

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/

August 23, 2018

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

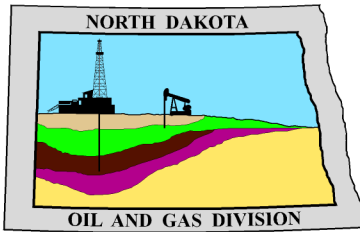
Lynn D. Helms - Director Bruce E. Hicks - Assistant Director

Department of Mineral Resources

Lynn D. Helms - Director

North Dakota Industrial Commission

www.oilgas.nd.gov



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), Chapter 43-02-06 (Royalty Statements), Chapter 43-02-11 (Certification of Horizontal Well, Horizontal Reentry Wells, and Two-Year Inactive Wells), and Chapter 43-05-01 (Geologic Storage of Carbon Dioxide):

- October 11th, 2017 at 9 a.m. in the Conference Room of the Oil and Gas Division Building, 1000 E. Calgary Avenue, Bismarck, North Dakota
- October 11th, 2017 at 1 p.m. in the Conference Room of the Oil and Gas Division Dickinson Field Office, 926 East Industrial Drive, Dickinson, North Dakota
- October 12th, 2017 at 8:30 a.m. at the Home Place Lodge and Suites, 1505 15th Ave West, Williston, North Dakota
- October 12th, 2017 at 2 p.m. in the Conference Room of the Oil and Gas Division Minot Field Office, 7 Third Street SE, Suite 107, Minot, North Dakota

The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-01 is to identify when a treating plant permit is not required to treat tank bottoms. The proposed amendment clarifies that a treating plant permit is not required to treat tank bottoms at a well site or facility where they originated. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-05 is to require industry to know regulations prior to commencing operations in North Dakota. The proposed amendment requires contractors to obtain information pertaining to the regulation of oil and gas before operations have begun. 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 § 43-02-03-14.2 is to ensure the Commission has necessary meter information. The proposed amendment requires the owner of metering equipment to submit the serial number of gas meters and oil meters utilized in custody transfer and allocation of production. 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 § 43-02-03-15 is to ensure all operators purchasing existing wells are aware of the location of all oil and gas pipelines leaving a well site or facility. The proposed amendment requires the principal to submit an accurate schematic drawing identifying all flow lines and transfer lines that leave the constructed pad or facility. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-17 is to clarify that signs must be located on both a well and facility. The proposed amendment clarifies that every well and facility shall be identified by a sign. 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 § 43-02-03-22 is to assure operators are properly identifying wells with defective casing or cementing. The proposed amendments require operators to conduct a mechanical integrity test on any well that appears to have defective casing or cementing, require subsequent pressure tests, and report such tests to the Commission. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000 since most operators already perform such tests.

The purpose of the proposed amendment to NDAC § 43-02-03-28 is to ensure safety on drilling and producing locations. The proposed amendment clarifies that all ignition sources, not just boilers and electric generators, must be placed a safe distance from a producing well or oil tank. 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 § 43-02-03-30 is to comply with spill and leak reporting requirements pursuant to House Bill 1151. The proposed amendments remove reporting requirements on crude oil, produced water, or natural gas liquid spills if the cumulative volume over a fifteen-day period is less than 10 barrels and remains on site of certain well sites and facilities. The proposed amendments will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-30.1 is to document spill cleanup. The proposed amendment requires a Sundry Notice (Form 4) after cleanup of any spill, unless deemed unnecessary by the Director. 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 § 43-02-03-33 is to provide the Commission with accurate well bore information on wells to be plugged. The proposed amendment requires the operator to submit a well bore diagram showing the current conditions downhole when proposing to plug 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 protect the environment and to comply with reclamation requirements pursuant to Senate Bill 2333. The proposed amendments require all reclamation to be performed as closely as practicable to original condition as it existed before construction of the well site or facility and an environmental assessment of the site if required by the Director. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-49 is to prevent leaks from running off a new production site. The proposed amendment requires production equipment to be diked. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000 since operators are constructing dikes around the production equipment of most new sites.

The purpose of the proposed amendments to NDAC § 43-02-03-51.3 is to assure that treating plants are constructed and operated in an environmentally friendly manner. The proposed amendments require dikes and diked areas to be underlain with a synthetic liner, clarifies that all discharged fluids (not just accidents) must be cleaned up, requires prior approval and follow-up report of all treating plant modifications, and authorizes the Director to order operations to cease for failure to comply with Commission regulations. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000 since most treating plants are currently constructed utilizing a synthetic liner.

