

PERMIT REQUIREMENTS FOR DEVELOPMENT
OF
ENERGY AND OTHER SELECTED NATURAL RESOURCES
FOR THE
STATE OF NORTH DAKOTA

PREPARED FOR
OLD WEST REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY J. K. SMITH

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STATE PERMIT REQUIREMENTS FOR DEVELOPMENT OF
ENERGY AND OTHER SELECTED NATURAL RESOURCES

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Requests for information concerning this publication should be directed to either: .

Executive Office
Capitol Building
Bismarck, North Dakota 58501

or

U.S. Geological Survey
Environmental Affairs Office
760 National Center
Reston, Virginia 22092

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SECTION 1.0

INTRODUCTION

INTRODUCTION

This guide is one in a series prepared for every State. The purpose of the guidebook is to summarize environmental and land-use permits issued by the State for the development of energy and other natural resources. The guidebook is intended not only for private developers and interest groups, but also for regulatory officials of Federal, State, and local government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of North Dakota; it is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the State regulations that govern the development of such resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate State agency for further details.

The guidebook is divided into seven sections. Sections 1, 2 and 7 discuss introductory information, consolidated permit programs for the State of North Dakota, and local regulatory policies, respectively. The remaining sections discuss permits that apply to Resource Extraction Land Use Regulation, Environmental Quality Management, and Social/Ecological Preservation. Each section is divided into chapters; each chapter summarizes one permit, license, or approval. Permits administered by a single agency are generally grouped together in each section.

Each permit is discussed in the standard format shown below:

STANDARD FORMAT FOR PERMIT SUMMARY**CHAPTER 0.0****TITLE OF ACTIVITY ADDRESSED BY PERMIT, LICENSE OR APPROVAL****INTRODUCTION**

Description of administering agency and its role.

A. NAME OF PERMIT OR APPROVAL

Complete name of permit or approval.

B. STATUTORY AUTHORITY

Title of State statutes authorizing permit and the legal citations of each.

C. TITLE OF REGULATION

Title of State regulations(s) which apply to permit.

D. SUMMARY OF PERMIT/APPROVAL PROCESS

Summary of major steps involved in the permit/approval process.

1. APPLICABILITY.

Includes all types of activities which require the permit.

2. GENERAL REQUIREMENTS.

Conditions which must be met by the project sponsor before a permit can be acquired; does not include submissions or operations requirements.

3. SUBMISSION REQUIREMENTS.

Types of information which the project sponsor must include in the application for the permit.

4. PROCEDURE FOR OBTAINING PERMIT OR APPROVAL.

Includes information on items such as submittal procedures, completeness and technical review, public notice, comment and

hearing periods, preliminary and final decisions, inspections, and processing time.

5. OPERATION REQUIREMENTS.

Conditions which are established by the regulatory agency following permit approval and which must be met by the project sponsor to continue operations.

6. FEES.

Costs incurred for obtaining and maintaining the permit.

7. APPEAL PROCESS.

Process whereby decisions concerning permit approval/denial that are by a regulatory agency can be appealed.

E. ADMINISTERING AGENCY

Name of the administering agency, its address and phone number.

Name of the counterpart Federal agency, its address and phone number.

APPROACH AND INTENDED PURPOSE

The purpose is to provide a brief summary of all state-issued environmental and land-use permits which may be required for the development of energy and other natural resources. It is not intended to be a comprehensive guide to the specific requirements of each permit, but to provide a concise, easy-to-use reference on the overall State regulatory requirements a project may face. It was felt that this document would be useful not only to private developers, but to regulatory officials at the Federal, State, and local levels of government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this document assisted in the preparation of the permit summaries. The final draft of each permit summary was reviewed for accuracy and completeness by each responsible agency. Users of this document should be aware, however, that changes in the laws, rules and regulations, or regulatory

personnel since the publication of this document may cause significant changes in permit requirements.

The following agencies were contacted and have individually verified the content of that portion for which they have authority:

ADMINISTERING AGENCIES

State Planning Division
Federal Aid Coordinator Office
State Capitol
Bismarck, ND 58505
(701) 224-2818

State Engineer
State Office Building
900 East Boulevard
Bismarck, ND 58505
(701) 224-2750

North Dakota Industrial Commission
900 East Boulevard
Bismarck, ND 58505
(701) 224-2201

Game and Fish Department
2121 Lovett Avenue
Bismarck, ND 58505
(701) 224-2180

Reclamation Division
Public Service Commission
State Capitol
Bismarck, ND 58505
(701) 224-2400

State Historical Society
Heritage Center
Bismarck, ND 58505
(701) 224-2666

Public Utility and Siting Division
Public Service Commission
State Capitol
Bismarck, ND 58505
(701) 224-2400

North Dakota Regional Council Assoc.
Lewis and Clark Regional Council
802 Boundary Street
Mandan, ND 58554
(701) 663-6588

State Geologist
North Dakota Geological Survey
University of North Dakota
University Station
Grand Forks, ND 58202
(701) 777-2231

State Department of Health
1200 Missouri Avenue
Bismarck, ND 58505

No. Dakota State Soil
Conservation Committee
State Capitol
Bismarck, ND 58505
(701) 224-2651

Division of Environmental Engineering
(701) 224-2348
Division of Environmental Waste
Management and Research
(701) 224-2366
Water Supply and Pollution
Control Division
(701) 224-2354

HOW TO USE THIS GUIDEBOOK

Due to the complexity of the statutes and the applicable rules and regulations as promulgated by various agencies, it is recommended that interested parties make pre-application contact with the agencies to obtain complete information regarding permit requirements and application procedures. In addition, various federal permits may be required. This guide does not address the issue of state regulation over federal land, nor regulatory authority over public domain, national forest, Indian land, military land, acquired land, or federal reservation of minerals under private surface rights. Differences that may exist in the applicability of state law to various categories of federal land must be addressed on an individual basis by the applicant.

This guide serves as a general reference source and should not be used as a substitute for legal advice. The information herein was collected and verified during the Spring and Summer of 1981 and includes legislation as of the end of the 1981 Session.

During the course of developing this guide, it became apparent that other state agencies not specifically mentioned in the chapters were of equal importance for resource development interests. Those additional agencies include: the State Engineer's office for the use and allocation of water; and the Industrial Commission in relation to geothermal resources.

WATER RIGHTS

The State Engineer is responsible for the issuance of permits for the use and allocation of water. Emergency or temporary water use permits may be authorized for periods not to exceed 12 months. All water users must secure a water permit prior to constructing an impoundment capable of retaining more than 12½ acre-feet of water or the construction of a well from which more than 12½ acre-feet of water per year will be appropriated. A landowner or his leasee do not need permits to appropriate less than 12½ acre-feet from any source for domestic or livestock purposes or for fish, wildlife, and other recreational uses, but may make application if they desire to clearly establish a priority date.

Instruction for filing application for permits for the use and allocation of water are of vital concern to any proposed resources development activity.

Instructions for completion of applications for conditional water permits are available from the State Engineer's Office. Applications must be accompanied by maps certified by a competent surveyor unless another type of map is first approved by the State Engineer.

Application fees accompanying an application are:

1. Municipal or public use in municipalities or other entities of 2500 population or over; \$250; 2500 population or less, \$150;
2. Irrigation - \$100;
3. Industrial use of 1 cubic feet per second or 724 acre-feet or less - \$150; in excess of these limits - \$500;
4. Recreation, livestock, or fish and wildlife - \$50; commercial recreation - \$100;

Applications are reviewed by the State Engineer and the applicant notified within 30 days of any corrections, amendments, or changes, and must be refiled within 60 days. Notice is given to real estate owners within a 1 mile radius of the point of diversion and to the governing body within city boundaries. Publication notice once a week for 2 consecutive weeks precede the State Engineer's hearing on the application.

