



# North Dakota Regulations Relating to Soil Restoration/Reclamation

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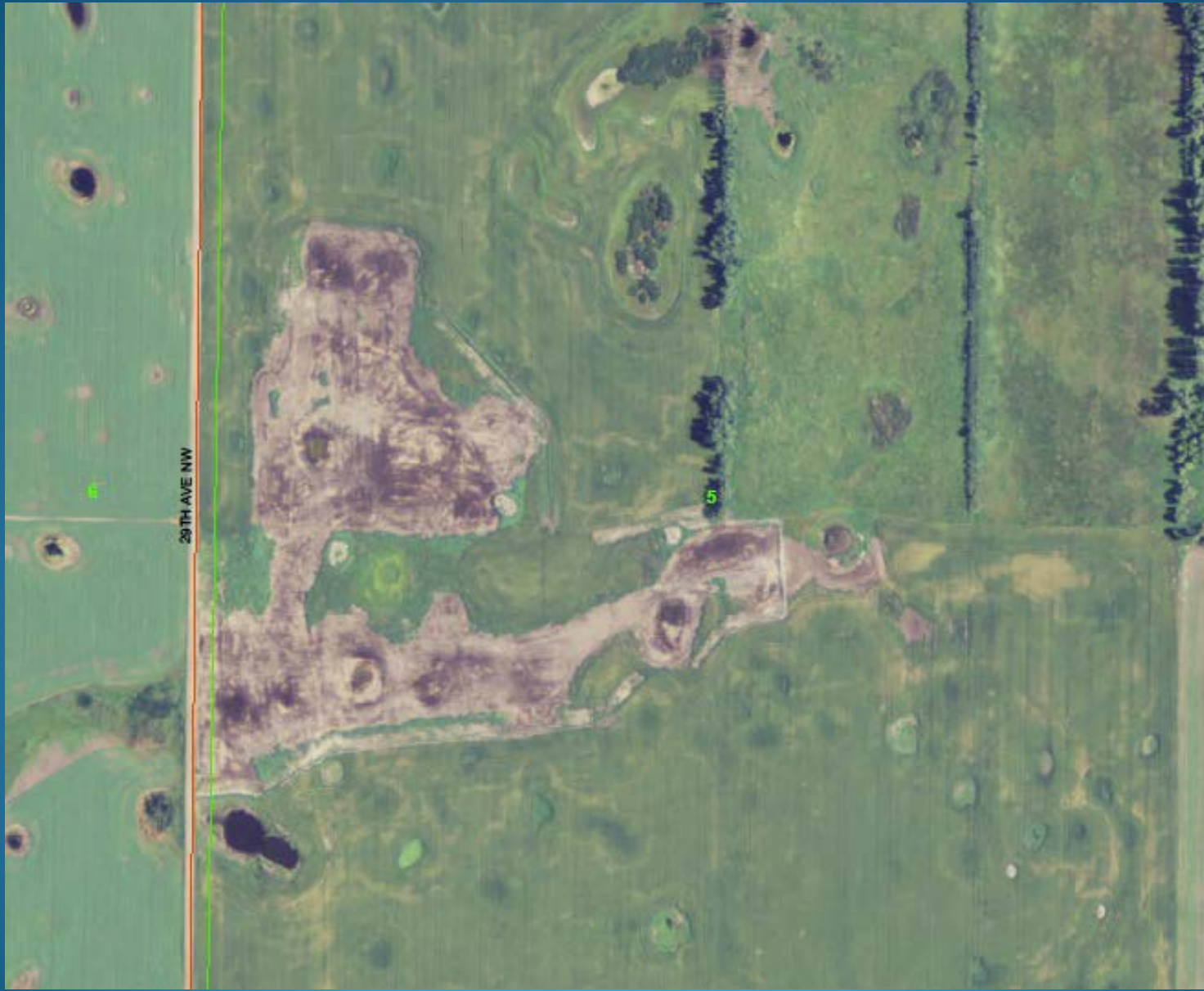
Environmental Response Team

North Dakota Department of Health, Environmental  
Health Section

























08.09.2006









08.23.2006





09.04.2012





# North Dakota Department of Health Regulations

Division of Water Quality  
and  
Waste Management





# ND Century Code, Chapter 61-28

- **61-28-01. Statement of policy.**
- It is hereby declared to be the policy of the state of North Dakota to act in the public interest
- to protect, maintain, and improve the quality of the waters in the state for continued use as
- public and private water supplies, propagation of wildlife, fish and aquatic life, and for
- domestic, agricultural, industrial, recreational, and other legitimate beneficial uses,
- to require necessary and reasonable treatment of sewage, industrial, or other wastes and to
- cooperate with other agencies in the state, agencies of other states, and the federal government in carrying out these objectives.





