill the applicant if the cost exceeds \$50.
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes this is a new fee and objects. If the fee stands, it must be billed in a timely manner to the applicant.		
43-02-03-90.2 Special Procedures for Hearings	43-02-03-90.2 Special Procedures for Hearings (general comments)	4/25/2016	Written	Gary Presler--North Dakota affiliate of the National Association of Royalty Owners (NARO) He believes the rule should be amended to read "Any interested party, and parties providing general comments, may submit written comments on or objections to the application prior to the hearing date".	The Commission received numerous comments on the definition of "interested party" and believes it is not appropriate to include additional language concerning this issue in this section. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
	Makes all injection records part of hearing record unless excluded by HO	4/25/2016	Written	Terry Schuamann--Fargo He wants the injection records allowed into evidence for each case heard by the Commission.	The amendment allows the injection records into evidence, but allows the hearing officer to exclude them.	The Commission's proposed amendment will be adopted without any further modifications.
	Allows settlement negotiations in record per NDCC 28-32-24, unless HO excludes	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council It is more appropriate to say "admissible", not "permissible". (see suggested language)	The Commission agrees.	The Commission's proposed amendment will be modified. "Permissible" will be replaced by "admissible".
		4/25/2016	Written	Terry Schuamann--Fargo He wants settlement negotiations allowed into evidence for each case heard by the Commission.	The amendment allows settlement negotiations into evidence pursuant to NDCC Section 28-32-24, but allows the hearing officer to exclude them for good cause.	
43-02-05 UNDERGROUND INJECTION CONTROL						
43-02-05-04 Permit Requirements	43-02-05-04 Permit Requirements (general comments)	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council They believe the permit should be good for two years, which is consistent with other oil and gas permits.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time.	None
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the current language is too broad concerning schematics and it appears it requires a PE stamp, which is a significant cost. He wants the schematic requirement for only new permits from June 1, 2017. He also believes the GIS requirement is onerous and expensive and provides no benefit. He also believes the permit should be good for two years, which is consistent with other oil and gas permits.		
		4/25/2016	Written	Wade Enget and Donald Longmair--Planning & Zoning Board, County of Mountrail They believe the legal street address of the facility should be a permit requirement.	The request goes beyond the intent of the rule change. Comments addressing the proposed change were not afforded since notice of the proposed change was not given, therefore consideration should not be given at this time. Note: The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.	None
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He believes the Commission should clarify how to calculate the dike volume.	The Commission believes operators will be competent enough to calculate the estimated volume of fluid a dike is capable of holding.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-05-07 Mechanical Integrity	Operator must receive Director approval prior to workover project	4/20/2016	Written	Ron Ness--North Dakota Petroleum Council The NDPC does not feel an operator should be required to obtain approval to work on their own well. We suggest the requirement be of notification rather than approval. Also NDPC seeks guidance on what the Commission considers a "workover project" and recommends the insertion of "injection" for clarity. (see suggested language)	The Commission agrees that the operator should only be required to obtain prior approval from the Director to work on a well if the packer, tubing, or other means of annular isolation is affected. Note: The Commission has been informed numerous times by emergency services throughout the oil producing counties that they have been overwhelmed with requests for legal street addresses and many are no longer issuing them. It is also our understanding that the 911 Association is endorsing using the File Number (which is located on signage) to identify the legal location using a cross-reference supplied by the Commission.	The Commission's proposed amendment will be modified. Prior notice of performing a workover on an existing UIC well will be required only "during which the packer or other means of annular isolation could be affected".
		4/25/2016	Written	Roger Kelley--Continental Resources, Inc. Continental would like the following modification: "Prior to performing any workover project on an existing well, during which the packer or other means of annular isolation could be affected, the operator must obtain approval from the director."		
		4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He would like the following modification: "Prior to performing any workover project on an existing injection well during which it is anticipated that the packer or other means of annular isolation will be disrupted, the operator must obtain approval from notify the director by means of a sundry."		
43-02-05-11 Bonding Requirements	43-02-05-11 Permit Requirements (general comments)	4/25/2016	Written	Laura Erickson--Cardno Inc. Cardno recommends moving the definition of "commercial injection well" to the definitions under 43-02-03-01.	Note the UIC rules are under Chapter 43-02-05 and Cardno suggests moving the definition to Chapter 43-02-03.	The definition should remain in the UIC section (Chapter 43-02-05), but it will be added to the definitions section in 43-02-03-01.
	Removes commercial bonding requirements since already in 43-02-03-15	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He would like an explanation of how this applies to secondary recovery units that may have multiple injection wells and SWDs that are already covered by unit bonds. If it does apply to secondary recovery units, it should be for those formed after June 1, 2017.	The Commission's change does not affect the Commission's interpretation of the rules, it only removes reference to "commercial" bonding in the rule since it already appears in the bonding section under 43-02-03-15.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-08 STRIPPER WELL AND STRIPPER WELL PROPERTY DETERMINATION						
43-02-08-02.1 Property Determination HB1476	Removes limits on stripper well status if RE well is completed as horizontal	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He is fundamentally opposed to the proposed language as it does not address the needs for secondary recovery units.	The proposed amendment is pursuant to House Bill 1476 passed by the Sixty-Third Legislative Session, therefore the deletion is necessary.	The Commission's proposed amendment will be adopted without any further modifications.
43-02-08-03 Director Shall Determine Well Property Status	Allows MER determination if SI but unable to exceed production threshold	4/25/2016	Written	Jim Cron--Non-operating WIO--Flaxton He is fundamentally opposed to the proposed language as it does not address the needs for secondary recovery units.	The Commission's proposed amendment is a benefit to industry and will allow a well to be given a stripper status when it is evident the well should qualify, even if the well was shut-in for a portion of the qualifying period.	The Commission's proposed amendment will be adopted without any further modifications.



# Oil and Gas Division

Lynn D. Helms - Director      Bruce E. Hicks - Assistant Director

## Department of Mineral Resources

Lynn D. Helms - Director

## North Dakota Industrial Commission

[www.oilgas.nd.gov](http://www.oilgas.nd.gov)

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## FULL NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division, will hold four public hearings to address proposed amendments and additions to the North Dakota Administrative Code (NDAC) Chapter 43-02-03 (Oil & Gas), Chapter 43-02-05 (Underground Injection Control), and Chapter 43-02-08 (Stripper Well Property Determination):

- April 11<sup>th</sup>, 2016 at 9am in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- April 12<sup>th</sup>, 2016 at 9am in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- April 13<sup>th</sup>, 2016 at 9am in the Williston Community Library, 1302 Davidson Drive, Williston, North Dakota
- April 14<sup>th</sup>, 2016 at 9am in the Conference Room of the Oil and Gas Division Minot Field Office, Seven 3<sup>rd</sup> Street SE, Suite 107, Minot, North Dakota.