If the application is approved, a conditional water permit will be issued. The conditional water permit does not create a water right, but is an authorization to construct a facility and to begin utilization of the water. Water rights accrue upon beneficial use of the water.

A perfected permit is issued after water has been applied to beneficial use. Additional requirements or conditions may be established by the State Engineer before granting a perfected permit.

Should the application be refused by the State Engineer the applicant may appeal to the district court within 60 days.

ADMINISTERING AGENCY

State Engineer
900 East Boulevard
Bismarck, ND 58505

(701) 224-2750

GEOHERMAL RESOURCES

In 1981 the North Dakota Legislative Assembly passed and the Governor signed, House Bill 1362, Chapter 377, 1981 Session Laws, providing for the regulation of the exploration, development, and utilization of geothermal resources by the Industrial Commission.

Geothermal energy development thus far in North Dakota has been limited to groundwater heat pumps and a limited amount of direct heating from waters of the Dakota Formation. Groundwater heat pumps for private residential heating and cooling are exempt from the requirements of the statute.

The North Dakota Industrial Commission consists of the Governor, as chairman, the Attorney General, and the Commissioner of Agriculture, and is the regulatory authority and has as yet not promulgated rules and regulations. The Commission, acting through the Office of the State Geologist handles each application on an individual basis at this time, and will prescribe procedures upon recommendation of the State Geologist. A permit would be granted by the Industrial Commission; however, the applicant must acquire any other permits from appropriate state, federal, and local jurisdictions exercising authority. Until regulations are adopted, applicants are encouraged to seek assistance from the State Engineer, State Department of Health, Public Service Commission, in addition to the State Geologist, and local governments that may require permits for various phases of geothermal resource development.

Permit applicants will be required to submit and furnish information on ownership, filing logs and reports on facility location and operation, a reasonable bond, product extraction, metering records, and reclamation plans to restore the site as nearly as possible to its original condition and productivity.

ADMINISTERING AGENCY

North Dakota Industrial Commission
Capitol Building
Bismarck, ND 58505
(701) 224-2201

and

State Geologist
North Dakota Geological Survey
University Station
Grand Forks, ND 58202
(701) 777-2231

FEDERAL COUNTERPART

Division of Geothermal Energy
Department of Energy
Idaho Falls, ID 83401

(208) 526-0638

SECTION 2.0

STATE POLICY AND PROCEDURES FOR

CONSOLIDATED PERMIT PROGRAM

CHAPTER 2.1 STATE CLEARINGHOUSE

INTRODUCTION

The North Dakota State Intergovernmental Clearinghouse operates through the State Planning Division in the Federal Aid Coordinator's Office to facilitate the review of applications for Federal assistance, environmental impact statements, memoranda of understanding, cooperative agreements between State agencies, and cooperative agreements between State and Federal agencies. The State Planning Division works to assure the coordination of planning activities of all State departments, boards, commissions, and agencies regarding development activities.

A. NAME OF APPROVAL

State Clearinghouse Plan Review.

B. STATUTORY AUTHORITY

Federal Aid Coordinator, Chapter 54-27.1, NDCC, authorizes a coordinating function.

C. TITLE OF REGULATION

Regulations promulgated by Federal Council on Environmental Quality, Environmental Protection Agency, and the Office of Management and Budget. State regulatory authority is not applicable. Each regulatory agency has its own hearing process and permit function.

D. SUMMARY OF APPROVAL PROCESS

I. APPLICABILITY.

The primary function of the clearinghouse is to examine and facilitate the overview of proposed projects for their statewide or areawide impacts and their relationship to State or areawide plans or policies.

2. GENERAL REQUIREMENTS.

Information required by the Federal agency from which the applicant is applying for Federal assistance; information required under Federal environmental impact statement procedures; information required by Federal regulations or memoranda of understanding, agreements, and plans.

3. SUBMISSION REQUIREMENTS.

Applications for Federal funds or private endowment funds, or contract with the Federal government or any private association, by any State department, board, commission, or agency should be submitted. All plans prepared by all State departments, boards, commissions, and agencies should be submitted at least semiannually for review and comment by the coordinator.

4. PROCEDURE FOR OBTAINING APPROVAL.

The review period is 30 to 60 days and applies to environmental impact statements, memoranda of understanding, and plans. Sign off prior to 30 days is possible. Meetings to discuss comments or problem areas may be held at the request of the State Planning Division.

5. OPERATION REQUIREMENTS.

Not applicable.

6. FEES.

None.

E. ADMINISTERING AGENCY

State Planning Division
Federal Aid Coordinator's Office
State Capitol
Bismarck, ND 58505

(701) 224-2818

FEDERAL COUNTERPART

Office of Management and Budget
726 Jackson Drive
Washington, D.C. 20503

(202) 395-3980

SECTION 3.0

RESOURCE EXTRACTION

CHAPTER 3.1 SURFACE COAL MINING AND RECLAMATION

INTRODUCTION

The Public Service Commission administers the laws and regulations controlling surface coal mining and reclamation operations and coordinates coal mining and reclamation operations with other State permitting processes. Permits are generally issued for a fixed term not to exceed 5 years.

A. NAME OF PERMIT

Application for Permit to Engage in Surface Coal Mining and Reclamation Operations. (PSC Reclamation Form 1)

B. STATUTORY AUTHORITY

Reclamation of Surface-Mined Lands, Chapter 34-14.1, NDCC; Surface Owner Protection, Chapter 38-18, NDCC.

C. TITLE OF REGULATION

North Dakota Administrative Code Article 69-05.2.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

Exploration, extraction, and reclamation operations associated with lignite surface mining operations. If Federal coal is involved, the operator must obtain permits from both the State regulatory agency and the Federal Office of Surface Mining. Approval of the State Water Commission is required if any of the proposed sediment control structures have a capacity greater than 20 acre-feet. No rights under the mining permit can be exercised until necessary permits are obtained from the State Water Commission and, for water quality considerations, from the State Health Department.

2. a. GENERAL REQUIREMENTS.

Each operator or permittee who conducts or expects to conduct

surface coal mining and reclamation operations must submit 10 copies of the permit application identifying the lands subject to surface coal mining operations over the estimated life of the operation.

b. REGULATORY REQUIREMENTS.

The Public Service Commission Reclamation Form-I establishes reference to both statutory and regulatory permit application requirements. Compliance information is required to be complete prior to start of the review process.

3. SUBMISSION REQUIREMENTS.

Comprehensive and integrated pre-mining (baseline) information on soils, geology, vegetation, etc.; a mine plan laying out how the mining and reclamation will be done (pit layout and sequence, post-mining topography and land use, detailed surface and ground water management provisions, etc.); legal and financial assurances, and proofs of compliance.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

The time of receipt of an application is established by regulation as the date on which the commission notifies the permit applicant, within 30 days after submittal, that the application is complete.

b. PUBLIC NOTIFICATION, HEARINGS.

(1) Permit application advertisement as required by 38-14.1-18 NDCC, shall include a map or description of the area.

(2) Copies of the application and supporting materials are distributed to the State advisory committee to aid the commission in evaluating the plan. Members of the advisory committee shall forward their evaluation to the commission within 45 days.

(3) Copies are available for public inspection in the office of the county auditor in the county where the mining is proposed.

