

## **NORTH DAKOTA**

### **I. Administration**

1. Agency regulating oil and gas exploration/production: [North Dakota Industrial Commission, Dept. of Mineral Resources, Oil and Gas Division](#), 600 East Boulevard Ave., Dept. 405, Bismarck, ND 58505-0840. Phone: (701) 328-8020.
2. Contact for regulatory updates: Lynn Helms, Director. Phone: (701) 328-8020; Email: [lhelms@nd.gov](mailto:lhelms@nd.gov).
3. Docketing procedure: [North Dakota Century Code \(NDCC\) Section 38-08-11](#). Upon application or motion of the Commission, a hearing before the Commission is set at which time as will permit 15 days notice.
  - a. Emergency orders: Emergency orders may be issued by the Commission, and shall remain in force until a proper order can be issued, after notice and hearing, but not more than 40 days.
  - b. Notice: Fifteen days notice is required for all hearings except hearings involving a complaint which requires 45 days notice. The Commission is responsible for giving notice either by personal service or by one publication in a newspaper of general circulation in the State Capitol and in a newspaper of general circulation in the county where the affected property is situated.
4. Agency regulating air emissions: [North Dakota Department of Environmental Quality – Division of Air Quality](#).
5. Agency regulating water quality: [North Dakota Department of Environmental Quality – Division of Water Quality](#).

### **II. License**

1. License required: a permit from the industrial commission under such rules as may be prescribed by the commission.
2. Conditions of license: The director may impose such terms and conditions on the permits issued under this section as the director deems necessary.

### **III. Bond/Surety**

1. Purpose of surety: drilling and plugging bond.

2. Plugging and restoration: If the principal does not satisfy the bond's conditions, then the surety shall satisfy the conditions or forfeit to the commission the face value of the bond.
3. Compliance bond required: [North Dakota Administrative Code \(NDAC\) Section 43-02-03-15](#). Surety or Cash Bond.
4. Types of surety accepted: collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof.
5. Conditions of bond: Full compliance with the statutes, rules and regulations of the Commission.
  - a. Amount per well: \$50,000, except that wells drilled to a total depth of 2,000 feet or less may be bonded in a lesser amount upon administrative approval.
  - b. Amount of blanket bond: More than 1 well, \$100,000. The \$100,000 blanket bond is limited in its coverage to contain no more than six unplugged dry holes, plugged wells with site not reclaimed, and/or abandoned wells
  - c. Commercial disposal wells are not allowed on blanket bonds. Each such well is bonded at the \$50,000 single well rate.
  - d. Secondary recovery projects require a unit bond in the appropriate amount as listed in paragraphs (a) and (b) above.
6. Additional Facilities requiring bonds:
  - a. Treating plants
    - i. The amount of the bond must be as prescribed in NDAC 43-02-03-51.3. It isto remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond is transferred to another bond that provides the same degree of security.
  - b. Saltwater Handling Facility Bond
    - i. Not already bonded as an appurtenance
    - ii. The amount of the bond must be as prescribed in NDAC 43-02-03-53.3. It is to remain in force until the operations cease, all equipment is removed from the site, and the site and appurtenances thereto are reclaimed, or liability of the bond

is transferred to another bond that provides the same degree of security.

- c. Underground crude oil or produced water pipeline
  - i. The bond must be in the amount of fifty thousand dollars when applicable to one crude oil or produced water underground gathering pipeline system only.
  - ii. Underground gathering pipelines that are less than one mile [1609.34 meters] in length may be bonded in a lesser amount if approved by the director.
  - iii. When the principal on the bond is operating multiple gathering pipeline systems within the state or proposes to do so, the principal may submit a blanket bond conditioned as provided by law. A blanket bond covering one or more underground gathering pipeline systems must be in the amount of one hundred thousand dollars.

#### **IV. Mineral Leasing Information**

1. Leasing method: Oral bidding; but could be done with sealed bids. Sales are generally held the first Tuesday of February, May, August and November.
2. Notice method: Sale list that is sent out to approximately 300 companies and individuals that have asked to receive the list. Also, the sale is advertised in various county newspapers.
3. Minimum bidding \$ (per acre): Minimum of \$1.00/acre. The sale list is generated by an interested individual or company nominating a tract for the next available sale. By the nomination, the nominee is agreeing to pay the minimum bid.
4. Qualification of the bidder: No specific qualification. However, any bid can be rejected.
5. State statutes: [NDCC 15-05](#), [38-09](#) and 47-16.
6. Maximum acres: 160 acres.
7. Royalty rates: The lease for any tract within three miles of existing production will be issued with a 1/6 royalty provision. Leases outside the three miles will be issued with a 1/8 royalty.
8. Agency in control of leasing: [North Dakota Department of Trust Lands](#). Drew Combs; Phone: (701) 328-2800; Email: [drew.combs@nd.gov](mailto:drew.combs@nd.gov).