- **61-28-02. Definitions.**
- As used in this chapter, unless the context otherwise requires:
- 3. "Discharge" means the addition of any waste to state waters from any point source.
- 6. "Point source" means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which wastes are or may be discharged.
- 7. "Pollution" means the manmade or man-induced alteration of the physical, chemical, biological, or radiological integrity of any waters of the state.





- 14. "Wastes" means all substances which cause or tend to cause pollution of any waters of the state, including dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radiological materials, heat, wrecked or discarded equipment, rock, sand, and cellar dirt and industrial, municipal, and agricultural pollution discharged into any waters of the state.





- 15. "Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.





- **61-28-04. Powers and duties.**
- The department shall have and may exercise the following powers and duties:
  - 1. To exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder.
  - 2. To develop comprehensive programs for the prevention, control, and abatement of new or existing pollution of the waters of the state.
  - 3. To advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter.



- 5. To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes, prevention, control, and abatement thereof as it may deem advisable and necessary for the discharge of its duties under this chapter.
- 6. To collect and disseminate information relating to water pollution and the prevention, control, and abatement thereof.
- 7. To issue, modify, or revoke orders:
  - a. Prohibiting or abating discharges of wastes into the waters of the state.





- **11.** To exercise all incidental powers necessary to carry out the purposes of this chapter.
- **12.** The department is hereby designated as the state water pollution control agency for all purposes of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of that act and similar federal acts.
- **21.** To make rules for the administration of this chapter.
- **22.** To initiate actions in court for the enforcement of this chapter.



- **61-28-06. Prohibitions.**
- **1.** It shall be unlawful for any person:
  - **a.** To cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state; and
  - **b.** To discharge any wastes into any waters of the state or to otherwise cause pollution, which reduces the quality of such waters below the water quality standards established therefore by the department.





- 2. It is unlawful for any person to carry on any of the following activities unless the person holds a valid permit for the disposal of all wastes which are, or may be, discharged thereby into the waters of the state:
  - c. The construction, installation, or operation of any industrial, commercial, or other establishment or any extension or modification or addition thereof, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, or biological properties of any waters of the state in any manner not already lawfully authorized.
  - d. The construction or use of any new outlet for the discharge of any wastes into the waters of the state.



## ARTICLE 33-16

### CONTROL, PREVENTION, AND ABATEMENT OF POLLUTION OF SURFACE WATER

- 33-16-02.1 Standards of Quality for Waters of the State
- 33-16-03.1 Control of Pollution From Animal Feeding Operations
  - 3. Definitions. As used in this chapter, unless the context otherwise indicates:
    - f. "Discharge of a pollutant" and "discharge of pollutants" each means any addition of any pollutant to the waters of the state from any source, including the disposal of pollutants into wells.
    - t. "Pollutant" means "wastes" as defined in subsection 2 of North Dakota Century Code section 61-28-02, including dredged spoil, solid waste, incinerator residue, garbage, sewage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.





## CHAPTER 33-16-02.1

# STANDARDS OF QUALITY FOR WATERS OF THE STATE

- **33-16-02.1-02. Purpose.**
  - 1. The purposes of this chapter are to establish a system for classifying waters of the state; provide standards of water quality for waters of the state; and protect existing and potential beneficial uses of waters of the state.
  - 2. The state and public policy is to maintain or improve, or both, the quality of the waters of the state and to maintain and protect existing uses. ... Waters not being put to use shall be protected for all reasonable uses for which these waters are suitable. All known and reasonable methods to control and prevent pollution of the waters of this state are required, including improvement in quality of these waters, when feasible.



- **33-16-02.1-08. General water quality standards.**
- **1. Narrative standards.**
  - **a.** The following minimum conditions are applicable to all waters of the state except for class II ground waters. All waters of the state shall be:
    - (2) Free from floating debris, oil, scum, and other floating materials attributable to municipal, industrial, or other discharges or agricultural practices in sufficient amounts to be unsightly or deleterious.
  - **e.** No discharge of pollutants, which alone or in combination with other substances, shall:
    - (1) Cause a public health hazard or injury to environmental resources;
    - (2) Impair existing or reasonable beneficial uses of the receiving waters; or
    - (3) Directly or indirectly cause concentrations of pollutants to exceed applicable standards of the receiving waters.