The proposals are summarized below:

The purpose of the proposed amendments to NDAC § 43-02-03-01 is to clarify who can testify at a Commission hearing and to update obsolete language in the current definition. The proposed amendments identify what interest a party must have to be allowed to testify and also clearly define a saltwater handling facility currently utilized by the oil and gas industry. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-11 is to require owners of underground gathering pipelines to submit contact information to the Director. The proposed amendment requires the owner of an underground gathering pipeline to file an organization report. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-14 is to assure the Commission and Director have access to pipeline right-of-ways and records of underground gathering pipeline owners. The proposed amendment authorizes the Commission and Director to have access to all records wherever located. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-15 is to ensure all wells used in enhanced recovery operations are bonded, to identify bond limitations, and require all saltwater handling facilities and crude oil and produced water underground gathering pipelines to be bonded. The proposed amendments require source wells used for enhanced recovery operations to be placed on a bond, clarifies that an abandoned well could be a well producing in nonpaying quantities, and outlines bonding requirements for saltwater handling facilities. It also outlines the bonding requirements for crude oil and produced water underground gathering pipelines, pursuant to House Bill 1358. The proposed amendments are expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-16 is to remove language that is burdensome to local emergency service offices. The proposed amendment removes the requirement that an operator must request a legal street address for any proposed well. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-17 is to require identification on facilities and provide important information to emergency services. The proposed amendments require signage on storage and treating facilities processing oil, gas and water. Although it is proposed to eliminate the requirement to include the legal street address, the file number on a well site is important for location identification by emergency services, therefore all signs must include the file number. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-19 is to assure proper amounts of topsoil are being stockpiled and identified, and the Commission is notified of work done to reduce the size of the location. The proposed amendments require up to twelve inches of topsoil to be stockpiled and identified on a site diagram. A notice and site diagram must also be filed with the Director when the unused portion of a site is reduced. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-19.3 is to update obsolete language and allow new technology when flowing back a well after hydraulic stimulation. The proposed amendments remove the authority for the Director to allow temporary earthen pits or open receptacles during well servicing and completions but allow portable-collapsible receptacles to be used for storage of fluids used in completion and well servicing operations. The proposed amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-28 is to provide additional protection and safety and provide consistency with NDAC § 43-02-03-16. The proposed amendment requires saltwater handling facilities and treating plants to be at least 500 feet from an occupied dwelling unless the owner agrees or approved by order of the Commission after notice and hearing. The proposed amendment removes the requirement that an operator must submit the legal street address of a well site or facility to the Commission. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-29 is to eliminate ambiguity in the rule so it only addresses well and lease equipment. The proposed amendments remove all language pertaining to underground gathering pipelines that will now be included in the newly created NDAC § 43-02-03-29.1. The proposed amendments will not have an impact on the regulated community in excess of \$50,000.

The purpose of the adoption of NDAC § 43-02-03-29.1 is necessary to improve underground gathering pipeline safety and integrity pursuant to House Bill 1358. The proposed addition includes all underground gathering pipeline requirements previously under NDAC § 43-02-03-29. The addition further requires notification prior to new construction, proper installation, reclamation of the pipeline right-of-way, inspection by third-party independent inspectors, operating at safe pressure, a leak detection and monitoring plan, a spill response plan, corrosion control, continual pipeline integrity, proper pipeline repair and pipeline abandonment. The proposed adoption is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-30 is to eliminate ambiguity in the rule. The proposed amendments clarify that persons controlling underground gathering pipelines, treating plants or receptacles associated with production, injection, processing, or well servicing must report an incident, along with the root cause of the incident, to the Director. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-30.1 is to eliminate ambiguity in the rule. The proposed amendment clarifies that all responsible parties must respond with appropriate resources to contain and clean up spills. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-31 is to eliminate ambiguity in the rule, allow certain information to be available on a confidential well, and assure that cement evaluation is timely. The proposed amendments require a log to be run to evaluate cement bonding within six months of drilling a well, clarify that the permit date and confidentiality period cannot be held confidential, and remove injection volumes from confidentiality. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-34 is to assist in the identification of plugged wells. The proposed amendment requires the file number to be inscribed on the metal cap welded on the casing when plugging a well. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-34.1 is to clarify that facilities and treating plants must be reclaimed. The proposed amendments require all decommissioned treating plants and facilities to be reclaimed and provide documentation when certain roads and sites are allowed to remain. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-40 is to assure operators are submitting accurate gas-oil ratio tests. The proposed amendment requires an operator to perform gas-oil ratio tests when a pool appears to reach bubble point or there is a significant change. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000 since it is anticipated that only a couple of additional gas-oil ratio tests will be required over the life of a well.

The purpose of the proposed amendment to NDAC § 43-02-03-48 is to assure oil production is properly measured. The proposed amendment requires oil to be measured before it is transported from a treating plant or saltwater handling facility. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-49 is to increase environmental protection around oil tanks and allow oil seal flexibility. The proposed amendments require oil tanks and equipment to be resistant to produced fluids, dikes to be constructed around such tanks, and a perimeter berm to be constructed around all oil storage and production sites. The proposed amendments also allow flexibility to use weather-resistant security seals. The proposed amendments requiring dikes and perimeter berms could initially have an impact on the regulated community in excess of \$50,000, but could provide an economic benefit to the regulated community if a substantial incident were to occur. The proposed amendment allowing seal flexibility will provide an economic benefit to the regulated community.

The purpose of the proposed amendments to NDAC § 43-02-03-51.1 is to provide consistency with NDAC § 43-02-03-16 and justify diking capacities. The proposed amendments require schematic drawings to include calculated containment volumes but remove the requirement that an operator submit the legal street address of a treating plant. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-51.3 is to provide consistency concerning perimeter berm requirements and eliminate unnecessary reports. The proposed amendments require the perimeter berm to be a minimum of one foot in height but eliminate the need to file an annual treating plant report. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-52 is to clarify that monthly oil production reports are required for every well completed in any pool. The proposed amendment clarifies an oil production report must be filed even if no production occurs in a particular month. The proposed adoption will not have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-52.1 is to clarify that monthly gas production reports are required for every well completed in any pool. The proposed amendment clarifies a gas production report must be filed even if no production occurs in a particular month. The proposed adoption will not have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-53 is to clarify and streamline the saltwater handling facility rules and assure that saltwater handling facilities are being properly regulated. The proposed amendments require a permit unless the saltwater handling facility is bonded as an appurtenance to a well or treating plant. This clarifies that saltwater handling facilities constructed by service companies must conform to the rule. The amendments also move some of the present language to other newly created sections of the Administrative Code. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the adoption of NDAC § 43-02-03-53.1 is to clarify the saltwater handling facility rule currently under NDAC § 43-02-03-53 by addressing saltwater handling facility requirements in this new section. This section will ease confusion of what information is necessary to file a complete application. The proposed adoption outlines the general requirements to be included in a saltwater handling facility application. The proposed adoption is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the adoption of NDAC § 43-02-03-53.2 is to clarify the saltwater handling facility rule currently under NDAC § 43-02-03-53 by addressing saltwater handling facility siting in this new section. The proposed adoption states a saltwater handling facility cannot be sited in a geologically or hydrologically sensitive area. The proposed adoption is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the adoption of NDAC § 43-02-03-53.3 is to assure all saltwater handling facilities are bonded and to clarify the rule currently under NDAC § 43-02-03-53 by addressing saltwater handling facility requirements in this new section. The proposed adoption outlines the general construction and operational requirements for a saltwater handling facility including diking around tanks and a perimeter berm around the facility. The proposed adoption may have an impact on the regulated community in excess of \$50,000, although most of the saltwater handling facilities are already permitted and bonded as appurtenances to wells or treating plants.