## V. Setbacks

1. What rules/regulations/policies does your jurisdiction have regarding well setbacks from private residences and/or other habitable structures for use by humans or animals?

[38-08-05. DRILLING PERMIT REQUIRED](#). A person may not commence operations for the drilling of a well for oil or gas without obtaining a permit from the industrial commission under rules as may be adopted by the commission and paying to the commission a fee for each well in an amount to be determined by the commission. The applicant shall provide notice to the owner of any permanently occupied dwelling located within one thousand three hundred twenty feet [402.34 meters] of the proposed oil or gas well.

2. Unless waived by the owner or if the commission determines that the well location is reasonably necessary to prevent waste or to protect correlative rights, the commission may not issue a drilling permit for an oil or gas well that will be

located within five hundred feet [152.4 meters] of an occupied dwelling. If the

commission issues a drilling permit for a location within one thousand feet [300.48 meters] of an occupied dwelling, the commission may impose conditions on the permit:

- a. For wells permitted on new pads built after July 31, 2013, the conditions imposed under this subdivision may include, upon request of the owner of the permanently occupied dwelling, requiring that the location of all flares, tanks, and treaters utilized in connection with the permitted well be located at a greater distance from the occupied dwelling than the oil and gas well bore if the location can be accommodated reasonably within the proposed pad location; or
- b. As the commission determines reasonably necessary to minimize impact to the owner of the occupied dwelling.

2. Are there other sources of information on this matter that you could identify? N/A

## VI. Spacing

1. Spacing requirements: [NDAC Section 43-02-03-18](#). Within 30 days after oil or gas is discovered in a pool not covered by an order of the Commission, a spacing hearing is docketed. In the absence of an order of the Commission, the general spacing regulations are as follows:

- a. Density (vertical or directional oil well): 40 acres for vertical or directional oil wells drilled and projected no deeper than the Mission

Canyon Formation; 160 acres for vertical or directional oil wells drilled or projected deeper than the Mission Canyon Formation; 160 acres for gas wells.

- b. Lineal (vertical or directional oil well): Not less than 500 feet from the 40-acre drilling unit boundary for vertical or directional oil wells no deeper than the Mission Canyon Formation and not less than 660 feet from the 160-acre drilling unit boundary for vertical or directional oil wells deeper than the Mission Canyon Formation. Not less than 500 feet to any 160-acre drilling unit boundary for gas wells projected no deeper than the Mission Canyon Formation and not less 660 feet to any 160-acre drilling unit boundary for gas wells projected deeper than the Mission Canyon Formation.
  - c. Density (horizontal oil wells): 320 and 640 acres for horizontal oil wells.
  - d. Lineal (horizontal oil wells): Not less than 500 feet from the 320 or 640-acre drilling unit boundary for horizontal oil wells.
  - e. Density (gas wells): 160 acres for gas wells.
  - f. Lineal (gas wells): Not less than 500 feet from the 160-acre drilling unit boundary for gas wells drilled or projected no deeper than the Mission Canyon Formation; not less than 660 feet from the 160-acre drilling unit boundary for gas wells drilled or projected deeper than the Mission Canyon Formation.
2. Exceptions: Yes—[NDAC Section 43-02-03-18.1](#).
- a. Basis: Surface conditions require or well at proper location would not produce in paying quantities, also, in order to protect correlative rights, prevent waste, or effect greater ultimate recovery of oil and gas.
  - b. Approval: By order of the Commission after notice and hearing.

## **VII. Pooling**

- 1. Authority to establish voluntary: Yes—[NDCC Section 38-08-08](#) and [NDAC Section 43-02-03-16.3](#).
- 2. Authority to establish compulsory: Yes—[Section 38-08-08](#) and [NDAC Section 43-02-03-16.3](#).

## **VIII. Unitization**

1. Compulsory unitization of all or part of a pool or common source of supply: Yes—[NDCC Section 38-08-09.1.](#)
2. Minimum percentage of voluntary agreement before approval of compulsory unitization: [NDCC Section 38-08-09.5.](#)
  - a. Working interest: 55% (effective Aug. 1 2017)
  - b. Royalty interest: 55% (effective Aug. 1 2017)

