

North Dakota

WORKOVER PROJECTS CHAPTER 43-02-09

43-02-09-01. DEFINITIONS. The following definitions apply to this chapter:

1. "Continuous employment" means the specific period of time a workover rig has been obtained to perform a workover project on a qualifying well.
2. "Continuous production" means production in the latest six consecutive calendar months prior to filing the notice of intention to perform a workover project during which the well produced an average of at least fifteen days per month.
3. "Recompletion" means the subsequent completion of a well in a different pool from the pool in which it is completed at the time of the notice given pursuant to section 43-02-09-03.
4. "Reentry" means the entering of a well that has been plugged.
5. "Workover" means the employment of a workover rig and other services for the purpose of restoring or improving producing capability of a well from the pool in which it is presently completed.
6. "Workover project" means the continuous employment of a workover rig for workovers, recompletions, or reentries.
7. "Workover rig" means any rig used to perform work on a workover project.

Upon order of the commission, an applicant may obtain an exception to the definition of "continuous production" set forth in subsection 2 if it is shown that the well was produced an average of less than fifteen days per month because such method of operation was the most efficient and allowed for approximately the same amount of production as would have resulted had the well produced an average of fifteen or more days per month.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-02. EXEMPTION FROM TAXES. Production from a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production, upon which a workover project has been performed, is exempt from taxes imposed pursuant to North Dakota Century Code chapter 57-51.1 for twelve months beginning with the first day of the third calendar month after the completion of a workover project if:

1. The commission has received a notice of intention to begin a workover project in accordance with section 43-02-09-03.
2. A workover project is performed on the well.
3. The cost of the workover project exceeds sixty-five thousand dollars, or thirty thousand dollars if the average daily production is increased at least fifty percent during the first sixty days after completion of the workover project, based upon a comparison to the average daily production for the latest six calendar months of continuous production prior to the filing of the notice of intention to begin a workover project.

History: Effective May 1, 1990.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-03. NOTICE OF INTENTION TO BEGIN A WORKOVER PROJECT. If an exemption from taxation is sought pursuant to subsection 4 of North Dakota Century Code section 57-51.1-03, a notice of intention to begin a workover project must be filed by the well operator with the commission prior to commencement of the project. The notice of intention must be sent by certified mail to the following address:

North Dakota State Industrial Commission
Oil and Gas Division
600 East Boulevard
Bismarck, North Dakota 58505-0840

The notice of intention must include, but is not limited to, the following:

1. A sundry notice (form 4) upon which it is clearly indicated that it is a notice of intention to perform a workover project which may qualify production from the well for an exemption from taxation pursuant to subsection 4 of North Dakota Century Code section 51-51.1-03.
2. The sundry notice must contain a detailed description of the nature and scope of the workover project. The information provided must also include a description of all replacement equipment to be installed that is known to the well operator at the time of filing, and whether such equipment is new or used.
3. The average daily production during the latest six calendar months of continuous production.

History: Effective May 1, 1990.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-04. APPLICATION FOR WORKOVER PROJECT DETERMINATION. The applicant has the burden of establishing entitlement to the exemption provided in North Dakota Century Code section 57-51.1-03 and upon completion of the workover project shall submit all information necessary for a determination by the director. The cost of a workover project includes only direct costs for material, equipment, services, and labor used in the workover project. Labor and services included must be performed onsite and materials and equipment must be used onsite. The value of capital equipment removed from the site must be deducted from the cost of the project.

The application must include the following:

1. A fee in the amount of one hundred dollars.
2. The name and address of the applicant and the name and address of the person operating the well, if different.
3. The well name and number and legal description of the well.
4. The dates during which the workover rig was in service actually performing work on the workover project, and the date the workover was completed.
5. A detailed list identifying all labor, services, and materials used and equipment replaced during the workover project, the cost of each item, and whether the replacement equipment was new or used. Also, the value of all of the equipment removed from service must be listed. The list must be verified by a person knowledgeable in the costs of workover projects and the value of used equipment. At any time the director may require the applicant to submit actual invoices to verify any costs set forth in the application.
6. A sundry notice (form 4) detailing all work done.
7. The average daily oil production from the well during the first sixty days after completion of the project, if the costs of the project did not exceed sixty-five thousand dollars. The project is completed and the sixty-day period commences the first day of production through the wellhead equipment after the workover rig is removed from over the well.

