



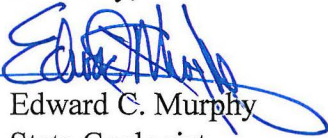
June 2, 2020

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

Dear Ms. Richter:

The Notice of Intent to adopt and amend Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,



Edward C. Murphy
State Geologist

Encl.

NOTICE OF INTENT TO
ADOPT and AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Department of Mineral Resources, Geological Survey, will hold a public hearing to address proposed amendments to North Dakota Administrative Code Chapter 43-02-02 (In Situ Leach Uranium Mining) and Chapter 43-02-07 (Geothermal Energy Production) and two new chapters, Chapter 43-03-07.1 (Deep Geothermal Energy Production) and Chapter 43-02-13 (High-Level Radioactive Waste) at 8:30 am on Tuesday, July 7, 2020 in the DMR Conference Room at 1000 East Calgary Avenue, Bismarck, North Dakota.

The purpose of the proposed amendments to NDAC § 43-02-02.2-01 are to expand the breadth of the chapter from regulating in situ leach mining of uranium to regulating in situ leach mining of additional minerals. These 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 § 43-02-02.2-03 is to make sure the facility permit is reviewed at least once every five years in order to make sure the permit requirements stay current with an evolving operation. 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 § 43-02-02.2-07 is to add an annual operating fee to cover the costs of monitoring and inspecting the facility. The proposed amendment could have an impact on the regulated community in excess of \$50,000 depending upon the size and scope of the operation which will have a direct bearing on the level of oversight needed.

The purpose of the proposed amendments to NDAC § 43-02-02.2-15 are to update the DEQ century code and administrative code citations and to clarify when state and national radioactive rules and regulations are need to be followed. 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 § 43-02-02.2-16 are to expand the target deposit from uranium to other minerals and to specify when a radiological monitoring plan must be developed. 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 § 43-02-02.2-17 are to specify when plans must comply with the US Nuclear Regulatory Commission regulations and to update DEQ century code citations. 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 § 43-02-02.2-18 is to clarify that the costs for uranium byproduct material handling and disposal systems is to be included in the reclamation plan only when applicable. 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 § 43-02-02.2-26 are to update the DEQ administrative code citations. 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 § 43-02-02.2-31 is to update the DEQ administrative code citation. 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 § 43-02-02.2-32 are to update the DEQ administrative code citations. 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 § 43-02-02.2-35 is to reflect the name change from the Health Department to the Department of Environmental Quality. 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 § 43-02-02.2-37 is to clarify that only pipelines that transport radioactive elements have to comply with US Nuclear Regulatory Commission 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 amendments to NDAC § 43-02-02.2-38 are to clarify that only radioactive element recovery plants and satellite facilities have to comply with US Nuclear Regulatory Commission requirements. 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 § 43-02-02.2-39 are to clarify that radioactive element solids are regulated by both the US Nuclear Regulatory Commission and the state and to update the century code citations. 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 § 43-02-02.2-40 are to reflect the change from Health Department to Department of Environmental Quality and to update DEQ century code citations. 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 § 43-02-02.2-41 are to update DEQ century code citations. 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 § 43-02-02.2-67 is to clarify that only mines that produce radioactive elements have to prepare a radiation sampling and survey plan. 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 § 43-02-02.2-68 is to clarify that only operators of a radioactive element mine must comply with all US Nuclear Regulatory Commission radiation standards. 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 § 43-02-07-02 is to emphasize that deep well geothermal resources are regulated in a different chapter. 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 § 43-02-07-06 are to clarify the types of geothermal operations that require a permit. The removal of a ten-year permit option because it has never been used and we don't foresee using it. Clarification that part of a permit application can be denied for cause and that stipulations can be added to the permit. 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 § 43-02-07-08 are to simplify phrasing, acknowledge the presence of horizontal loops, and to remove reference to deep well facilities. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

NDAC 43-02-07.1 is a new chapter that was created to enable the State of North Dakota to more efficiently regulate deep geothermal energy production rather than to continue to regulate both shallow and deep geothermal under NDAC 43-02-07. The new rule chapter provides for both deep well and facility permitting, the bond amounts for both permits are based on projected reclamation costs, facility bonds are evaluated on an annual basis, the exploration permit application fee is \$100, the facility permit application fee is based upon the cost to review the permit, facility permit application review can take up to 180 days, the facility permit has an annual operating fee based upon the costs to monitor and inspect the facility, and the facility permit is to be reviewed at least once every five years. Based upon the size and scope of the deep geothermal facility, the proposed rule could have an impact on the regulated community in excess of \$50,000.

NDAC 43-02-13 is a new chapter, the general authority coming from NDCC 38-23 that went into effect on July 1, 2019. An exploration permit is to be accompanied by: a permit fee, a notice of opportunity for a position paper from the county where the drilling is to take place, a bond, well construction information, and the well plugging procedure. The size, scope, and location of the exploration program must conform to county zoning regulations. A facility permit is to be accompanied by: a permit fee, a notice of opportunity for a position paper from the county where the site is located, a bond, a detailed description of the facility and reclamation plans, the active and passive institutional controls, and a deposit of one hundred million dollars or one million dollars per permitted acres, whichever is the greater amount, into the high-level radioactive waste fund to maintain the passive institutional controls for thousands of years. The size, scope, and

location of the facility must conform to county zoning regulations. The length of the facility permit is not to exceed five years. The Industrial Commission can take up to six months to review an exploration permit and 12 months to review a facility permit. The annual facility fee is due on January 15. Post closure, the facility is to be secured with active institutional controls for a period of time to be determined by the Industrial Commission after consulting with the High-Level Radioactive Waste Advisory Council. The types of signs and structures comprising the passive institutional controls to be determined by the Industrial Commission after consulting with the advisory council. Detailed documents about the waste facility are to be permanently stored in the local, state, and national archives. The proposed new rules are expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the office of the Geological Survey at 1016 East Calgary Avenue, Bismarck, ND, by appointment only, or online at www.dmr.nd.gov/ndgs. A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Geological Survey, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or calling (701) 328-8000. Written comments on the proposed rules, sent to the ND Geological Survey, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840 or emailed to mindyaustin@nd.gov and received by 5pm, July 17th, 2020, will be fully considered. Oral comments can be given at the public hearing.

If you plan to attend the public hearing, see the Covid-19 hearing procedures at www.dmr.nd.gov/ndgs. If you plan to attend and will need special accommodations or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-8000, or write the Geological Survey Division, 600 E Boulevard Ave, Dept 405, Bismarck, ND 58505-0840, no later than June 23, 2020.

Dated this 2nd day of June, 2020.

Edward C. Murphy

Edward C. Murphy
State Geologist