## **IX. Drilling Permit**

1. Permits required for:
  - a. Drilling a producing or service well: Yes—[NDAC Section 43-02-03-16.](#)
  - b. Seismic drilling: Exploration permit required—[NDAC Section 43-02-12-04.](#)
  - c. Recompletion: Yes—[NDAC Section 43-02-03-16.](#)
  - d. Plugging and abandoning: Yes—[NDAC Section 43-02-03-33.](#) (Includes site reclamation).
2. Permit fee:
  - a. Drilling: \$100.
  - b. Seismic drilling: \$100. Regulated by the Industrial Commission, Oil and Gas Division.
  - c. Recompletion: \$50.
  - d. Plugging and abandoning: No.
  - e. Saltwater disposal well to be drilled: \$100.
  - f. Injection well to be drilled: \$100.
3. Require filing report of work performed: Yes—[NDAC Section 43-02-03-31.](#)
4. Sundry notices used: for re-entry: N/A

## **X. Vertical Deviation**

1. Regulation requirement: Yes—[NDAC Section 43-02-03-25.](#)

- a. When is a directional survey necessary: On all directionally and horizontally drilled holes. On any well when the location of the bottom of the hole is in doubt.
  - b. Filing of survey required: Yes, the survey contractor must file a certified copy.
2. Format of filing: one certified electronic copy of all surveys, in a form approved by the director, within thirty days of attaining total depth.

## **XI. Casing and Tubing**

1. Minimum amount required:
  - a. Surface casing: Yes, 50' below Fox Hills Fm—[NDAC Section 43-02-03-21](#)
  - b. Production casing: Yes—Per field order. Must be set and cemented from a point no higher than the top of the producing formation to above the uppermost sand of the Dakota group.
2. Minimum amount of cement required:
  - a. Surface casing: Yes. Must cement to surface.
  - b. Production casing: Yes.
  - c. Setting time: Yes. 12 hours surface casing and until tail cement reaches a compressive strength of 500 psi. Production casing until tail cement reaches a compressive strength of 500 psi.
3. Tubing requirements:
  - a. Oil wells: Yes—[NDAC Section 43-02-03-21](#). All wells must be equipped with tubing set as near bottom as practicable. Flowing wells to be equipped with packer. Can request waiver.
  - b. Gas wells: Yes—[NDAC Section 43-02-03-21](#). All wells must be equipped with tubing and packer set as near the bottom as practicable.
  - c. Saltwater disposal wells: Yes—[NDAC Section 43-02-05-06](#). All wells must be equipped with tubing and packer set immediately above the injection zone.

- d. Enhanced recovery: Yes—[NDAC Section 43-02-05-06.](#) All wells must be equipped with tubing and packer set immediately above the injection zone.

## **XII. Hydraulic Fracturing**

- 1. Permitting:
  - a. Before drilling: No.
  - b. Before fracing: No.
  - c. How long before: No.
- 2. Reporting requirements:
  - a. Where reported: Form 6 – completion report.
  - b. When reported: within 30 days of completing the well.
- 3. Source water requirements: permitted by [North Dakota State Water Commission.](#)
- 4. Mechanical integrity:
  - a. Cementing log required: Yes.
  - b. Pressure testing: Yes.
  - c. Pressure monitoring: Yes.
  - d. Blowout preventer required: Yes.
- 5. Disposal of flowback fluids:
  - a. Retaining pits: In emergency 72 hour maximum.
  - b. Tanks: Required.
  - c. Approved discharge to surface water: Not allowed.
  - d. Underground injection: Required.
- 6. Chemical disclosure requirement:
  - a. Mandatory: Yes.



- b. Where disclosed: [FracFocus](#)
- c. When disclosed (pre-fracing, post-fracing, both): Post-fracing.
- d. Time limit to disclose: Within 60 days of completing fracture treatment.
- e. Information required to be disclosed: All elements made viewable by the FracFocus website.
- f. Trade secret protection: Yes.
- g. Required disclosure to health/emergency personnel: If the director deems it necessary to protect the public's health, safety, and welfare.

### **XIII. Underground Injection**

1. Agencies that control the underground injection of fluid by well class:

Class 1 – [North Dakota Department of Environmental Quality](#)

Class 2 – [North Dakota Industrial Commission – Department of Mineral Resources – Oil & Gas Division](#)

Class 3 - [North Dakota Industrial Commission – Department of Mineral Resources – Geological Survey](#)

Class 4 – [North Dakota Department of Environmental Quality](#)

Class 5 – [North Dakota Department of Environmental Quality](#)  
 Class 6 – [North Dakota Industrial Commission – Department of Mineral Resources – Oil & Gas Division](#)

### **XIV. Completion**

1. Completion report required: Yes—[NDAC Section 43-02-03-31](#).
  - a. Time limit: 30 days except completion reports for discovery wells must be submitted immediately.
  - b. Where submitted: [North Dakota Industrial Commission, Oil and Gas Division](#).
2. Well logs required to be filed: Yes—[NDAC Section 43-02-03-31](#).
  - a. Time limit: 30 days.
  - b. Where submitted: [North Dakota Industrial Commission, Oil and Gas Division](#).
  - c. Confidential time period: If requested. 6 months.