(4) Requests for informal conferences may be made to the commission, summarizing issues to be raised. Hearing examiners appointed by the commission shall preside at these informal conferences.

c. REVIEW AND PROCESSING TIME.

The commission has 120 days to review and approve or disapprove the application and notify the permit applicant of its action. The review period is suspended during periods of application correction. Upon approval, the commission shall publish notice of the decision in the official county newspapers and newspapers of general circulation in the area of the proposed mining. Any person with an interest which is, or may be, adversely affected may request and initiate formal hearing procedures on the decision within 30 days.

5. OPERATION REQUIREMENTS.

The operator must meet the requirements of the law, the regulations, the commitments made by the operator in the permit application, and any conditions placed on the permit by the commission.

6. FEES.

A non-refundable filing fee of \$250, plus \$10 per acre or fraction thereof.

7. APPEAL PROCESS.

The final decision of the Public Service Commission may be appealed through procedures of the Administrative Practices Act, NDCC 28-32, and the district court.

| E. ADMINISTERING AGENCY | FEDERAL COUNTERPART |
|--------------------------------|----------------------------|
| Director, Reclamation Division | Office of Surface Mining |
| North Dakota Public Service | 1020 - 15th Street |
| Commission | Denver, CO 80202 |
| State Capitol Building | |
| Bismarck, ND 58505 | (303) 837-4072 |
| (701) 224-2400 | |

CHAPTER 3.2
COAL AND LIGNITE EXPLORATION AND RECLAMATION

INTRODUCTION

The North Dakota Industrial Commission has jurisdiction, both public and private, for the exploration and reclamation of exploration sites for underground coal and lignite operations. Coal extraction and reclamation of mined lands are regulated by the North Dakota Public Service Commission (See Chapter 3.1). The North Dakota State Geologist maintains permitting data and is charged with the supervision of the Industrial Commission's regulations and order.

A. NAME OF PERMIT

North Dakota State Industrial Commission Permit Application -- Coal Exploration.

B. STATUTORY AUTHORITY

Exploration Data. Chapter 38-12.1, NDCC.

C. TITLE OF REGULATION

Coal Exploration. North Dakota Administrative Code, Chapter 43-02-01. Special rules and orders may be issued after public hearing. Emergency exceptions may be in force no longer than 15 days.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

This regulation has been adopted by the Industrial Commission to accumulate basic coal exploration data in order to better serve the public interest and to assist the State in determining what the State attitude should be regarding the development of coal resources. A permit is granted for 1-year.

2. a. GENERAL REQUIREMENTS.

A permit issued by the State Geologist is required prior to commencing operations for the exploration of coal. Exploration and reclamation must be done in an environmentally sound

manner. Basic exploration data shall be furnished to the State Geologist. Such data shall be confidential for a period of 2 years, and such confidentiality may be extended for 1-year periods, upon application to the State Geologist, for a total not to exceed 10 years. Further confidentiality may be provided for extenuating circumstances.

b. REGULATORY REQUIREMENTS.

Basic data developed during coal exploration or evaluation consisting of test hole locations, test hole elevations, total depths, driller's logs, radioactivity, resistivity, or other types of electrical or mechanical logs, are to be delivered to the State Geologist within 6 months of the expiration date of the permit. Additional information or sample cuts or core analyses may be requested by the State Geologist.

3. SUBMISSION REQUIREMENTS.

The permit application must include: the name, address, and telephone number of the applicant and the representative responsible for the exploration activities; a precise description of the exploration area and period of intended exploration; a description of the practices to protect the environment; and a statement that the applicant will comply with performance standards for exploration and reclamation related to the environment and operation of the facilities.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

A permit is granted or denied within 30 days after proper application.

b. REVIEW AND PROCESSING TIME.

Permit application, fee, and bond are received by the State Geologist and checked for completeness and compliance with all applicable regulations and a permit issued or denied. Applicant is generally notified within 2 days of submission to the State Geologist.

5. OPERATION REQUIREMENTS.

A permit issued under the regulations is not for the extraction for commercial sale of coal nor removal of more than 250 tons (266.80 metric tons) of coal without first obtaining a permit from the State Public Service Commission (see Chapter 3.1). The requirements for a permit as set forth above are the basic requirements for operation within a permit area. Quarterly reports listing locations of test holes completed and plugged, or if no drilling occurred, and completion reports upon expiration of the permit are submitted to the State Geologist.

6. FEES.

\$100 per county (Permit area) except that no fee or application is required to explore on Federal government land.

7. APPEAL PROCESS.

An applicant may appeal before the State Industrial Commission.

E. ADMINISTERING AGENCY
 State Geologist
 North Dakota Geological Survey
 University Station
 Grand Forks, ND 58202

(701) 777-2231 Ext. 4572

FEDERAL COUNTERPART

Office of Surface Mining
 1020 - 15th Street
 Denver, CO 80202

(303) 837-4072

and:

U. S. Geological Survey
 Oil and Gas Division
 111 So. Wolcott, Rm. 305
 Casper, WY 82601

(307) 265-5550

CHAPTER 3.3 SUBSURFACE MINERALS

INTRODUCTION

The North Dakota Industrial Commission acting through the State Geologist's Office, is charged with the regulation of the exploration, development, and production of subsurface minerals and the reclamation of lands disturbed by such activities, except for oil, gas and coal (see Chapter 3.4).

A. NAME OF PERMIT

North Dakota State Industrial Commission Exploration Permit Application - Subsurface Minerals.

B. STATUTORY AUTHORITY

Regulation Development and Production of Subsurface Minerals, Chapter 38-12, NDCC.

C. TITLE OF REGULATION

Subsurface Mineral Exploration and Development, Chapter 43-02-02. North Dakota Administrative Code.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

Regulations apply to the drilling and abandonment of exploration test holes and producing wells, and all other exploration, development, production, and reclamation operations of naturally occurring elements and their compounds, natural mineral salts of boron, bromine, calcium, fluorine, helium, iodine, lithium, magnesium, nitrogen, phosphorus, potassium, sodium, thorium, uranium, sulfur and their compounds.

2. a. GENERAL REQUIREMENTS.

A permit issued by the State Geologist is required prior to starting exploration, development, or production of subsurface minerals.

b. REGULATORY REQUIREMENTS.

A mining plan must be submitted to the State Geologist showing in detail the proposed development or mining operations to be conducted with plans for the protection of natural resources, other than the mineral being mined, and reclamation of the surface lands disturbed.

3. SUBMISSION REQUIREMENTS.

Rules and regulations should be read and thoroughly understood prior to submitting 3 copies of the application including information on the operator and contractor; starting and completion dates; permit area legal description; location and number of test holes; drilling methods; logging, coring, and sampling program; plugging procedures; organization report; bond; and name of in-state resident agent, if the company is incorporated or located outside the State of North Dakota. Additional information may be required.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

No time is set forth by statute or regulation and may vary based on complexity of application. Exploration permits are issued for 1-year.

b. PUBLIC NOTIFICATION, HEARINGS.

No publication or hearing is required other than for the adoption of rules, regulations or orders of the Industrial Commission. The Industrial Commission, Attorney General, or any person interested in any common source of supply of subsurface minerals, may institute proceedings.

c. REVIEW AND PROCESSING TIME.

Upon determination by the State Geologist that the application, fee, bond and organization report is complete and complies with applicable statutes and rules and regulations, an exploration permit application will be approved, generally within 2 days. Production permit applications will vary in review and processing

time, but generally take a maximum of 90 days to review and approve.