The purpose of the adoption of NDAC § 43-02-03-53.4 is to assure all saltwater handling facilities are properly abandoned. The proposed adoption outlines the requirements for abandoning a saltwater handling facility including prior approval of the Director. The proposed adoption is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-55 is to clarify when a saltwater handling facility is considered abandoned. The proposed amendment clarifies that the removal of saltwater handling facility equipment or the failure to use a saltwater handling facility for one year constitutes abandonment of the saltwater handling facility. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-80 is to clarify treating plants and saltwater handling facilities are subject to the rule. The proposed amendment requires the purchaser and transporter of crude oil to report the amount of oil removed and purchased by them monthly. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-81 is to clarify saltwater handling facility operators are subject to the rule. The proposed amendment requires the operator of a saltwater handling facility to obtain the Director's approval before any oil is transported from the facility. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-90 is to compensate the Commission on lengthy newspaper notices if the applicant requests the case to be continued. The proposed amendment requires the applicant to pay the cost of republication if the cost exceeds fifty dollars. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-03-90.2 is to clarify the record and provide the Commission valuable well information when determining if correlative rights are being protected. The proposed amendments will include the injection records into the evidence of each case heard by the Commission, unless excluded by the hearing officer. They also clarify that settlement negotiations between parties to a contested case are governed by statute although the hearing officer may strike such testimony from the record. The proposed amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-05-04 is to assure proper containment on or around an injection well. The proposed amendment requires the applicant to include a calculated containment volume provided by the proposed diking. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-07 is to assure proper remedial work is performed on an injection well. The proposed amendment requires the applicant to obtain approval from the Director prior to performing any workover project on an existing injection well. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-05-11 is to eliminate ambiguity in the rule. The proposed amendments clarify that commercial injection wells are bonded pursuant to the statutes. The proposed amendments will not have an impact on the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-08-02.1 is to comply with the statute change addressing stripper well determinations, pursuant to House Bill 1476. The amendment removes language that terminates the stripper well property status if a well previously qualified is reentered and recompleted as a horizontal well. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-08-03 is to eliminate ambiguity in the rule. The proposed amendment clarifies that stripper well status or stripper well property status can be granted if the well(s) were shut-in for a portion of the qualifying period, as long as the stripper well production threshold could not have been exceeded if the well(s) had been maintained at the maximum efficient rate of production throughout the twelve-month qualifying period. The proposed amendment will provide an economic benefit to the regulated community.

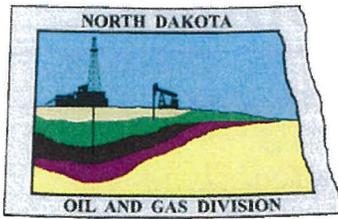
The proposed rules may be reviewed at the office of the Oil and Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at <https://www.dmr.nd.gov/oilgas/>. A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8020. Written comments on the proposed rules, sent to the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, received by 5pm, April 25<sup>th</sup>, 2016, will be fully considered. Oral comments can be given at any public hearing listed above.

If you plan to attend a public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8020, or write the Oil and Gas Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than March 28, 2016.

Dated this 29<sup>th</sup> day of February, 2016.

*Bruce E. Hicks*

Bruce E. Hicks  
Assistant Director



# Oil and Gas Division

Lynn D. Helms - Director      Bruce E. Hicks - Assistant Director

**Department of Mineral Resources**

Lynn D. Helms - Director

**North Dakota Industrial Commission**

www.oilgas.nd.gov

## REGULATORY ANALYSIS PURSUANT TO

**NORTH DAKOTA CENTURY CODE SECTION 28-32-08  
FOR CHANGES IN NORTH DAKOTA ADMINISTRATIVE CODE SECTION 43-02-03-15  
BOND AND TRANSFER OF WELLS**

### I. CLASS OF PERSONS AFFECTED BY THE AMENDMENT

The classes of persons who probably will be affected by the proposed amendments to the rule are individuals and companies who operate enhanced recovery projects, saltwater handling facilities, and crude oil and produced water underground gathering pipelines in the State. The proposed amendment will affect operators that currently use source wells in enhanced oil recovery (EOR) projects, companies that have saltwater handling facilities that are not currently bonded as a well or treating plant appurtenance, and owners of crude oil and produced water underground gathering pipelines. The proposed amendments will benefit the State and surety companies that issue bonds.

### II. PROBABLE IMPACT

The probable impact of the proposed amendments will be that some operators will have to obtain a bond for operations that currently do not require one. The following costs are anticipated:

- Source wells in EOR projects not currently bonded
  - Affects less than 5 wells
  - Most operators of EOR projects have an existing bond on which the source well can be added
  - Negligible cost
- Saltwater Handling Facilities not currently bonded as a well or treating plant appurtenance
  - Approximately 210 facilities
  - Approximate yearly cost of surety bond at 3% of principle amount of bond
  - Total Cost = (210 facilities) X (3%) X (\$50,000 bond) = \$315,000
- Owners of crude oil and produced water underground gathering pipelines
  - Commercial and non-commercial SWD operators (127)
  - Affects all commercial gatherers (est 15)
  - Approximate yearly cost of surety bond at 3% of principle amount of bond
  - Total Cost = (127+15 companies) X (3%) X (\$50,000 bond) = \$213,000
  - Total Cost = (127+15 companies) X (3%) X (\$100,000 bond) = \$426,000

It is anticipated that the total cost of the proposed rule to the regulated community may exceed \$50,000 and could approach \$528,000 to \$741,000.

### III. COST TO AGENCY AND EFFECT ON STATE REVENUES

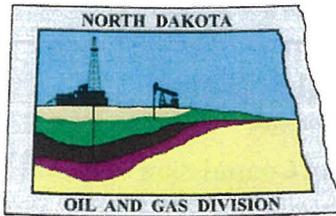
It is anticipated that there will be negligible costs to the agency to implement and enforce the proposed amendments concerning source well and saltwater handling facility bonds.

The amendment concerning pipeline bonds is necessary to comply with House Bill 1358. It is anticipated our agency will bear the following costs to implement and enforce the proposed amendments:

<u>Costs to Agency</u>		
Field Inspection-----	1hr/wk x 6 inspectors @ \$23/hr	= \$ 7,176 / yr
IT maintenance-----	1hr/wk @ \$30/hr	= \$ 1,560 / yr
File clerk-----	5hr/wk @ \$15/hr	= \$ 3,900 / yr
Total-----		\$12,636 / yr

### IV. ALTERNATIVE METHODS

No alternate methods were seriously considered.



# Oil and Gas Division

Lynn D. Helms - Director      Bruce E. Hicks - Assistant Director

## Department of Mineral Resources

Lynn D. Helms - Director

## North Dakota Industrial Commission

www.oilgas.nd.gov

## REGULATORY ANALYSIS PURSUANT TO

### NORTH DAKOTA CENTURY CODE SECTION 28-32-08 FOR CHANGES IN NORTH DAKOTA ADMINISTRATIVE CODE SECTION 43-02-03-29.1 UNDERGROUND GATHERING PIPELINES

#### I. CLASS OF PERSONS AFFECTED BY THE ADOPTION

The classes of persons who probably will be affected by the proposed adoption are individuals and companies who own underground gathering pipelines, provide services for underground gathering pipelines, and operators of oil, gas, and injection wells in the State. The proposed adoption will affect underground gathering pipeline owners that plan on installing new pipelines and current owners of existing underground gathering pipelines. The proposed adoption will benefit companies that specialize in pipeline leak detection and monitoring technology, third-party independent inspectors, geographic information system software companies, and companies that offer services that utilize geographic information system software. The proposed adoption will benefit the State and general public because of improved underground gathering pipeline safety and integrity.