- d. Available for public use: Yes.
- e. Log catalog available: Yes.
- 3. Multiple completion regulation: Yes—[NDAC Section 43-02-03-26](#).
  - a. Approval obtained: Multiple completions can be approved by the Director.
- 4. Commingling in well bore: Yes—[NDAC Section 43-02-03-42](#).
  - a. Approval obtained: Order of the Commission or the Director, after notice and hearing.

#### **XV. Oil Production**

- 1. Definition of an oil well: [NDAC Section 43-02-03-01](#). Any well capable of producing oil and which is not defined as a gas well.
- 2. Pressure base 14.73 psia @ 60 degrees F.
- 3. Potential tests required: Yes.
  - a. Time interval: First 24 hours after completion. Requested info under Completion Report—Form 6.
  - b. Witness required: No.
- 4. Maximum gas-oil ratio: 2,000/1. [NDAC Section 43-02-03-39](#).
  - a. Provision for limiting gas-oil ratio: Yes. Commission may, after notice and hearing, restrict production from well if deemed necessary to conserve reservoir energy.
  - b. Exception to limiting gas-oil ratio: Yes. Commission may, after notice and hearing, waive restrictions.
- 5. Bottom-hole pressure test reports required: Yes—[NDAC Section 43-02-03-41](#).
  - a. Periodical bottom-hole pressure surveys: Yes. **After the discovery of a new pool, each operator shall make additional subsurface pressure tests as directed by the director or provided for in field rules.**
- 6. Commingling oil in common facilities: Yes—[NDAC Section 43-02-03-48.1](#). **The commingling of production in a central production facility from two or more wells having common ownership may be approved by the director provided the production from each well can be accurately determined at**

**reasonable intervals.** Commingling of production in a central production facility from two or more wells having diverse ownership that is not metered prior to commingling may only be approved by the Commission after notice and hearing.

7. Measurement involving meters: Yes—[NDAC Section 43-02-03-48.2](#). Custody transfer meters and allocation meters allowed with calibration requirements.
8. Production reports: Yes—[NDAC Section 43-02-03-52](#).
  - a. By lease: No.
  - b. By well: Yes.
  - c. Time limit: First day of second month **succeeding the month in which production occurs or could occur.**

## **XVI. Gas Production**

1. Definition of a gas well: [NDAC Section 43-02-03-01](#). A well producing gas or natural gas from a common source of gas supply as determined by the Commission.
2. Initial potential tests: Yes.
  - a. Time interval: First 24 hours after completion.
  - b. Witness required: No.
3. Bottom-hole pressure test reports required: Yes—[NDAC Section 43-02-03-41](#).
  - a. Periodical bottom-hole pressure surveys: Yes, determined by order of the Commission.
4. Commingling of gas in common facilities: [NDAC Section 43-02-03-48.1](#). Only by order of the Commission after notice and hearing.
5. Measurement involving meters: Yes—[NDAC Section 43-02-03-14.2](#). Sales meters and allocation meters allowed with calibration requirements.
6. Production reports: [NDAC Section 43-02-03-52.1](#).
  - a. By lease: No.
  - b. By well: Yes.

- c. Time limits: Fifth day of second month succeeding the month in which production occurs or could occur.

## **XVII. Underground Gathering Pipelines**

Definition of a underground gathering pipeline: NDCC 38-08-02-18 Definitions. "Underground gathering pipeline" means an underground gas or liquid pipeline with associated above ground equipment which is designed for or capable of transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas which is not subject to chapter 49-22.1 (Public Service Commission).

The requirements for crude oil and produced water underground gathering pipelines are not applicable to flow lines, injection pipelines, pipelines operated by an enhanced recovery unit for enhanced recovery unit operations, or on piping utilized to connect wells, tanks, treaters, flares, or other equipment on the production facility.

1. Gas Gathering Pipelines
  - a. Permit: No.
  - b. Bond: No
  - c. Subject to NDAC 43-02-03-29
    - i. Construction
    - ii. Filing
  
2. Crude oil and Produced Water Pipelines
  - a. Permit: No
  - b. Bond: Yes. Subject to NDAC 43-02-03-15
  - c. Subject to NDAC 43-02-03-29.1
    - i. Filing and notification
    - ii. Design and Construction
    - iii. Pipeline reclamation
    - iv. Third-party independent inspector
    - v. Above ground pipeline facilities
    - vi. Operating
    - vii. Leak protection, detection, and monitoring
    - viii. Pipeline integrity
    - ix. Pipeline repair
    - x. Pipeline abandonment