5. OPERATION REQUIREMENTS.

Detailed operation requirements based on location, posting, drilling, pit size and location, hydrological conditions, oil and gas potential, subsurface and wellhead pressures, are considered. Completion reports are required 30 days after completion of any well drilled for subsurface minerals, or the completion of an exploration program. Basic data developed by the operator are to be delivered to the State Geologist within 6 months of the expiration date of the permit. Notice of intention to abandon any well must be filed with the State Geologist prior to commencing plugging operations. Earthen pits are to be filled and leveled within a reasonable time after completion of the well. Reports showing amount of production and injection reports indicating amounts, composition and source are required. Appropriate books and records covering operations must be maintained for a period of not less than 5 years.

6. FEES.

\$100 per permit. No fee is required for a permit to drill or explore on United States government land nor for United State government minerals. Bonds approved by the Industrial Commission are required prior to receiving a permit:

- a. Single shallow well or testhole - \$1,000;
- b. Blanket bond for 2 or more shallow wells or testholes - \$15,000;
- c. Single deep well - \$5,000;
- d. Blanket bond for 2 or more deep wells - \$25,000;
- e. Strip mining - \$2,000 per acre.

7. APPEAL PROCESS.

An applicant may appeal the decision of the State Geologist to the Industrial Commission within 30 days of the decision. The Commission shall grant or deny in whole or in part within 15 days after filing.

E. ADMINISTERING AGENCY

North Dakota Industrial
Commission
Capitol Building
Bismarck, ND 58505

(701) 224-2201

State Geologist
North Dakota Geological Survey
University Station
Grand Forks, ND 58202

(701) 777-2231

FEDERAL COUNTERPART

Office of Surface Mining
1020 - 15th Street
Denver, CO 80202

(303) 837-4072

CHAPTER 3.4 OIL AND GAS

INTRODUCTION

The Oil and Gas Division of the North Dakota Industrial Commission administers the rules and regulations pertaining to oil and gas drilling, production and plugging of oil and gas wells. Amendments during the 1981 Legislative Session may modify regulatory requirements. See Chapter 3.5 for lands owned and operated by the North Dakota Game and Fish Department.

A. NAME OF PERMIT

Permit to Drill.

B. STATUTORY AUTHORITY

Oil and Gas Development, Chapter 38-08-04, NDCC.

C. TITLE OR REGULATION

General Rules and Regulations for the Conservation of Oil and Gas.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

Exploration, development, production, and conservation of oil and gas resources.

2. a. GENERAL REQUIREMENTS.

Application for a permit is required for drilling, re-entry, or deepening and drilling for oil and gas on all lands within the state.

b. REGULATORY REQUIREMENTS.

Permits are reviewed for casing programs to protect freshwaters; for spacing to insure proper well spacing; and for blowout preventer equipment, especially if the well is located in an area of abnormal pressures.

3. SUBMISSION REQUIREMENTS.

An application must include a certified surveyor's plat, a bond covering the operation, designated forms, and permit fees.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

A permit is issued immediately after submission requirements are satisfactorily met.

b. PUBLIC NOTIFICATION, HEARINGS.

None required.

5. OPERATION REQUIREMENTS.

Operator must file copies of electric logs, core data, drill stem tests, sample descriptions, and reports of any other work done on the well. Sundry notices, completion reports, and production reports are also required. Abandonment data is required prior to inspection, or approval, on reasons for abandonment, productive zones not sealed, depths, plug method, casing or tubing pulled. Monthly reports are required to identify well, production, and sales.

6. FEES.

Well permit fee - \$100.

7. APPEAL PROCESS.

Exception to Rules and Regulations are taken before the North Dakota Industrial Commission.

E. ADMINISTERING AGENCY

Chief Enforcement Officer
Oil and Gas Division
N.D. Industrial Commission
State Capitol
Bismarck, ND 58505

(701) 224-2969

FEDERAL COUNTERPART

U. S. Geological Survey
Oil and Gas Division
111 South Wolcott, Rm 305
Casper, WY 82601

(307) 265-5550 Ext. 5145

CHAPTER 3.5 OIL AND GAS EXPLORATION

INTRODUCTION

The North Dakota State Game and Fish Department is responsible for gas, oil, coal or other mineral exploration or development on lands owned or operated by the department.

A. NAME OF PERMIT

Mineral Exploration Permit and Operational Agreement.

B. STATUTORY AUTHORITY

Duties of the Commissioner, Section 20.1-02-04, NDCC.

C. TITLE OF REGULATION

Guidelines - Seismic Permit Procedure.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

A permit is required to conduct gas, oil, coal or other mineral exploration or development on lands owned or operated by the department.

2. GENERAL REQUIREMENTS.

Requirements are designed to regulate seismic exploration on department lands. Other exploration requests are handled on a case by case basis.

3. SUBMISSION REQUIREMENTS.

Application for a mineral exploration permit must include information on the applicant organization and sub-contractors, and land description. Damage reimbursement payments are included as part of the permit condition. Some 29 conditions are made a part of the permit covering types of exploratory purposes permitted, damage reimbursements, coordination activities through department

or District Biologist, farm cooperator agreements, resource conflicts, public recreational access, vehicle use, water use, reclamation, recognition of all other applicable regulations of Federal, State, or local government bodies, and on-site inspection reimbursement.

4. PROCEDURES FOR OBTAINING PERMIT.

Upon receipt of an application the request is referred to the District Wildlife Management Biologist who reviews the permit with the applicant. The Biologist forwards the application to appropriate offices for review and the applicant notified of approval or denial. A final coordination meeting with the District Biologist is required to reaffirm the permit restrictions. Application processing requires 3 weeks or less.

5. OPERATIONS REQUIREMENTS.

On-site inspection is made to view work and review results. The applicant must receive completion approval and determination of appropriate damage reimbursement.

6. FEES.

Variable and negotiated as per the nature of the activity and current rates generally based on a per hole or per mile basis.

7. APPEAL PROCESS.

None.

E. ADMINISTERING AGENCY

Commissioner
North Dakota State Game and
Fish Department
2121 Lovett Avenue
Bismarck, ND 58505

(701) 224-2180

FEDERAL COUNTERPART

U.S. Fish and Wildlife Service
P. O. Box 1897
Bismarck, ND 58501

(701) 255-4011

CHAPTER 3.6 CONSTRUCTION MATERIALS

INTRODUCTION

North Dakota Law does not require a permit application for surface mining for construction materials. The Surface Mining Reports Law, Chapter 38-16 (North Dakota Century Code) requires any person conducting surface mining operations for minerals other than coal, including construction materials which, within one calendar year, removes 10,000 cubic yards or more of earthen material or product, including overburden, or affects 1/2 acre or more in combined mining operations to report their activities to the State Soil Conservation Committee. A summary report includes a list of operators and their activities for the calendar year. (Latest Report - 1980.) Surface and subsurface mining of subsurface minerals is regulated by the North Dakota Industrial Commission acting through the office of the State Geologist. Permits for such mining are required. (See Chapters 3.1 and 3.3.)

A. NAME OF FORM

Surface Mining Report for Minerals other than Coal.

B. STATUTORY AUTHORITY

Surface Mining Reports Law, Chapter 38-16, NDCC.

C. TITLE OF REGULATION

Not Applicable.

D. SUMMARY OF FORM

Name of operator and surface mining activities for the calendar year, including location, type of mineral, depth of operation, acres affected, cubic yards mined, and overburden disturbed, status of reclamation and estimated activities for next calendar year.

E. ADMINISTERING AGENCY

Executive Secretary
North Dakota State Soil
Conservation Committee
State Capitol
Bismarck, ND 58505
(701) 224-2651

FEDERAL COUNTERPART

NONE.