#### II. PROBABLE IMPACT

The probable impact of the proposed adoption will be that underground gathering pipeline owners will be required to notify the Commission prior to new construction, properly handle and install all pipelines, reclaim and maintain the pipeline right-of-way for the entire service life of the pipeline, contract third-party independent inspectors, operate pipelines at safe pressure, develop a leak detection and monitoring plan, develop a spill response plan, monitor for pipeline corrosion, demonstrate continual pipeline integrity, properly repair pipelines, and safely abandon out of service pipelines. The following costs are anticipated:

- GIS requirements – approx. \$75,000 /yr (IT Support approx. \$30 per mile x 2,500 miles)
- Design and construction requirements – Costs for training pipeline installation crews are negligible. The training of installation crews is an accepted industry practice.
- Independent third-party inspectors – approx. \$125,000 / yr (approx. \$100 per mile x 1,250 miles of crude oil and produced water pipelines installed per yr)
- Pressure regulating devices – Costs are negligible; designing underground gathering pipelines to operate at safe pressures is an accepted industry practice.
- Leak Detection and Monitoring plan – \$118,550 (approx. \$10 per mile x approx. 11,855 miles of crude oil and produced water pipelines)
- Data sharing plan – \$86,000 (43 pipeline companies x approx. \$2000 per company)
- Spill response plan – \$118,550 (approx. \$10 per mile x approx. 11,855 miles of crude oil and produced water pipelines)
- Corrosion monitoring – Costs for corrosion monitoring and control are negligible; corrosion monitoring and control is an accepted industry practice for all submerged metallic piping systems.
- Pipeline integrity demonstration – Costs are negligible; demonstrating pipeline integrity throughout the in-service life of a pipeline system is an accepted practice recognized by industry.
  - Pressure test
  - Leak detection and monitoring
  - Internal integrity inspection

It is anticipated that the total cost of the proposed rule to the regulated community may exceed \$50,000 and could approach \$523,100.

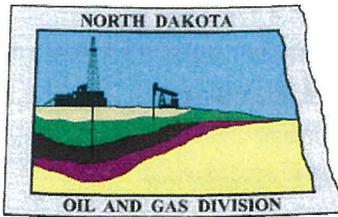
#### III. COST TO AGENCY AND EFFECT ON STATE REVENUES

This adoption is necessary to improve underground gathering pipeline safety and integrity pursuant to House Bill 1358. It is anticipated our agency will bear the following costs to implement and enforce the proposed adoption:

<u>Costs to Agency</u>		
Field Inspection-----	40hr/wk x 6 inspectors @ \$23/hr =	\$287,040 / yr
IT-----	40hr/wk x 2 employees (GIS/Database) @ \$30/hr =	\$124,800 / yr
File clerk-----	40hr/wk @ \$15/hr =	\$ 31,200 / yr
Program Supervisor-----	40hr/wk @ \$40/hr =	\$ 83,200 / yr
Total-----		\$526,240 / yr

#### IV. ALTERNATIVE METHODS

No alternate methods were seriously considered since the requirements were mandated by House Bill 1358.



# Oil and Gas Division

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Department of Mineral Resources

Lynn D. Helms - Director

North Dakota Industrial Commission

www.oilgas.nd.gov

## REGULATORY ANALYSIS PURSUANT TO

### NORTH DAKOTA CENTURY CODE SECTION 28-32-08 FOR CHANGES IN NORTH DAKOTA ADMINISTRATIVE CODE SECTION 43-02-03-49 OIL PRODUCTION EQUIPMENT, DIKES, AND SEALS

#### I. CLASS OF PERSONS AFFECTED BY THE AMENDMENT

The classes of persons who probably will be affected by the proposed amendments to the rule are individuals and companies who operate producing oil wells in the State. One proposed amendment will affect operators that don't currently have dikes and perimeter berms around oil well tanks and sites. The proposed amendment will benefit the State, fabrication companies, and construction companies that are contracted to construct the dikes and berms. Another amendment will affect operators, transporters, and purchasers that sell, purchase, and transport crude oil. The proposed amendment will benefit operators, transporters, and purchasers that sell, purchase, and transport crude oil, along with suppliers that provide non-metal oil seals.

#### II. PROBABLE IMPACT

The probable impact of the proposed diking and berm amendment will be that some operators will have to construct dikes and perimeter berms. The following costs are anticipated:

- Existing sites with oil tanks not currently diked
  - Affect approximately 50 sites
  - Approximate one-time cost of \$2,000 per site
  - Total Cost = (50 sites) X (\$2,000 per site) = \$100,000
- Existing sites without perimeter berms
  - Affect approximately 4000 sites
  - Approximate one-time cost of \$3,500 per site
  - Total Cost = (4000 sites) X (\$3,500 per site) = \$14,000,000

It is anticipated that the total cost of the proposed rule to the regulated community may exceed \$50,000 and could approach \$14,100,000.

#### III. COST TO AGENCY AND EFFECT ON STATE REVENUES

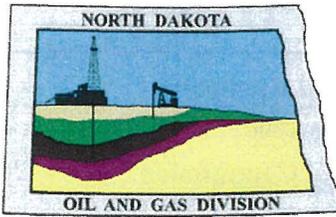
It is anticipated that there will be minimal costs to the agency to implement and enforce the proposed amendments concerning weather-resistant seals.

It is anticipated our agency will bear the following costs to implement and enforce the proposed diking and berm amendments:

<u>Costs to Agency</u>	
Field Inspection-----	3hr/mth x 32 inspectors @ \$23/hr = \$26,496 / yr
File clerk-----	1hr/wk @ \$15/hr = \$ 780 / yr
Total-----	\$27,276 / yr

#### IV. ALTERNATIVE METHODS

No alternate methods were seriously considered since the Commission's goal is to reduce the number of spills and leaks that travel off existing oil sites.



# Oil and Gas Division

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Lynn D. Helms - Director

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### REGULATORY ANALYSIS PURSUANT TO

**NORTH DAKOTA CENTURY CODE SECTION 28-32-08  
FOR ADOPTION OF NORTH DAKOTA ADMINISTRATIVE CODE SECTION 43-02-03-53.3  
SALTWATER HANDLING FACILITY CONSTRUCTION AND OPERATION REQUIREMENTS**

#### I. CLASS OF PERSONS AFFECTED BY THE AMENDMENT

The classes of persons who probably will be affected by the proposed amendments to the rule are individuals and companies who operate saltwater handling facilities in the State. The proposed amendment will affect operators that don't currently have dikes and perimeter berms around saltwater handling facilities and sites. The proposed amendment will benefit the State, fabrication companies, and construction companies that are contracted to construct the dikes and berms.

#### II. PROBABLE IMPACT

The probable impact of the proposed diking and berm amendment will be that some operators will have to construct dikes and perimeter berms. The following costs are anticipated:

- Existing sites with saltwater handling facilities not currently diked
  - Affect approximately 5 sites
  - Approximate one-time cost of \$2,000 per site
  - Total Cost = (5 sites) X (\$2,000 per site) = \$10,000
- Existing saltwater handling facility sites without perimeter berms
  - Affect approximately 280 sites
  - Approximate one-time cost of \$3,500 per site
  - Total Cost = (280 sites) X (\$3,500 per site) = \$980,000

It is anticipated that the total cost of the proposed rule to the regulated community may exceed \$50,000 and could approach \$990,000.

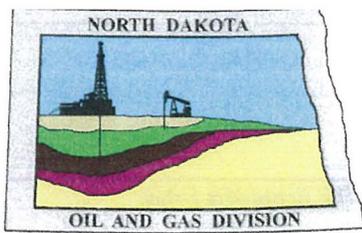
#### III. COST TO AGENCY AND EFFECT ON STATE REVENUES

It is anticipated our agency will bear the following costs to implement and enforce the proposed diking and berm amendments:

<u>Costs to Agency</u>	
Field Inspection-----	1hr/mth x 16 inspectors @ \$23/hr = \$4,416 / yr
File clerk-----	1hr/mth @ \$15/hr = \$ 180 / yr
Total-----	\$4,596 / yr

#### IV. ALTERNATIVE METHODS

No alternate methods were seriously considered since the Commission's goal is to reduce the number of spills and leaks that travel off existing saltwater handling facility sites.