If the application does not contain sufficient information to make a determination, the director will advise the applicant of the additional information that must be filed in order to make a determination. If the requested additional information is not received within fifteen working days

after receipt of the request, the application must be returned to the well operator.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03
38-08-04

Law Implemented
NDCC 57-51.1-03

43-02-09-05. WORKOVER PROJECT DETERMINATION.

1. Upon receipt of an application for workover project determination, the director shall review the application, information, or comments submitted by an interested person and all relevant information contained in the books, files, and records of the commission.
2. Within thirty days of the receipt of a complete application for workover project determination, or a reasonable time thereafter, the director shall either grant or deny the application.
3. If an application for workover project determination is denied, the director shall enter a written determination denying the application and specifying the basis for denial. If an application is granted, the director shall enter a written determination granting the application.
4. A copy of the determination either granting or denying the application must be forwarded by the director by mail to the applicant and all other persons submitting written comments. It is the obligation of the applicant to notify and advise all other operators in the well and the purchaser of the crude oil of the determination of the director.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-06. NOTICE TO TAX DEPARTMENT. If the director determines a well is entitled to a tax exemption under this chapter, the director shall send a notice to the North Dakota tax department stating:

1. That the workover project meets the requirements set forth in North Dakota Century Code section 57-51.1-03.
2. The name and number of the well.
3. The location of the well.
4. The name of the well operator applying for the tax exemption.

5. The date the notice of intention was filed.
6. The average daily production of the well during the latest six calendar months of continuous production prior to the commencement of the workover project.
7. The cost of the workover project.
8. The average daily production of the well as determined pursuant to subsection 7 of section 43-02-09-04
9. The dates during which the workover project was performed.

The notice required under this section must be signed by a representative of the commission.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

43-02-09-07. PETITION FOR HEARING. Any person adversely affected by a determination of the director pursuant to subsection 4 of North Dakota Century Code section 57-51.1-03 or this chapter, within thirty days after receiving notice of such determination, may petition the commission for a hearing in accordance with the provisions of North Dakota Century Code chapter 38-08 and chapter 43-02-03.

In the event the North Dakota tax department, pursuant to its authority, determines an exemption was granted improperly pursuant to North Dakota Century Code section 57-51.1-03, the tax department may request a hearing on the exemption any time after the exemption was granted. If after the hearing the commission determines an exemption was improperly granted, it may revoke the exemption. The exemption may be revoked effective the date the exemption was originally granted.

History: Effective May 1, 1990; amended effective May 1, 1992.

General Authority
NDCC 57-51.1-03

Law Implemented
NDCC 57-51.1-03

**CERTIFICATION OF SECONDARY AND TERTIARY RECOVERY PROJECTS -
DETERMINATION OF INCREMENTAL PRODUCTION
CHAPTER 43-02-10**

43-02-10-01. DEFINITIONS. The terms of this chapter have the same meaning as in North Dakota Century Code chapters 38-08 and 57-51.1 except:

1. "New secondary recovery project" means a secondary recovery project which results in incremental production.
2. "Normal production" means production from a unit obtained in the same manner and from the same wells which produce approximately the same amount of time.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04

43-02-10-02. APPLICATION TO CERTIFY A QUALIFYING SECONDARY RECOVERY PROJECT. Any unit operator desiring to certify a secondary recovery project as a "qualifying secondary recovery project" for purposes of eligibility for the tax incentive provided in North Dakota Century Code chapter 57-51.1 shall submit to the commission an application for certification of a qualifying secondary recovery project. The unit operator has the burden of establishing entitlement to certification and shall submit all data necessary to enable the commission to determine whether the project is a qualifying secondary recovery project, and is entitled to the tax reduction and tax exemption provided in North Dakota Century Code sections 57-51.1-02 and 57-51.1-03 respectively.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01

43-02-10-03. COMMISSION CERTIFICATION OF SECONDARY RECOVERY PROJECT. Upon the filing of an application for certification of a qualifying secondary recovery project, the commission shall promptly set a date for hearing. In determining whether a secondary recovery project shall be certified as a "qualifying secondary recovery project", the commission shall determine:

1. The amount of crude oil which would have been recovered from the unit source of supply if the secondary recovery project had not been commenced;
2. Whether, for the purposes of a tax reduction, the secondary recovery project has achieved for six consecutive months an

average production level of at least twenty-five percent above the amount of production which would have been recovered from the unit source of supply (as determined in subsection 1) if the secondary recovery project had not been commenced; and

3. Whether, for the purposes of a tax exemption and subsequent thereto the tax reduction, there has been incremental production.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01

43-02-10-04. APPLICATION TO CERTIFY A QUALIFYING TERTIARY RECOVERY PROJECT. Any unit operator desiring to certify a tertiary recovery project as a "qualifying tertiary recovery project" for purposes of eligibility for the tax incentive provided in North Dakota Century Code chapter 57-51.1 shall submit to the commission an application for certification of a qualifying tertiary recovery project. The unit operator has the burden of establishing entitlement to certification and shall submit all data necessary to enable the commission to determine whether the project is a qualifying tertiary recovery project, and is entitled to the tax reduction and tax exemption provided in North Dakota Century Code sections 57-51.1-02 and 57-51.1-03 respectively.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01

43-02-10-05. COMMISSION CERTIFICATION OF TERTIARY RECOVERY PROJECT. Upon the filing of an application for certification of a qualifying tertiary recovery project, the commission shall promptly set a date for hearing. In determining whether a tertiary recovery project shall be certified as a "qualifying tertiary recovery project", the commission shall determine:

1. Whether the tertiary recovery project meets the requirements of the tertiary recovery methods specified in subsection 6 of North Dakota Century Code section 57-51.1-01;
2. The amount of crude oil which would have been recovered from the unit source of supply if the tertiary recovery project had not been commenced; and
3. Whether the tertiary recovery project has achieved for at least one month an average production level of at least fifteen percent above the amount of production which would

have been recovered from the unit source of supply (as determined in subsection 2) if the tertiary recovery project had not been commenced; and

4. Whether, for the purposes of the tax exemption and subsequent thereto the tax reduction, there has been incremental production.

The commission will, upon application or its own motion, have a hearing to determine whether the project operator continues to operate the unit as a qualifying tertiary recovery project.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01

43-02-10-06. INCREMENTAL PRODUCTION DETERMINATION FOR A SECONDARY RECOVERY PROJECT.

1. a. In a unit where there has not been a secondary recovery project, the commission will establish a primary production decline curve. In such instance, incremental production is the production above the established primary production decline curve which production is a result of the secondary recovery project.
- b. The total amount of primary production from the unit will be determined by the commission through the use of a computer generated production decline curve developed by software used by the commission at the time of certification. The decline curve will be a production versus time plot. The oil production and the time used to develop the curve will be that production occurring and period of time from the latest peak in production through the last month of oil production prior to the month in which secondary recovery project operations commence. However, the director shall have discretionary authority to select a different period of time to establish the decline curve if deemed necessary to obtain a more accurate estimate of the ultimate primary production.
- c. The production decline curve established in subdivision b of this subsection is projected from the end of the last month in which production was used to develop the primary decline curve to a producing rate of one barrel of oil per well per day. All production above the projected decline curve is incremental production and production below the decline curve is primary production. The total projected primary production, on a monthly basis in numerical form, is derived from the projected primary production decline curve. A copy of the projected monthly primary production, in numerical

form, will be furnished to the unit operator and the tax commissioner.

2. In a unit which commences a new secondary recovery project where a secondary recovery project was in existence prior to July 1, 1991, and the commission cannot establish an accurate production decline curve, incremental production will be determined pursuant to paragraph 2 of subdivision c of subsection 5 of North Dakota Century Code section 57-51.1-03.
3.
 - a. In a unit which commences a new secondary recovery project where a secondary recovery project was in existence before July 1, 1991, and where the commission can establish an accurate production decline curve, incremental production is the production above the established production decline curve which production is a result of the new secondary recovery project.
 - b. The total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced will be determined by the commission through the use of a computer generated production decline curve developed by software used by the commission at the time of certification. The decline curve will be a production versus time plot. The oil production and the time used to develop the curve will be that production occurring and period of time from the latest peak in production through the last month of oil production prior to the month in which the new secondary recovery project operations commence. However, the director shall have discretionary authority to select a different period of time to establish the decline curve if deemed necessary to obtain a more accurate estimate of the ultimate production that would have been produced if the new secondary recovery project had not been commenced.
 - c. The production decline curve established in subdivision b of this subsection is projected from the end of the last month in which production was used to develop the decline curve to a producing rate of one barrel of oil per well per day. All production above the projected decline curve is incremental production and production below the decline curve is production which would have occurred in the absence of the new secondary recovery project. The total projected production below the curve, on a monthly basis in numerical form, is derived from the projected production decline curve. A copy of the projected monthly production below the curve, in numerical form, will be furnished to the unit operator and the tax commissioner.
4. The commission will hold a hearing to establish a decline curve and a projection of the curve from which incremental production can be determined. At the hearing the project operator of a secondary recovery project or a new secondary recovery project must introduce evidence regarding the work proposed or