- **33-16-02.1-11.** Discharge of wastes. On-surface discharges. The following are general requirements for all waste discharges or chemical additions:
  - **1.** No untreated domestic sewage shall be discharged into the waters of the state.
  - **2.** No untreated industrial wastes or other wastes which contain substances or organisms which may endanger public health or degrade the water quality of water usage shall be discharged into the waters of the state.
  - **4.** Any spill or discharge of waste which causes or is likely to cause pollution of waters of the state must be reported immediately.



# Stormwater Permits - Construction

- In general, disturbance of 1+ acres requires a permit
- Smaller projects require a permit if part of a larger common plan of development, (e.g., homebuilding)
- For oil and gas, disturbance of 5+ acres requires a permit





# Stormwater Permits - Industrial

- Reportable quantity spills trigger permit requirement for oil and gas facilities
- Must submit a notice of intent within 15 days of becoming aware of the release
- Permit remains open for at least 3 years after spill is reclaimed



# Stormwater Questions

- Contact Division of Water Quality
  - 701.328.5210
    - Ask for Dallas Grossman or Luci Snowden

[www.ndhealth.gov/WQ/Storm/StormWaterHome.htm](http://www.ndhealth.gov/WQ/Storm/StormWaterHome.htm)





NORTH DAKOTA  
DEPARTMENT *of* HEALTH

# Stormwater Permits within Tribal Areas

Contact EPA Region 8

303.312.6312

[www.epa.gov/aboutepa/region8.html](http://www.epa.gov/aboutepa/region8.html)



## CHAPTER 23-29

### SOLID WASTE MANAGEMENT AND LAND PROTECTION

- **23-29-01. Finding of necessity.**

The legislative assembly of the state finds that:

- **3.** Inefficient and improper methods of managing solid wastes create serious hazards to the public health, result in scenic blights, cause pollution of air and water resources, cause accident hazards, increase rodent and insect disease vectors, have an adverse effect on land values, create public nuisances, and otherwise interfere with community life and development.





- **23-29-02. Declaration of purpose.** It is hereby declared to be the purposes of this chapter to:
  - 1. Plan for and regulate the storage, collection, transportation, resource recovery, and disposal of solid wastes in order to protect the public health, safety, and welfare and to enhance the environment for the people of the state.
  - 2. Establish and maintain a cooperative state program of planning and technical assistance for solid waste management.
  - 3. Provide the authority to and require persons to plan and provide efficient, environmentally acceptable solid waste management.
  - 4. Provide the authority for the review of plans and facilities for solid waste management.



## ARTICLE 33-20

### SOLID WASTE MANAGEMENT AND LAND PROTECTION

- **33-20-01.1-01. Purpose.** It is the purpose of this article to provide performance criteria and standards for the management of solid waste in a manner that will control nuisance and litter, protect the public health, safety, and welfare, and prevent or minimize injury of environmental resources from exposure to solid waste or constituents of solid waste.



- **33-20-01.1-04. Care and disposal of solid waste.**
  - 1. Any person who owns or operates any premises, business establishment, or industry is responsible for the solid waste management activities, such as storage, transportation, resource recovery, or disposal, of solid waste generated or managed at that person's premises, business establishment, or industry.
  - 2. No solid waste may be delivered to a facility which is not in compliance with this article or abandoned upon any street, alley, highway, public place, or private premises.
  - 3. Solid waste must be stored, collected, and transported in a manner that provides for public safety, prevents uncontrolled introduction into the environment, and minimizes harborage for insects, rats, or other vermin.





- **33-20-04.1-01. General location standards.**
  - 1. No solid waste management facility may be located in areas which result in impacts to human health or environmental resources or in an area which is unsuitable because of reasons of topography, geology, hydrology, or soils.



- **33-20-02.1-01. Solid waste management permit required.**
  - Every person who treats or transports solid waste or operates a solid waste management unit or facility is required to have a valid permit issued by the department, unless the activity is an emergency, exemption, or exception as provided in this section.



- **33-20-01.1-05. Collection and transportation vehicles.**
  - 1. Vehicles used for the commercial collection and transportation of any residue, sludge, agricultural, inert, industrial waste, or special waste must be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom. Where spillage does occur, the collector or transporter shall immediately return spilled waste to the vehicle or container and, if necessary, clean and decontaminate the area.