# Oil and Gas Division

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North Dakota Industrial Commission

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## SMALL ENTITY REGULATORY ANALYSIS PURSUANT TO NORTH DAKOTA CENTURY CODE SECTION 28-32-08.1

None of the amendments or rules created under North Dakota Administrative Code Chapters 43-02-03, 43-02-05, or 43-02-08 were mandated by Federal law.

### **SECTION 43-02-03-01 DEFINITIONS.**

The amendments define commercial injection well, flow line, injection pipeline, and saltwater handling facility. This amendment will not have an adverse impact on small entities.

### **SECTION 43-02-03-11 ORGANIZATION REPORTS.**

This amendment requires persons engaged in pipeline operations to submit contact information to the Director. This amendment will not have an adverse impact on small entities.

### **SECTION 43-02-03-14 ACCESS TO SITES AND RECORDS.**

This amendment assures the Commission and Director have access to records of persons engaged in pipelines and pipeline right-of-ways. This amendment will not have an adverse impact on small entities.

### **SECTION 43-02-03-15 BOND AND TRANSFER OF WELLS.**

The amendment defining saltwater handling facility could have an adverse impact on small entities.

The following methods were considered for reducing impact on small entities:

#### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

The addition requires the operator of a saltwater handling facility and of a crude oil and produced water underground gathering pipeline to obtain a bond. Stand-alone saltwater handling facilities that are not bonded as an appurtenance to a well or treating plant could present a large liability if not properly regulated, therefore small entities should not be exempted from the bonding requirement. The bonding of crude oil and produced water underground gathering pipelines was mandated by House Bill 1358 due to the possible environmental damage that could occur in the event of a leak, therefore small entities should not be exempted from the bonding requirement.

#### **2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

#### **3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The one-time one-page bond form required to be filed is not onerous and small entities should not be exempted from the reporting requirement.

#### **4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to ensure that saltwater handling facilities and crude oil and produced water underground gathering pipelines are being operated by a responsible party and small entities should not be exempt.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-16 APPLICATION FOR PERMIT TO DRILL AND RECOMPLETE.**

This amendment removes the requirement for the permit applicant to include the legal street address of the location. This amendment will not have an adverse impact on small entities.

**SECTION 43-02-03-17 SIGN ON WELL OR FACILITY.**

This amendment requires signage on existing wells to contain the file number of the well. This amendment could have an adverse impact on small entities.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

Emergency services plan to use the file number as a cross-reference with Oil and Gas Division records to identify the location of a site in case of an emergency, therefore small entities should comply with the requirement.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The one-time signage required to be posted is not onerous and small entities should not be exempted from the requirement.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to ensure that emergency services can locate the well in the event of a mishap and small entities should not be exempt.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-19 SITE CONSTRUCTION.**

This amendment requires up to twelve inches of topsoil to be stockpiled instead of eight inches. This amendment could have an adverse impact on small entities.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

As much as four inches of topsoil could become damaged if not stockpiled prior conducting oil and gas operations, therefore small entities should comply with the requirement.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The topsoil must be identified on a site diagram, but this is an existing requirement and no additional reporting requirements are proposed.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to ensure that topsoil is preserved for future productivity after the well has been plugged and abandoned and small entities should not be exempt.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-19.3 EARTHEN PITS AND OPEN RECEPTACLES.**

This amendment allows the use of portable-collapsible receptacles. This amendment will not have an adverse impact on small entities.

**SECTION 43-02-03-28 SAFETY REGULATION.**

These amendments remove the requirement to request the legal street address of the well site and well facility and increase the notice requirement of an operator conducting any well stimulation to give prior written notice, up to ten days and not less than seven business days, to any operator of a well completed in the same pool. This amendment will not have an adverse impact on small entities.

**SECTION 43-02-03-29.1 UNDERGROUND GATHERING PIPELINES.**

The amendments outline underground gathering pipeline requirements pursuant to House Bill 1358. The amendments include information required under North Dakota Century Code § 38-08-27. The amendments include all underground gathering pipeline requirements previously under 43-02-03-29. The amendments further include notification prior to new construction, proper installation, pipeline reclamation, inspection by third-party independent inspectors, operating at safe pressure, a leak detection and monitoring plan, a spill response plan, corrosion control, pipeline integrity plan, proper pipeline repair and pipeline abandonment.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

The amendments are pursuant to House Bill 1358 and do not allow any variance and small entities should not be exempted from them.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendments are pursuant to House Bill 1358 and do not allow any variance and small entities should not be exempted from them.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The amendments are pursuant to House Bill 1358 and do not allow any variance and small entities should not be exempted from them.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendments are pursuant to House Bill 1358 and do not allow any variance and small entities should not be exempted from them.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The amendments are necessary to improve underground gathering pipeline safety and integrity, therefore small entities should not be exempt.

The adoption of the rules will have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-30 NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS.**

The amendment requires the root cause of an incident be reported to the Commission.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

Commission records indicate that spill reports submitted by industry typically do not indicate the root cause of an incident and many incidents can re-occur due to the lack of knowledge of previous incidents, therefore small entities should comply with the requirement.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The one-time report required to be submitted is not onerous and small entities should not be exempted from the requirement.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to prevent future environmental mishaps by making the root cause of previous mishaps public and small entities should not be exempt.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-30.1 LEAK AND SPILL CLEANUP.**

This amendment requires responsible parties to use appropriate resources to contain and clean up spills. This amendment will not have an adverse impact on small entities.

## **SECTION 43-02-03-31 WELL LOG, COMPLETION, AND WORKOVER REPORTS.**

These amendments require the cement bond log to be run no later than six months from reaching total depth and removes some items from the confidentiality period. These amendments will not have an adverse impact on small entities.

## **SECTION 43-02-03-34 METHOD OF PLUGGING.**

The amendment requires the file number to be inscribed on the casing cap when plugging a well.

The following methods were considered for reducing impact on small entities:

### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

Many wells are currently drilled from the same drilling site and could be as close as fifteen feet apart. It is imperative that plugged wells be identified when they are in close proximity to other wells, therefore small entities should comply with the requirement.

### **2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

### **3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The amendment does not impose any reporting requirements.

### **4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not address design or operational standards.

### **5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to ensure that plugged wells can be identified, especially if an incident or mishap occurs. Small entities should not be exempt from this amendment.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

## **SECTION 43-02-03-34.1 RECLAMATION OF SURFACE.**

These amendments clarify that saltwater handling facilities must reclaim the surface of the land after being decommissioned. These amendments will not have an adverse impact on small entities.

## **SECTION 43-02-03-40 GAS-OIL RATIO TEST.**

The amendment requires a gas-oil ratio test to be performed when the pressure in the producing reservoir reaches bubble point.

The following methods were considered for reducing impact on small entities:

### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

The Commission wants to ensure that accurate gas volumes are being estimated for producing wells, therefore small entities should comply with the requirement.

### **2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The one-time report required to be submitted is not onerous and small entities should not be exempted from the requirement.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not address design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to ensure that operators report accurate amounts of gas. Small entities should not be exempt from this amendment.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-48 MEASUREMENT OF OIL.**

The amendment clarifies that the oil volume must be determined before being transported from a treating plant or saltwater handling facility. The amendment will not have an adverse impact on small entities.

**SECTION 43-02-03-49 OIL PRODUCTION EQUIPMENT, DIKES, AND SEALS.**

These amendments require dikes around all existing oil tanks and a six-inch perimeter berm be constructed.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

The Commission is attempting to contain a larger percentage of spills on the location by requiring additional dikes and berms. The amendments were modified, after consideration of comments, to allow a waiver for the dikes and a modification of the perimeter berms under certain circumstances. Small entities should not be exempted from the modified amendments.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The amendment does not impose any reporting requirements.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not address design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to protect the environment. It can be extremely beneficial to have such dikes and perimeter berms in place, especially in environmentally sensitive areas, since clean-up can be very arduous and expensive.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

#### **SECTION 43-02-03-51.1 TREATING PLANT PERMIT REQUIREMENTS.**

These amendments require the calculated contain volume be included on the schematic drawing , although the legal street address is no longer required on the plat. The amendment will not have an adverse impact on small entities.