SECTION 4.0

LAND USE REGULATION

CHAPTER 4.1 MAJOR FACILITY SITING

INTRODUCTION

The North Dakota Public Service Commission issues certificates of site compatibility and/or certificates of corridor compatibility for energy conversion and/or transmission facilities; permits for construction of transmission facilities; and, requires ten-year plans, updated annually from any persons engaged in and controlling the generation, manufacture, refinement or transmission of energy facilities. The commission assembles and publishes an energy conversion and transmission facility inventory of exclusion and avoidance areas from criteria developed to identify such areas. The commission may issue orders waiving procedures or time schedules under defined findings of minimal adverse effects or emergency conditions.

A. NAME OF PERMIT

Certificate of Site or Corridor Compatibility and a Route Permit.

B. STATUTORY AUTHORITY

North Dakota Energy Conversion and Transmission Facility Siting Act, Chapter 49-22, NDCC.

C. TITLE OF REGULATION

Energy Conversion and Transmission Facility Siting Rules and Regulations Article 69-06, and Commission Guidelines for Chapter 49-22, NDCC.

D. SUMMARY OF PERMIT PROCESS

I. APPLICABILITY.

A certificate of site compatibility or a route permit is necessary for the location, construction, and operation of an energy conversion facility or addition designed for or capable of :

- a. Generation of 50,000 kilowatts or more of electricity;
- b. Manufacture or refinement of 100,000,000 cubic feet (2,831,684.66 cubic meters) or more of gas per day, regardless of the end use of the gas;

- c. Manufacture or refinement of 50,000 barrels (7,949.36 cubic meters) or more of liquid hydrocarbon products per day; or
- d. Enrichment of uranium minerals.

In addition, transmission facilities including:

- a. An electric transmission line and associated facilities with a design in excess of 115 kilovolts;
- b. A gas or liquid transmission line and associated facilities capable of transporting coal, gas, liquid hydrocarbons, or liquid hydrocarbon products, not including an oil or gas pipeline gathering system; or
- c. A liquid transmission line and associated facilities capable of transporting water from or to an energy conversion facility.

2. a. GENERAL REQUIREMENTS.

Every utility which owns or operates, or plans within the next 10 years to own, operate, or start construction shall annually develop a 10-year plan including the description of the location, coordination with other utilities, environmental protection and land-use planning involvement, projected demand, and other information requested by the commission. Applications for certificates of site compatibility or route permits are set forth in the act and commission rules and regulations.

b. REGULATORY REQUIREMENTS.

In addition to the statutory requirements, the regulations expand on procedures and filing of applications with the commission.

3. SUBMISSION REQUIREMENTS.

- a. 10-year plans shall be filed with the commission and the county auditor of each county in which any part of a site or corridor is proposed and with each State agency and officer entitled to notice as designated.

- b. Letters of intent shall contain a description of the size and type of facility, study area map, anticipated construction and operation schedule, and an estimated total cost of construction.
- c. Applications for certificate of site or corridor compatibility or designation of a route must contain a description of the facility and its need, preferred location, and mitigative measures to minimize adverse impacts.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

- 1) Any utility planning to construct an energy conversion or transmission facility must file a letter of intent at least 1 year prior to the filing of an application for a certificate.
- 2) Application for a certificate for site compatibility shall be designated by the commission no later than 6 months after filing or 3 months after filing a completed application for a certificate of corridor compatibility.
- 3) A route permit for a transmission facility within a designated corridor shall be filed no later than 2 years after issuance of a certificate and the commission shall designate a route no later than 6 months after filing of a completed application.

b. REVIEW AND PROCESSING.

- 1) Applications will be evaluated by considerations of location effects, new energy technologies and systems, beneficial uses of waste energy, environmental effects, alternate sites or routes, natural resource commitments, economic impacts, existing State, local, and private development plans, scenic areas, historic sites and structures, paleontological or archaeological sites, biological or rare and endangered species, and problems raised by Federal, State, or local agencies and entities.
- 2) Notice by publication at least 20 days prior to public hearings shall be given at the expense of the applicant.

- 3) Advisory committees may be appointed by the commission to assist in evaluation, and exchange of information with others is encouraged to eliminate duplication and establish a common data base.
- 4) Certificates shall not supersede or preempt local rules and regulations. A permit may supersede such rules and regulations upon finding by the commission.

5. OPERATION REQUIREMENTS.

If construction and improvements start more than 4 years after issuance of a certificate or permit, the utility must certify compliance with conditions of the certificate or permit. Revocation or suspension of a certificate or permit with penalties is possible for violations of compliance. A certificate of continuing suitability is issued by the commission authorizing the beginning of construction or improvement. If the certificate does not meet requirements, the commission may cancel the certificate or permit or require modifications.

6. FEES.

Application fees set forth under "a" or "b" below shall not be less than \$5,000 nor more than \$150,000.

- a. Certificate of site compatibility - \$500 for each \$1,000,000 of investment in the proposed facility;
- b. Certificate of corridor compatibility - \$5,000 for each \$1,000,000 of investment in the proposed facility;
- c. Additional fees for evaluation and designation shall not exceed \$1,000 for each \$1,000,000 of investment in an energy conversion facility or \$10,000 for each \$1,000,000 of investment in a transmission facility. (Refunds of that portion which exceed expenses shall be made by the commission.)

7. APPEAL PROCESS.

Any party aggrieved by issuance of a certificate or permit may

request a rehearing by the commission. There shall be a right of appeal to the district court from any adverse ruling by the commission.

E. ADMINISTERING AGENCY

Chief Engineer
North Dakota Public Service
Commission
State Capitol
Bismarck, ND 58505

(701) 224-2400

FEDERAL COUNTERPART

Federal Energy Regulatory
Commission
825 N. Capitol Street, NE
Washington, D.C. 20426

(202) 357-8055

**CHAPTER 4.2
FLOOD PLAIN MANAGEMENT**

INTRODUCTION

The 1981 North Dakota Legislative Assembly adopted a new Flood Plain Management Act. The State Engineer's role is primarily to provide assistance to flood prone communities which are required to adopt and implement flood plain management ordinances. The assistance is primarily to ensure that communities which are flood prone are properly carrying out their flood plain management responsibilities. The State Engineer is vested with enforcement authority and responsibility under the act.

A. NAME OF APPROVAL

Local flood plain regulations.

B. STATUTORY AUTHORITY

House Bill 1076, 47th Legislative Assembly, 1981.

C. ADMINISTERING AGENCIES

Local Counties and Municipalities

STATE:
State Engineer
900 East Boulevard
Bismarck, ND 58505

(701) 224-2750

FEDERAL COUNTERPART

Federal Emergency Management
Agency
Building 710
Denver Federal Center
Denver, CO 80225

(303) 234-6582

SECTION 5.0

ENVIRONMENTAL QUALITY

MANAGEMENT

CHAPTER 5.1 AIR QUALITY

INTRODUCTION

Air quality permits are issued by the North Dakota State Department of Health following general requirements of the U.S. Environmental Protection Agency.

A. NAME OF PERMIT

Air Pollution Control Permit to Construct.
Air Pollution Control Permit to Operate.

B. STATUTORY AUTHORITY

North Dakota Air Pollution Control Law, Chapters 23 through 25, NDCC.

C. TITLE OF REGULATION

Article 33-15, North Dakota Administrative Code.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

Permits are required to construct and to operate a facility which may issue an air contaminant into the ambient air.

2. a. GENERAL REQUIREMENTS.