accomplished which will result in incremental production, and evidence showing that the project is a qualifying project. Application for the hearing may, at the discretion of the project operator, be made prior or subsequent to the commencement of a secondary recovery project or commencement of a new secondary recovery project.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01

43-02-10-07. INCREMENTAL PRODUCTION DETERMINATION FOR A TERTIARY RECOVERY PROJECT.

1. a. In a unit where there has not been a secondary recovery project and a tertiary project is commenced, the commission will establish a primary production decline curve. In such instance, incremental production is the production above the established primary production decline curve which production is a result of the tertiary recovery project.
- b. The total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced will be determined by the commission through the use of a computer generated production decline curve developed by software used by the commission at the time of certification. The decline curve will be a production versus time plot. The oil production and the time used to develop the curve will be that production occurring and period of time from the latest peak in production through the last month of oil production prior to the month in which the tertiary recovery project operations commence. However, the director shall have discretionary authority to select a different period of time to establish the decline curve if deemed necessary to obtain a more accurate estimate of the ultimate primary production.
- c. The production decline curve established in subdivision b of this subsection is projected from the end of the last month in which production was used to develop the primary decline curve to a producing rate of one barrel of oil per well per day. All production above the projected decline curve is incremental production and production below the decline curve is primary production. The total projected primary production, on a monthly basis in numerical form, is derived from the projected primary production decline curve. A copy of the projected monthly primary production, in numerical form, will be furnished to the unit operator and the tax commissioner.

2. In a unit which commences a tertiary recovery project where there is or has been a secondary recovery project and the commission cannot establish an accurate production decline curve, incremental production will be determined pursuant to paragraph 5 of subdivision c of subsection 5 of North Dakota Century Code 57-51.1-03.
3.
 - a. In a unit which commences a tertiary recovery project where there is or has been a secondary recovery project and where the commission can establish an accurate production decline curve, incremental production is the production above the established production decline curve which production is a result of the tertiary recovery project.
 - b. The total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced will be determined by the commission through the use of a computer generated production decline curve developed by software used by the commission at the time of certification. The decline curve will be a production versus time plot. The oil production and the time used to develop the curve will be that production occurring and period of time from the latest peak in production through the last month of oil production prior to the month in which the tertiary recovery project operations commence. However, the director shall have discretionary authority to select a different period of time to establish the decline curve if deemed necessary to obtain a more accurate estimate of the ultimate production that would have been produced if the tertiary recovery project had not been commenced.
 - c. The production decline curve established in subdivision b of this subsection is projected from the end of the last month in which production was used to develop the decline curve to a producing rate of one barrel of oil per well per day. All production above the projected decline curve is incremental production and production below the decline curve is production which would have occurred in the absence of the tertiary recovery project. The total projected production below the curve, on a monthly basis in numerical form, is derived from the projected production decline curve. A copy of the projected monthly production below the curve, in numerical form, will be furnished to the unit operator and the tax commissioner.
4. The commission will hold a hearing to establish a decline curve and a projection of the curve from which incremental production can be determined. At the hearing the project operator of a tertiary recovery project must introduce evidence regarding the work proposed or accomplished which will result in incremental production, and evidence showing that the project is a qualifying project. Application for the hearing may, at the discretion of

the project operator, be made prior or subsequent to the commencement of a tertiary recovery project.

History: Effective May 1, 1992.

General Authority
NDCC 38-08-04

Law Implemented
NDCC 38-08-04
57-51.1-01