#### **SECTION 43-02-03-51.3 TREATING PLANT CONSTRUCTION AND OPERATION REQUIREMENTS.**

This amendment requires a six-inch perimeter berm be constructed. The amendment also removes the requirement for an annual treating plant report to be submitted.

The following methods were considered for reducing impact on small entities:

##### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

The Commission is attempting to contain a larger percentage of spills on the location by requiring a perimeter berm around the treating plant site. The amendment was modified, after consideration of comments, to allow a modification of the perimeter berm under certain circumstances. Small entities should not be exempted from the modified amendments.

##### **2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

##### **3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The amendment does not impose any reporting requirements.

##### **4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not address design or operational standards.

##### **5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the rule is to protect the environment. It can be extremely beneficial to have a perimeter berm in place, especially in environmentally sensitive areas, since clean-up can be very arduous and expense.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

#### **SECTION 43-02-03-52 REPORT OF OIL PRODUCTION.**

This amendment clarifies that a monthly oil production report is required to be filed, even if the well was shut-in for the entire month. The amendment will not have an adverse impact on small entities.

##### **SECTION 43-02-03-52.1 REPORT OF GAS PRODUCED IN ASSOCIATION WITH OIL.**

This amendment clarifies that a monthly gas production report is required to be filed, even if the well was shut-in for the entire month. The amendment will not have an adverse impact on small entities.

#### **SECTION 43-02-03-53 SALTWATER HANDLING FACILITIES.**

These amendments streamline the saltwater handling facility requirements to be consistent with that of treating plants. Most of the existing requirements were moved to 43-02-03-53.1. The amendment will not have an adverse impact on small entities.

### **SECTION 43-02-03-53.1 SALTWATER HANDLING FACILITY PERMIT REQUIREMENTS.**

The adoption is to clarify the saltwater handling facility rule currently under 43-02-03-53 by addressing saltwater handling facility permit requirements in this new section. This section will ease confusion of what information is necessary to file a complete application.

The following methods were considered for reducing impact on small entities:

#### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

The adoption outlines the general requirements to be included in a treating plant application, therefore small entities should not be exempted from the requirements.

#### **2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

Operators of existing saltwater handling facilities that are not currently bonded as an appurtenance to a well or treating plant, have 90 days (from the date the Commission requests the application) to file for a facility permit. The deadline is not onerous and a less stringent deadline should not be considered for small entities.

#### **3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The adoption does not impose any reporting requirements.

#### **4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The adoption does not address design or operational standards.

#### **5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

Stand-alone saltwater handling facilities do not currently have permitting requirements and the only way to ensure they are being constructed in a manner that protects the environment is to require they be permitted, therefore small entities should not be exempt.

The adoption of the rules will have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

### **SECTION 43-02-03-53.2 SALTWATER HANDLING FACILITY SITING.**

The adoption requires all saltwater handling facilities to be sited away from geologically or hydrologically sensitive areas. The amendment will not have an adverse impact on small entities.

### **SECTION 43-02-03-53.3 SALTWATER HANDLING FACILITY CONSTRUCTION AND OPERATION REQUIREMENTS.**

The adoption sets the bonding levels for saltwater handling facilities, requires fencing, dikes around tankage, and a perimeter dike around the site. It could have an adverse impact on small entities. The adoption is to clarify the saltwater handling facility rule currently under 43-02-03-53 by addressing saltwater handling facility permit requirements in this new section. This section will ease confusion of what information is necessary to file a complete application.

The following methods were considered for reducing impact on small entities:

#### **1. Establishment of less stringent compliance or reporting requirements for small entities.**

Stand-alone saltwater handling facilities that are not bonded as an appurtenance to a well or treating plant could present a large liability if not properly regulated, therefore small entities should not be exempted from the bonding

requirement. Fencing, dikes, and perimeter berms provide safety and spill containment in the event of a mishap. For safety and environmental concerns, small entities should not be exempted from the bonding requirement.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The adoption requires unused tanks to be removed or placed into service after one year, and for the operator to notify the Commission immediately upon commencing operations. The deadlines are reasonable and small entities should not be exempt.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The one-time one-page bond form required to be filed is not onerous and the adoption was modified, after consideration of comments, to allow the Director to modify the perimeter berm deadline and requirements under certain circumstances, therefore small entities should not be exempted from the reporting requirement.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The adoption does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

The purpose of the adoption is to ensure that saltwater handling facilities are being operated by a responsible party and small entities should not be exempt.

The adoption of the rule could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-53.4 SALTWATER HANDLING FACILITY ABANDONMENT AND RECLAMATION REQUIREMENTS.**

The adoption requires Director approval prior to abandoning a saltwater handling facility, a follow-up report within 30 days of accomplishing the work, and reclamation of the site. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-03-55 ABANDONMENT OF WELL, TREATING PLANTS, OR SALTWATER HANDLING FACILITIES – SUSPENSION OF DRILLING.**

The amendment clarifies that removal of equipment or the failure to use a saltwater handling facility for one year constitutes abandonment. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-03-80 REPORTS OF PURCHASERS AND TRANSPORTERS OF CRUDE OIL.**

The amendment clarifies that purchasers and transporters must report oil removed from a saltwater handling facility. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-03-81 AUTHORIZATION TO TRANSPORT OIL FROM A WELL, TREATING PLANT, CENTRAL PRODUCTION FACILITY, OR SALTWATER HANDLING FACILITY.**

The amendment clarifies that the operator of a saltwater handling facility must obtain an authorization to purchase and transport oil, prior to removing oil from the facility. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-03-90 HEARINGS – COMPLAINT PROCEEDINGS – EMERGENCY PROCEEDINGS – OTHER PROCEEDINGS.**

The amendment allows the Commission to recoup the costs of placing a notice of hearing in the legal notices of a newspaper if the applicant requests the case to be continued and such costs exceeds \$50.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

The amendment does not impose any reporting requirements.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any deadlines for compliance.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The amendment does not impose any reporting requirements.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The adoption does not impose any design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

Occasionally the Commission will receive an application that requires legal notice of the hearing in many Counties within North Dakota, which can approach \$200 if all published in all oil producing Counties. The initial cost of publication is paid by the Commission, although there are instances when the applicant continues the case many times and pays only a \$25 fee for such continuance, yet the Commission's cost far exceed the fee. The Commission believes this is an undue financial burden on the Commission and the applicant has various ways to over the fee, like dismissing the case and re-applying when they are prepared to present their case.

The amendment could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-03-90.2 OFFICIAL RECORD.**

The amendment clarifies that settlement negotiations between parties to a contested case are only admissible as governed by NDCC 28-32-24. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-05-04 PERMIT REQUIREMENTS.**

The amendment requires the calculated containment volume of dikes and berms be included on the schematic drawings of injection wells. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-05-07 MECHANICAL INTEGRITY.**

The amendment requires an operator of an injection well to receive Director approval prior to remedial work.

The following methods were considered for reducing impact on small entities:

**1. Establishment of less stringent compliance or reporting requirements for small entities.**

The Commission wants to ensure that work performed on an injection well can be approved since the depth placement of equipment is dependent upon such factors as formation isolation and casing isolation. Small entities should not be exempted from the notice requirement.

**2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.**

The amendment does not impose any schedules, deadlines, for compliance or reporting requirements.