Regulate air pollution sources to assure compliance with the requirements of the Federal Clean Air Act and the State Air Pollution Control Law.

b. REGULATORY REQUIREMENTS.

- 1) Pre-application meeting (usually only for major sources);
- 2) Submittal of application;
- 3) Review of application for completeness (30 days);
- 4) Technical/merits review of application (by regulation, a decision is due on application by major PSD sources within 1-year from date application was deemed complete);
- 5) Public comment period (30 days);

- 6) Public hearing at end of comment period;
- 7) Final decision within 30 days of end of public comment period;
- 8) Issuance or denial of permit.

3. SUBMISSION REQUIREMENTS.

- a. Plans and specifications of all equipment and/or operations associated with the proposed source that produce or emit air contaminants to the atmosphere.
- b. Estimate of the the type and amount of air contaminants to be emitted to the atmosphere.
- c. Computer dispersion modeling of emissions from the source indicating the expected impact of such emissions on the ambient air quality.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Total time period for major source varies depending upon complexity of source from 90 days to 16 months. Minor sources are involved only with submittal application, technical review, and issuance or denial of permit.

b. PUBLICATION, NOTIFICATION, HEARINGS.

Following review of a complete application, a public comment period of 30 days is required prior to a public hearing, with the final decision within 30 days thereafter.

c. REVIEW AND PROCESSING TIME.

Total time period for major source varies depending on complexity of source. Maximum - 12 months - for Division of Environmental Engineering review.

5. OPERATIONS REQUIREMENTS.

Major sources and some minor sources are inspected on a yearly basis by department personnel. Major sources, such as steam electrical generating plants, refineries, and natural gas processing plants are

required to submit quarterly excess emissions reports. Operators of major sources also submit annual emissions/commodity reports.

6. FEES.

Fees are based on actual costs incurred in reviewing a proposed air pollution source for a permit. Maximum fee varies depending on the complexity of the source. No maximum limit is established by law or regulation.

7. APPEAL PROCESS.

Permit denial may be appealed by formal administrative hearing before the State Department of Health and then the district court.

E. ADMINISTERING AGENCY

Director
Environmental Engineering
Division
North Dakota State
Department of Health
1200 Missouri Avenue
Bismarck, ND 58505

(701) 224-2348

FEDERAL COUNTERPART

U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-2224

CHAPTER 5.2 WATER QUALITY STANDARDS AND REGULATIONS

INTRODUCTION

The North Dakota Water Pollution Control Law gives authority to the North Dakota State Department of Health for the control, prevention, and abatement of pollution of the natural surface and underground waters in the State. Included in the powers and duties given the department are the promulgation of standards of water quality and the establishment of a permit system governing discharges of sewage, industrial wastes, and other wastes into State waters.

A. NAME OF PERMIT

North Dakota Pollutant Discharge Elimination System (NDPDES) Permit.

B. STATUTORY AUTHORITY

Control, Prevention and Abatement of Pollution of Surface Waters,
Section 61-28, NDCC.

C. TITLE OF REGULATION

Water Quality Standards and Regulations, 61-28-01.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

The water quality standards establish levels of quality for stream and lake waters. Related regulations establish a permit program requiring all municipal, industrial, and other water discharge to streams and lakes to meet specific quality requirements to provide reasonable assurance that the discharge does not cause violations of the stream water quality standards.

2. a. GENERAL REQUIREMENTS.

All municipalities, industries or any person who conducts wastewater disposal activities within the State shall obtain a NDPDES permit from the department.

b. REGULATORY REQUIREMENTS.

All information requested must be provided. All wastewaters to be covered by the permit must be identified as to quality and quantity.

3. SUBMISSION REQUIREMENTS

Applicant is required to apply for a NDPDES permit on forms supplied by the department. The information required varies according to the type of wastes to be covered under the permit. The completed NDPDES application is to be filed with the department no less than 180 days prior to the date the discharge of wastes is to start.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Usually no longer than 180 days, except possible occasions where the applicant and department can not come to agreement on permit conditions.

b. PUBLIC NOTIFICATION, HEARINGS.

30 day notice of intention to issue permit published by department. After evaluating comments a hearing may be scheduled. After hearing, department evaluates hearing testimony and makes a determination to either (1) issue permit; (2) alter and issue revised permit; or, (3) deny application.

c. REVIEW PROCESSING TIME.

If no public hearing is required, permits normally are issued within 60 to 75 days after department receives complete application package. When public hearings are considered necessary, the processing time is approximately 120 to 150 days. New projects requiring NDPDES permit must submit application 6 months prior to date of beginning discharge.

5. OPERATION REQUIREMENTS.

NDPDES permittee required to monitor wastewater discharge quality and submit routine compliance report to department. The frequency of monitoring and submission of reports is determined by the category of the wastes being discharged. (Applicants considered major dischargers monitor and report more frequently than those classified as minor dischargers.) The monitoring and reporting requirements are established as part of the permit requirements established for a specific category of wastewater.

6. FEES.

None.

7. APPEAL PROCESS.

Permittee has the right to petition the department for relief, pursuant to Sec. 61-28-07 of the North Dakota Century Code.

D. ADMINISTERING AGENCY FEDERAL COUNTERPART

Director
Water Supply and Pollution
Control Division
North Dakota State Department
of Health
1200 Missouri Avenue
Missouri Office Building
Bismarck, ND 58501

Environmental Protection Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-2224

(701) 224-2354

CHAPTER 5.3 PUBLIC WATER SUPPLY

INTRODUCTION

The regulations for public water supply systems are administered by the Division of Water Supply and Pollution Control (see also Chapter 5.2 Water Quality Standards) of the State Department of Health.

A. NAME OF APPROVAL

Prior approval from the Department of Health is required. No permit as such is required.

B. STATUTORY AUTHORITY

Safe Drinking Water Act. Chapter 61-28.1, NDCC.

C. TITLE OF REGULATION

Regulations for Public Water Supply Systems of the State of North Dakota R61-28.1-01.

D. SUMMARY OF APPROVAL PROCESS

1. APPLICABILITY.

Provides standards for the construction, installation, modification, use or operation of a public water system.

2. a. GENERAL REQUIREMENTS.

Assurance that all public water supplies are constructed and operated in a manner that protects the health of the consumers at all times.

b. REGULATORY REQUIREMENTS.

All sources of water for provision to the public with at least 15 service connections (or serves 25 individuals or more).

3. SUBMISSION REQUIREMENTS.

Public water systems (municipal and otherwise) are required to submit to the department plans for the construction of new

facilities or any addition to existing facilities that are used to develop, treat, and serve water to the public for human consumption.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Plans are submitted to the department to allow at least a 2-week review and comment period, with additional time to incorporate changes, if required.

b. PUBLIC NOTIFICATION, HEARINGS.

None.

c. REVIEW AND PROCESSING TIME.

Final project plans are submitted by the applicant to the department. Review time is normally 2 to 3 weeks. Plan approval is sent to applicant. Unless approval includes major revisions to the planned project, applicant may start construction. Minor revisions usually can be handled without delaying applicant's schedule.

5. OPERATION REQUIREMENTS.

Ongoing approval is contingent upon proper operation of the facility and providing, for the consumer, a quality of water that meets the department's requirements. Laboratory analyses of the finished water quality are periodically submitted to the department. Serious noncompliance with required quality levels for the water supplied to the public results in the department rescinding approval and possibly taking action to enforce compliance.

6. FEES.

None.

7. APPEAL PROCESS.

Applicant may appeal condition of the permit or permit denial to the department, as provided by the Administrative Procedures Act, chapter 28-32. Final decisions may be appealed to the district court.

