

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.dmr.nd.gov/oilgas/

February 29, 2016

HAND-DELIVERED

Ms. Vonette Richter
Code Revisor
North Dakota Legislative Council
State Capitol
600 E. Boulevard, 2nd Floor
Bismarck, ND 58505-0360

RE: Adopted and Amended Rules

Dear Ms. Richter:

The Full Notice of Intent to Adopt and Amend Administrative Rules and a copy of the proposed rules are enclosed as required by North Dakota Century Code § 28-32-10.

If you have any questions or comments, do not hesitate to contact this office.

Sincerely,

Bruce E. Hicks
Assistant Director

Oil and Gas Division

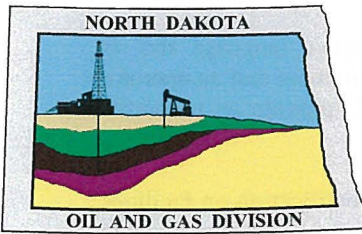
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FULL NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

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 11th, 2016 at 9am in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- April 12th, 2016 at 9am in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- April 13th, 2016 at 9am in the Williston Community Library, 1302 Davidson Drive, Williston, North Dakota
- April 14th, 2016 at 9am in the Conference Room of the Oil and Gas Division Minot Field Office, Seven 3rd 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 25th, 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 29th day of February, 2016.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director