**3. Consolidation or simplification of compliance or reporting requirements for small entities.**

The notice required to be submitted is not onerous and assures the operator that the work they propose can be approved, therefore small entities should not be exempted from the requirement.

**4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.**

The amendment does not address design or operational standards.

**5. Exemption of small entities from all or any part of the requirements contained in the proposed rules.**

To conform to the permit requirements of an injection well, it is critical that injection fluid enters the authorized injection formation and that the well maintains mechanical integrity. Requiring prior approval of work proposed will assure the operator that the work will conform to the permit requirements. Small entities should not be exempt from this amendment.

The adoption of the rules could have an adverse economic impact on small entities, therefore, a Small Entities Economic Impact Statement was prepared.

**SECTION 43-02-05-11 BONDING.**

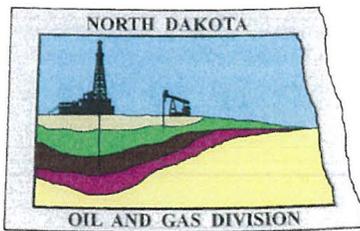
The amendment clarifies that injection wells must be bonded as provided in 43-02-03-15. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-08-02.1 PROPERTY DETERMINATION.**

The amendment is pursuant to House Bill 1476 passed by the Sixty-Third Legislative Session. The adoption will not have an adverse impact on small entities.

**SECTION 43-02-08-03 DIRECTOR SHALL DETERMINE STRIPPER WELL OR STRIPPER WELL PROPERTY STATUS.**

The amendment allows the Director to consider the shut-in period of a well in the qualifying period, if the well is not capable of exceeding the production threshold. The adoption will not have an adverse impact on small entities.



# Oil and Gas Division

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## SMALL ENTITY IMPACT STATEMENT PURSUANT TO NORTH DAKOTA CENTURY CODE 28-32-08.1

### SECTION 43-02-03-01 DEFINITIONS (Saltwater Handling Facility).

Find the following information as required by NDCC Section 28-32-08.1:

#### 1. The small entities subject to the proposed rule.

The small entities who probably will be affected by the proposed amendment to the rule are individuals and service companies who desire to store production water in tankage that is not an appurtenance to an injection or treating plant in the State of North Dakota.

#### 2. The administrative and other costs required for compliance with the proposed rule.

Costs required for compliance due to the definition change will be minimal under the existing rules for saltwater handling facilities under 43-02-03-53. Costs required for compliance will be incurred for amendments covered under 43-02-03-15, 43-02-03-53.1, and 43-02-03-53.3.

#### 3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the general public since the rules will provide additional safety.

#### 4. The probable effect of the proposed rule on state revenues.

There will be a minimal cost to the agency and a negligible effect on state revenues.

#### 5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to provide regulatory oversight to assure the environment is protected.

**SECTION 43-02-03-11 ORGANIZATION REPORTS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and service companies who are engaged in pipeline operations in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include man-hours to complete paperwork.

Costs for Compliance  
Administrative costs-----18hrs @ \$20/hr = \$ 20  
Total----- = \$ 20

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the general public since responsible pipeline operators will be identifiable.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to provide the Commission with responsible persons in the event of a mishap.

**SECTION 43-02-03-15 BOND AND TRANSFER OF WELLS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to operate source wells, pipelines, and saltwater handling facilities in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance for source wells will be very minimal since such wells can be added to the existing required Unit bond, therefore no estimated cost was determined.

Costs required for compliance for saltwater handling facilities will include man-hours to complete paperwork and premiums to obtain bonds.

<u>Costs Per Saltwater Handling Facility for Compliance</u>	
Administrative cost-----	2hrs @ \$20/hr = \$ 40
Yearly surety bond cost=(3% fee X \$50,000)-----	= \$ 1,500
Total-----	= \$ 1,540

Costs required for compliance for crude oil and produced water underground gathering pipelines will include man-hours to complete paperwork and premiums to obtain bonds.

<u>Costs Per Oil or Produced Water Pipeline for Compliance</u>	
Administrative cost-----	2hrs @ \$20/hr = \$ 40
Yearly surety bond cost=(3% fee X \$50,000)-----	= \$ 1,500
Total-----	= \$ 1,540

The maximum cost would be an additional \$1,500 yearly cost since a \$100,000 bond can be submitted to cover all crude oil and produced water underground gathering pipeline systems the entity operates.

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the state of North Dakota since increased bonding will promote greater compliance with operational and abandonment requirements.

**4. The probable effect of the proposed rule on state revenues.**

The amendments were pursuant to House Bill 1358. It is anticipated there will only minor costs to the agency to implement and enforce the proposed amendments since agency employees currently process oil and gas well bonds. There will probably be a positive impact on State revenues if the entity obtains a cash bond since the Oil and Gas Division receives a 1% annual administration fee for cash bonds.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to provide assurance that Commission regulations will be complied with and House Bill 1358 mandated crude oil and produced water underground gathering pipeline bonding.

**SECTION 43-02-03-17 SIGN ON WELL OR FACILITY.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to operator existing wells in the State of North Dakota drilled prior to mid 1977.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include updating signs at well sites and facilities.

<u>Costs Per Well for Compliance</u>	
Administrative cost-----	1hr @ \$20/hr = \$ 20
One-time cost to update signage-----	= <u>\$ 20</u>
Total-----	= \$ 40

There is also a benefit to some operators since the rule is also being amended to not require the legal street address be placed on the signage, although no estimate on the savings was estimated.

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to operators, service contractors, the general public, and the state of North Dakota since emergency services intends to use the file number located on the signage to help identify the location of the well or site in the event of an emergency.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to provide assurance that emergency services can locate the well or site in case of an emergency.

**SECTION 43-02-03-19 SITE CONSTRUCTION.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to construct a well site, saltwater handling facility, or treating plant in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include removing up to an additional four inches of topsoil, stockpiling the topsoil, and redistributing the topsoil upon reclamation of the site.

<u>Costs Per Site for Compliance</u>	
Removal of an additional 4" of topsoil-----	= \$ 1,500
Redistribution of topsoil upon reclaiming site-----	= <u>\$ 1,000</u>
Total-----	= \$ 2,500

The costs listed above are maximum estimates. Many of the sites will not have over eight inches of topsoil present, therefore no additional costs would be incurred.

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the landowner since additional topsoil will be protected by the rule change.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to protect the topsoil from being mixed with nonproductive soil.

**SECTION 43-02-03-29.1 UNDERGROUND GATHERING PIPELINES.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who own or operate underground gathering pipelines in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs associated with the adoption of this rule will be dependent upon the miles of pipeline installed by the entity. It is anticipated that the cost of the proposed rule to the entity may exceed \$50,000.

Yearly Costs per Pipeline Operator for Compliance

Administrative costs---1hr/business day x 260 days/yr @ \$15/hr = \$ 3,900  
Total----- = \$ 3,900

One-Time Costs per Pipeline for Compliance

Data sharing plan----- = \$ 2,000  
Diagrams and drawings----- = \$ 500  
Dike around tanks & above ground equipment costs----- = \$ 2,000  
Controls to ensure operating pressure below max----- = \$ 3,000  
Pressure test costs----- = \$ 2,000  
Total----- = \$ 9,500

Costs per Mile of Pipeline for Compliance

GIS information costs----- = \$ 30  
Third-party independent inspector costs----- = \$ 100  
Leak protection, detection, and monitoring costs----- = \$ 10  
Electronic inspection of coated pipe costs (metallic pipe)----- = \$ 50  
Corrosion control costs (metallic pipe)----- = \$ 800  
Spill response plan costs----- = \$ 10  
Total----- = \$ 1,000 / mile

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to surface owners in the area since the amendments will promote pipeline safety and integrity.