E. ADMINISTERING AGENCY

Director, Water Supply and
Pollution Control Division
North Dakota Department of Health
1200 Missouri Avenue
Missouri Office Building
Bismarck, ND 58505

(701) 224-2354

FEDERAL COUNTERPART

U.S. Environmental
Protection Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-4901

CHAPTER 5.4 SOLID WASTE MANAGEMENT

INTRODUCTION

The North Dakota State Department of Health is charged with the administration and enforcement of solid waste management and providing technical assistance in carrying out the provisions of its duties. Special use and hazardous waste permits (see Chapter 5.5) are also administered by the Environmental Health Section of the Department.

A. NAME OF PERMIT

Permit to Construct and/or Operate a Disposal Site.

B. STATUTORY AUTHORITY

Solid Waste Management and Land Protection Act. Chapter 23 through 29, NDCC.

C. TITLE OF REGULATION

Solid Waste Management Regulations, R-23-29-01.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

The regulations are applicable to all solid waste storage, collection, transportation, disposal, and resource recovery systems.

2. a. GENERAL REQUIREMENTS.

Construction, installation, establishment, operation of a new disposal operation, or operation of an existing disposal operation. A separate application is required for each new operation or installation on forms furnished by the department accompanied by information and records as required by the department, and signed by the applicant. Decisions on new and unique methods for which no performance standard is provided will be made on a case-by-case basis.

b. REGULATORY REQUIREMENTS.

Provide for the review and approval of a solid waste management plan to conserve air, water, and land resources of the State; protect the public health; and, prevent environmental pollution and public nuisances.

3. SUBMISSION REQUIREMENTS.

An application must include a map of the area showing existing land use and zoning within $\frac{1}{4}$ mile of the site, with detail of the land characteristics and boundaries of the disposal operation; a plot plan of soil borings, trenches, fill areas, cover material, and fencing; original and proposed fill elevations; a report of the population and area served; type, quantity, and source of waste; geological formation and ground water elevations; source and characteristics of cover material; potential ground water contamination; and a topographic map of pertinent information to indicate the development, operations, and completion of the landfill. A permit to operate is also required to satisfy compliance with the regulations.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

After receipt of a completed application, the department shall determine within 30 days whether the proposal is in accord with the regulations and shall notify the applicant, in writing, of the approval, conditional approval, or denial of the application.

b. PUBLIC NOTIFICATION, HEARING.

None required.

c. REVIEW AND PROCESSING TIME.

After review by Division of Environmental Waste Management and Research the application is routed to the Division of Water Supply and Control, and, if located on mine lands, to the State Public Service Commission. The Division of Environmental Waste Management and Research makes a final recommendation to the Chief of Environmental Control in the

Division of Environmental Waste Management and Research, who issues the permit or denies the application, generally within 30 days.

5. OPERATIONS REQUIREMENTS.

Operations must maintain compliance with the regulations. Each permit becomes void upon the second anniversary of its issuance. Renewal application is to be submitted 60 days prior to its anniversary date. The department shall approve or disapprove such application within 60 days.

6. FEES.

None.

7. APPEAL PROCESS.

The department sets forth in any notice of denial the reason for denial. The applicant has a right to a hearing before the department or may file a further application with revisions.

D. ADMINISTERING AGENCY

Chief, Environmental
Control Section
North Dakota State Department
of Health
1200 Missouri Avenue
Bismarck, ND 58505

(701) 224-2366

FEDERAL COUNTERPART

U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-2224

CHAPTER 5.5 HAZARDOUS/TOXIC WASTE MANAGEMENT

INTRODUCTION

The North Dakota State Department of Health is charged with the administration and enforcement of hazardous and special use waste management and providing technical assistance to regulated industry in carrying out the provisions of its duties. Legislation adopted in 1981 provides for an expanded program of control. Regulatory provisions are taken from existing solid waste management regulations as they may apply to hazardous wastes. The State has submitted a letter of intent to EPA to request authority to manage hazardous waste; at this writing it has authority for disposal only. Solid Waste Management (see Chapter 5.4 is also administered by the Environmental Health Section of the Department.

A. NAME OF PERMIT

Permit to Construct and/or Operate a Special Use Disposal Site.

B. STATUTORY AUTHORITY

North Dakota Hazardous Waste Management Act. Chapter 23-20.3, NDCC (Senate Bill 2149, 47th Legislative Assembly, effective July 1, 1981.)

C. TITLE OF REGULATION

North Dakota Hazardous Waste Management, Article 33-24.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

To regulate hazardous waste from the point of generation through transportation, storage, treatment, and disposal.

2. a. GENERAL REQUIREMENTS.

Need for a hazardous waste facility must be demonstrated by the applicant as well as meeting financial responsibility to ensure that, upon abandonment, cessation, or interruption of

the operation of the facility, all appropriate measures are taken to prevent damage to human health and the environment.

b. REGULATORY REQUIREMENTS.

Standards for the storage, collection, transportation, and disposal of hazardous wastes shall be in compliance with other applicable Federal, State, and local regulations.

3. SUBMISSION REQUIREMENTS.

Location, geology, hydrology, waste analysis, disposal method, security, personnel training, emergency/contingency plan, closure/post-closure plan, financial requirements, monitoring program, record keeping, and notification of hazardous waste activity by all generators and transporters (consists of name, address, location, ownership, type of activity, and description of hazardous waste).

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

After receipt of a completed application, the department will notify EPA of the permit application. Permits are issued for a period of 5 years.

b. PUBLIC NOTIFICATION, HEARINGS.

The department must publish notice in the newspaper of the county in which the proposed facility will be located, broadcast over local radio stations notice of the department's intention to issue a permit, and notify local jurisdictions having jurisdiction over the area. If opposition is received by the department within 45 days, including a request for a hearing, or if determined on the department's own initiative, an informal public hearing will be held. Notice of the hearing will follow the same procedure as indicated above for notice of intent.

c. REVIEW AND PROCESSING TIME.

Applications are routed to the North Dakota Geological Survey, North Dakota State Water Commission, and North Dakota State

Department of Health, Division of Water Supply and Pollution Control. Final decision is the responsibility of the North Dakota State Department of Health, Division of Environmental Waste Management and Research, who issues the permit or denies the application, generally within 30 days.

5. OPERATIONS REQUIREMENTS.

Employees of the department have right-of-entry to enforce any requirement of the department, and may require the owner or operator to make tests, analyses, or reports with respect to the facility or site; and may take emergency action as necessary to protect health or the environment.

6. FEES.

None.

7. APPEAL PROCESS.

Administrative action is conducted in accordance with article 33-22, North Dakota Administrative Code.

E. ADMINISTERING AGENCY

Chief, Environmental Control Section
North Dakota State Department of Health
1200 Missouri Avenue
Bismarck, ND 58505

(701) 224-2366

FEDERAL COUNTERPART

U.S. Environmental Protection Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-2224

CHAPTER 5.6
UNDERGROUND STORAGE AND DISPOSAL OF
NUCLEAR AND OTHER WASTE MATERIAL

INTRODUCTION

The Industrial Commission of the State is charged with the storage and retrieval of material into the subsurface strata and the terminal disposal of waste, including spent nuclear fuels and other unusable radioactive material not brought into the State for disposal to prevent contamination of surface and ground water sources or other segments of the environment. These activities are administered through the office of the State Geologist.

A. NAME OF PERMIT

Permit to Construct and Operate a Facility Regulated Under Chapter 23-20.2, NDCC. (No standardized form is used at this time.)

B. STATUTORY AUTHORITY

Disposal of Nuclear and Other Waste Material. Chapter 23-20.2, NDCC.