# North Dakota Department of Mineral Resources

## Oil and Gas Division



## CHAPTER 38-08

# CONTROL OF GAS AND OIL RESOURCES

- **38-08-01. Declaration of policy.**

It is hereby declared to be in the public interest to foster, to encourage, and to promote the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize cycling, recycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the landowners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources .



- **38-08-02. Definitions.**

As used in this chapter, unless the context otherwise requires:

- **19. "Waste" means and includes:**
  - a. Physical waste, as that term is generally understood in the oil and gas industry.
  - b. The inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy.
  - c. The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas.
  - d. The inefficient storing of oil.
  - e. The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand.



# CHAPTER 43-02-03

## OIL AND GAS CONSERVATION

- **43-02-03-19.2. Disposal of waste material.**
- All waste material associated with exploration or production of oil and gas must be properly disposed of in an authorized facility in accord with all applicable local, state, and federal laws and regulations.
- All waste material recovered from spills, leaks, and other such events shall immediately be disposed of in an authorized facility, although the remediation of such material may be allowed onsite if approved by the director.
- This is not to be construed as requiring the offsite disposal of drilling mud from shallow wells or drill cuttings associated with the drilling of a well. However, water remaining in a drilling or reserve pit used in the drilling and completion operations is to be removed from the pit and disposed of in an authorized disposal well or used in a manner approved by the director. The disposition or use of the water must be included on the sundry notice (form 4) reporting the plan of
- reclamation pursuant to sections 43-02-03-19.4 and 43-02-03-19.5.





- 43-02-03-30. Notification of fires, leaks, spills, or blowouts.
- All persons controlling or operating any well, pipeline, receiving tank, storage tank, or production facility into which oil, gas, or water is produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported, shall verbally notify the director within twenty-four hours **[As of April 1, 2014, this will also require notification in writing via the on-line notification system]** after discovery of any fire, leak, spill, blowout, or release of fluid. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section shall not apply to any leak, spill, or release of fluid that is less than one barrel total volume and remains onsite of a facility. **The verbal notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director.** Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, cause of the accident, and action taken to prevent reoccurrence. The signature, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.



- **43-02-03-30.1. Leak and spill cleanup.**
- At no time shall any spill or leak be allowed to flow over, pool, or rest on the surface of the land or infiltrate the soil. Discharged fluids must be properly removed and may not be allowed to remain standing within or outside of diked areas, although the remediation of such fluids may be allowed onsite if approved by the director. Operators must respond with appropriate resources to contain and clean up spills.



- **43-02-03-34.1. Reclamation of surface.**
- 1. Within a reasonable time, but not more than one year, after a well is plugged, or if a permit expires, has been canceled or revoked, the well site, access road, and other associated facilities constructed for the well shall be reclaimed as closely as practicable to original condition. Prior to site reclamation, the operator or the operator's agent shall file a sundry notice (form 4) with the director and obtain approval of a reclamation plan. The operator or operator's agent shall provide a copy of the proposed reclamation plan to the surface owner at least ten days prior to commencing the work unless waived by the surface owner. Verbal approval to reclaim the site may be given. The notice shall include:



- a. The name and address of the reclamation contractor;
  - b. The name and address of the surface owner and the date when a copy of the proposed reclamation plan was provided to the surface owner;
  - c. A description of the proposed work, including topsoil redistribution and reclamation plans for the access road and other associated facilities; and
  - d. Reseeding plans, if applicable.
- 
- The commission will mail a copy of the approved notice to the surface owner.
  - All equipment, waste, and debris shall be removed from the site. Flow lines shall be purged in a manner approved by the director. Flow lines shall be removed if buried less than three feet [91.44 centimeters] below final contour





- 2. Gravel or other surfacing material shall be removed, stabilized soil shall be remediated, and the well site, access road, and other associated facilities constructed for the well shall be reshaped as near as practicable to original contour.
- 3. The stockpiled topsoil shall be evenly distributed over the disturbed area and, where applicable, the area revegetated with native species or according to the reasonable specifications of the appropriate government land manager or surface owner.
- 4. Within thirty days after completing any reclamation, the operator shall
- File a sundry notice with the director reporting the work performed.
- 5. The director, with the consent of the appropriate government land manager or surface owner, may waive the requirement of reclamation of the site and access road after a well is plugged.



# Questions

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