**4. The probable effect of the proposed rule on state revenues.**

The amendments were pursuant to House Bill 1358. Costs associated with the adoption of the amendments include the creation of the Pipeline Program to implement and enforce the proposed amendments. The costs to the agency include a program supervisor, an administrative assistant, a GIS specialist, a database developer, and field inspectors. The development of a database is necessary to manage the information that will be submitted and the data collected by pipeline program staff. Existing computer hardware and software will be utilized.

Yearly Cost to Agency

Field Inspection-----40hrs/wk x 6 inspectors @ \$23/hr = \$ 287,040  
IT database/GIS-----40hrs/wk x 2 FTEs @ \$30/hr = \$ 124,800  
Administrative Assistant-----40hrs/wk @ \$15/hr = \$ 31,200  
Program Supervisor-----40hrs/wk @ \$40/hr = \$ 83,200  
Total----- \$ 526,240

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

No alternate methods were considered since amendments were mandated by House Bill 1358.

**SECTION 43-02-03-30 NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who operate wells or facilities in the State of North Dakota which develop a leak or rupture.

**2. The administrative and other costs required for compliance with the proposed rule.**

Additional costs could be incurred to determine the “root” cause of an incident. This cost is highly variable since the “root” cause of some incidents will be obvious upon investigation while others may require a more in-depth analysis of the situation. Costs below are estimates of a typical incident.

<u>Costs per Incident for Compliance</u>	
Administrative costs-----	1hr @ \$15/hr = \$ 15
Field Investigation costs-----	1hr @ \$50/hr = \$ 50
Total-----	= \$ 65

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to surface owners and the general public since future spills can be prevented gaining knowledge from the root cause of past mishaps.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to prevent future environmental mishaps by making the root cause of previous mishaps public.

**SECTION 43-02-03-34 METHOD OF PLUGGING.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who plug and abandon wells in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will be minimal since it only requires the file number of the well being plugged to be inscribed on the top of the metal cap welded on the surface casing.

<u>Costs per Well for Compliance</u>	
Administrative costs-----	0.33 hrs @ \$15/hr = \$ 5
Additional welding costs-----	= \$ 25
Total-----	= \$ 30

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the operators attempting to re-enter previously plugged wells and the general public since the plugged well will be able to be identified in the future.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to identify plugged wells in the future in the event of a re-entry or a mishap.

**SECTION 43-02-03-40 GAS-OIL RATIO TEST.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who operate oil wells in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will be minimal since it only affects wells that have not yet reached bubble point and only then would one additional gas-oil ratio test be required.

<u>Costs per Well for Compliance</u>	
Administrative costs-----	0.33 hrs @ \$15/hr = \$ 5
Additional GOR test-----	= \$ 250
Total-----	= \$ 255

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to operators and gas gatherers since an accurate amount of gas being flared can be estimated. The Commission notes that most operators are already performing this GOR test and if the gas from the subject well is metered, the "test" can be calculated in-house without the operator incurring additional testing costs.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to accurately estimate gas.

**SECTION 43-02-03-49 OIL PRODUCTION EQUIPMENT, DIKES, AND SEALS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to construct a well site, saltwater handling facility, or treating plant in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include erecting a dike around oil tanks and a perimeter berm around the production site.

<u>Costs per Site for Compliance</u>	
Cost to construct a dike around oil tanks-----	= \$ 2,000
Cost to construct a 6" perimeter berm around the site-----	= <u>\$ 1,200</u>
Total-----	= \$ 3,200

The costs listed above are maximum costs for a site. Most existing sites already have dikes around the oil tanks since they are already required when deemed necessary by the Director. It is very unlikely that a perimeter berm would be required on an existing site that the Director had previously determined that a dike around the oil tanks was unnecessary.

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the landowner and the general public since it will provide additional safeguards to protect the environment from mishaps.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to protect the environment. The Commission notes that this section was further amended after considering comments and the perimeter berm height was reduced to six inches and the Director may consider a modification to the requirements under certain circumstances.

**SECTION 43-02-03-53.1 SALTWATER HANDLING FACILITY PERMIT REQUIREMENTS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to operate a site in the State of North Dakota used for the handling, storage, disposal of substances obtained with oil and gas exploration, development, and production, that is not an appurtenance to a well or treating plant.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include man-hours to complete paperwork, prepare a plat certified by a registered land surveyor, a schematic drawing of the site and road access, cut and fill diagrams, and diking and containment drawings.

<u>Costs per Facility for Compliance</u>	
Administrative costs-----	8hrs @ \$15/hr = \$ 120
Surveyor costs-----	= \$ 5,000
Diagrams and drawings-----	= \$ 500
Total-----	= \$ 5,620

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to surface owners and private persons since the saltwater handling facility will be documented.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to ensure that stand-alone saltwater handling facilities are constructed in a manner that protects the environment.

**SECTION 43-02-03-53.3 SALTWATER HANDLING FACILITY CONSTRUCTION AND OPERATION REQUIREMENTS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who desire to operate a site in the State of North Dakota used for the handling, storage, disposal of substances obtained with oil and gas exploration, development, and production, that is not an appurtenance to a well or treating plant.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include installation fencing and a perimeter berm around the saltwater handling facility and construction of dikes. Note the cost of bonding was considered under 43-02-03-15.

Costs per Facility for Compliance

Administrative costs-----	= \$ 1,000
Fencing costs-----	= \$ 15,000
Dike construction-----	= \$ 10,000
Berm construction-----	= \$ 1,200
Total-----	= \$ 27,200

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to surface owners and private persons since the treating plant site will be documented.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to provide security and spill containment in case of a mishap.

**SECTION 43-02-03-90 HEARINGS – COMPLAINT PROCEEDINGS – EMERGENCY PROCEEDINGS – OTHER PROCEEDINGS.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and service companies who apply for a hearing in the State of North Dakota and request the case be continued to another month.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will be minimal since the additional cost will only be incurred if the applicant requests a continuance of the case and the cost to readvertise the case exceeds \$50. The \$50 threshold normally would not occur unless the applicant was seeking an exception to Commission rules in numerous Counties. The maximum cost to advertise in all oil producing Counties would probably not exceed \$200.

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the general public since the Commission would be reimbursed for the cost.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal benefit to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the cost is minimal and the Commission wants to deter an applicant from continuing a case numerous times, in which case the Commission could incur significant costs to readvertise.

**SECTION 43-02-05-07 MECHANICAL INTEGRITY.**

Find the following information as required by NDCC Section 28-32-08.1:

**1. The small entities subject to the proposed rule.**

The small entities who probably will be affected by the proposed amendment to the rule are individuals and companies who operate an injection well in an enhanced recovery unit or a saltwater disposal well in the State of North Dakota.

**2. The administrative and other costs required for compliance with the proposed rule.**

Costs required for compliance will include man-hours to complete paperwork.

<u>Costs per Well for Compliance</u>	
Administrative costs-----	0.33 hrs @ \$15/hr = \$ 5
Total-----	= \$ 5

**3. The probable cost and benefit to private persons and consumers who are affected by the proposed rule.**

There is no cost to private persons and consumers affected by the amendment. The amendment will provide a benefit to the general public since the Commission will be able to review the operator's proposal to ensure the packer and tubulars proposed to be run appropriately.

**4. The probable effect of the proposed rule on state revenues.**

There will be a minimal cost to the agency and a negligible effect on state revenues.

**5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The only less intrusive or less costly alternative would be to withdraw the proposed amendment. No alternate methods were seriously considered since the purpose is to ensure that the operator is performing remedial work that complies with the existing injection permit.