The purpose of the proposed amendment to NDAC § 43-02-03-51.4 is to remove duplication in the Administrative Code. The proposed amendment clarifies treating plants must be reclaimed pursuant to existing requirements under § 43-02-03-34.1. 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 § 43-02-03-53.3 is to assure that saltwater handling facilities are constructed and operated in an environmentally friendly manner. The proposed amendments require prior approval and a follow-up report of all modifications and authorizes the Director to order operations to cease for

failure to comply with Commission regulations. 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 § 43-02-03-53.4 is to remove duplication in the Administrative Code. The proposed amendment clarifies saltwater handling facilities must be reclaimed pursuant to existing requirements under § 43-02-03-34.1. 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 § 43-02-03-55 is to clarify that the Commission can require an injection well to be plugged and abandoned. The proposed amendment clarifies that if an injection well is inactive for extended periods of time, the Commission may, after notice and hearing, require the injection well to be plugged and abandoned. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000 since the Commission believes it already has the authority and is proposing the amendment for clarification purposes.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to clarify the deadline for submitting written submissions concerning a hearing. The proposed amendment clarifies the Commission must receive written comments concerning a hearing no later than 5 p.m. on the last business day prior to the hearing. 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 § 43-02-05-06 is to assure only properly constructed wells are allowed to be converted to a saltwater disposal well and to clarify construction requirements. The proposed amendments prohibit converting a well to saltwater disposal that does not have surface casing protection through all potable waters, requires Director approval prior to adding perforations to a completed well, and clarifies facilities must be constructed pursuant to saltwater handling facility requirements. 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 § 43-02-05-09 is to clarify injection well operating requirements. The proposed amendment removes operating requirement language, which is proposed to be placed in § 43-02-05-12. 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 § 43-02-05-12 is to clarify injection well operating and reporting requirements and to confirm integrity of injection lines. The proposed amendments add operating requirement language which was formerly in § 43-02-05-09, identify the monthly forms required for reporting, and require injection line pressure testing if the saltwater disposal well and injection pump are not located on the same facility pad. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendments to NDAC § 43-02-06-01 is to make the administrative code language as stringent as the statute requirements concerning royalty statements and to require royalty statements to include information necessary for the royalty owner to be assured they have been properly compensated. The amendments require royalty statements to contain the point of sale and weighted average price for oil, gas, and natural gas liquids, the amount and purpose of each deduction made, and the gross and net mineral acres in the spacing unit. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000 since the statute (North Dakota Century Code § 38-08-06.3) currently requires the royalty statement to allow the royalty owner to clearly identify the amount and purpose of each deduction made.

The purpose of the proposed amendments to NDAC § 43-02-11-01 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The proposed amendments remove reference to horizontal reentry wells, horizontal wells, new wells, and two-year inactive wells since they are no longer allowed. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendments to NDAC § 43-02-11-02 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The rule was repealed effective July 1, 2017 since incentives for horizontal reentry wells, horizontal wells, new wells, and two-year inactive wells was discontinued. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendments to NDAC § 43-02-11-04 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The rule was repealed effective July 1, 2017 since incentives for

horizontal wells was discontinued. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendments to NDAC § 43-02-11-05 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The rule was repealed effective July 1, 2017 since incentives for horizontal reentry wells was discontinued. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendments to NDAC § 43-02-11-06 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The rule was repealed effective July 1, 2017 since incentives for two-year inactive wells was discontinued. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendments to NDAC § 43-02-11-07 is to comply with changes in extraction tax incentives pursuant to House Bill 1043. The proposed amendments remove reference to horizontal reentry wells, horizontal wells, new wells, and two-year inactive wells since they are no longer allowed. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

The purpose of the proposed amendment to NDAC § 43-02-11-08 is to adopt notice requirements similar to those under stripper well notice requirements. The proposed amendment removes the requirement to provide an affidavit stating that all working interest owners of the property and all purchasers of the gas produced from the well have been notified of the application by certified or registered mail. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-05-01-19 is to comply with reclamation requirements pursuant to Senate Bill 2333. The proposed amendment requires all reclamation to be performed as closely as practicable to original condition as it existed before construction of the pipeline. The impact on the regulated community was not determined since the change is mandatory pursuant to a statute change.

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 or emailed to brkadrmas@nd.gov and received by 5pm, October 23rd, 2017, 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 accommodations 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 September 27, 2017.

Dated this 23rd day of August, 2017.

Bruce E. Hicks

Bruce E. Hicks
Assistant Director