C. TITLE OF REGULATION

No regulations as such had been adopted as of the summer of 1981. Regulatory requirements stated below are taken from the Statutory Requirements of Chapter 23-20.2 NDCC.

D. SUMMARY OF REGULATION

I. APPLICABILITY.

The statutes apply to any underground disposal or storage and retrieval facility for subsurface disposal of liquid, gaseous, solid, and unusable industrial material including spent nuclear fuels and other unusable radioactive material not regulated by the State Department of Health (see Chapters 5.4 and 5.5). The regulations do not apply to disposing of normal household wastes on one's own property by persons residing on unplatted land in unincorporated areas.

2. a. GENERAL REQUIREMENTS.

A permit from the Industrial Commission is required prior to excavating, drilling, boring, or constructing an underground storage and retrieval facility, an underground waste disposal facility, or the conversion of any existing facility for use of any of the foregoing.

b. REGULATORY REQUIREMENTS.

Regulations have not been promulgated as yet; requirements administered by the State Geologist are statutory.

3. SUBMISSION REQUIREMENTS.

The applicant must submit detailed discussion or description of the activity to be permitted including the nature of the materials to be stored, retrieved, or disposed of; facility mechanical construction and operating procedures; facility justification; subsurface geology and hydrology of the area to be affected; monitoring system; reclamation program for restoration of the surface to its original condition and productivity upon expiration of the permit or termination of any activities; and any other information required by the Industrial Commission.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Time requirements have not been established.

b. PUBLIC NOTIFICATION, HEARINGS.

Hearings are required prior to issuance of a permit as provided by the North Dakota Administrative Procedures Act.

c. REVIEW AND PROCESSING TIME.

No facilities have as yet been permitted. No applications have yet been received and administrative review and processing times are not set by statute.

5. OPERATING REQUIREMENTS.

Detailed filing of logs and reports and maintenance of records on the facility location, and material injected, stored or retrieved are

required as requested by the State Geologist. Upon termination of the facility or activity, the operator shall restore the surface as nearly as possible to its original condition and productivity.

6. FEE.

As prescribed by the Industrial Commission, but not in excess of \$1,000.

7. APPEAL PROCESS.

Denial of a permit may be appealed before the Industrial Commission as provided by law. (Sections 28-32-15 through 28-32-21 NDCC.)

E. ADMINISTERING AGENCY

State Geologist
North Dakota Geological Survey
University Station
Grand Forks, ND 58202

(701) 777-2231 Ext. 4572

FEDERAL COUNTERPART

Nuclear Regulatory Commission
1717 H Street, NW
Washington, D.C. 20555

(301) 492-7000

and

Environmental Protection Agency
1860 Lincoln Street
Denver, CO 80203

(303) 837-2224

**CHAPTER 5.7
NOISE REGULATIONS**

INTRODUCTION

Regulations designed to minimize exposure of people and animals to hazardous levels of environmental noise are being developed by the North Dakota State Department of Health. Sound level limitations of mobile sources and receiving land use will apply to railroad operations, motor vehicles (including snowmobiles), and point sources of industrial and commercial noise.

A. NAME OF PERMIT

None.

B. STATUTORY AUTHORITY

Noise Harmful to Health and Safety, Section 23-01-17, North Dakota Century Code.

C. TITLE OF REGULATION

Regulations are currently being developed. After adoption by the State Health Council and the State Legislative Council, they will appear in Title 33 of the North Dakota Administrative Code.

D. ADMINISTERING AGENCY

Noise Control Program
Division of Environmental
Engineering
North Dakota State
Department of Health
1200 Missouri Avenue
Bismarck, ND 58505

(701) 224-2348

FEDERAL COUNTERPART

U.S. Environmental Protection
Agency
ANR-471
Washington, D.C. 20460

(703) 557-7695

SECTION 6.0

SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 6.1 RARE, THREATENED, AND ENDANGERED SPECIES

INTRODUCTION

The North Dakota State Game and Fish Department is responsible for:

(a) any activity which will adversely affect rare, threatened or endangered species or the habitat upon which these species are dependent; (b) any development, study or activity which requires the collection of protected species of wildlife; and (c) for gas, oil, coal or other mineral exploration or development on lands owned or operated by the department (see Chapter 3.5).

A. NAME OF PERMIT

Threatened and Endangered Species Permit
Scientific Collection Permit

B. STATUTORY AUTHORITY

Game, Fish, Predators and Boating, Section 20.1, NDCC;
Ownership of Game and Fish, Section 20.1-01-03, NDCC;
Duties of the Commissioner, Section 20.1-02-04, NDCC;
Powers of the Commissioner, Section 20.1-02-05, NDCC;
Schedule of Fees for Licenses and Permits, Section 20.1-03-12, NDCC.

C. TITLE OF REGULATION

North Dakota State Game and Fish Department Rules and Regulations.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

- a. A permit may be required if any activity adversely effects rare, threatened or endangered species or their habitat and such activity is conducted on lands owned or leased by the department;
- b. A scientific collection permit for 1 year or less is issued for stated protected species;

2. GENERAL REQUIREMENTS.

- a. At present the State has not exercised the authority within State statutes for the regulation of threatened or

endangered species. The department acts in an advisory capacity to other State and Federal agencies regarding activities which must meet with NEPA requirements protecting threatened or endangered species. Any person proposing to engage in activities which might affect federal threatened and endangered species should consult with the department prior to initiating the project.

- b. A non-transferable collector's permit is required for taking any protected wildlife for specified purpose.
3. SUBMISSION REQUIREMENTS.
 - a. Not applicable at the present time . See "2. a." above.
 - b. An application must state the period for which the permit is requested; the species to be collected; the purpose of collection and the numbers of each species to be collected.
4. PROCEDURES FOR OBTAINING PERMIT.
 - a. See "2. a." above.
 - b. Applicant writes to the Commissioner briefly explaining the nature of the activity and requesting an application form. A form is returned with fee and the permit is issued by the Commissioner and mailed to the applicant. Application may be made in person at the department's main office in Bismarck. Verification of the application's validity and species to be collected determine the time involved; usually 2 weeks or less.
5. OPERATIONS REQUIREMENTS.
 - a. Applicant must comply with recommendations and restrictions relative to wildlife problems associated with his activities as set forth by the federal Endangered Species Act of 1973. See "2. a." above.
 - b. Applicable restrictions as conveyed on the permit for the length of time it is valid.

6. FEES.

- a. None (see "2. a." above).
- b. \$2.

7. APPEAL PROCESS.

- a. See "2. a." above.
- b. Permits are issued at the discretion of the Commissioner and appeal or reapplication is first to the Commissioner, then to the Governor's office.

E. ADMINISTERING AGENCY

Commissioner
North Dakota State Game and
Fish Department
2121 Lovett Avenue
Bismarck, ND 58505

(701) 224-2180

FEDERAL COUNTERPART

U.S. Fish and Wildlife Service
P. O. Box 1897
Bismarck, ND 58501

(701) 255-4011

CHAPTER 6.2 ARCHAEOLOGICAL AND HISTORICAL

INTRODUCTION

The State Historical Society of North Dakota is responsible for the investigation, exploration, or excavation of any lands in the State for archaeological or paleontological materials and to identify, evaluate, register, and protect significant cultural resources within any proposed federally funded, assisted, or licensed project in the State.

A. NAME OF PERMIT

Archaeological and Paleontological Permit. (No permit or restriction is placed on exploring on private land by private landowner or with written permission.)

B. STATUTORY AUTHORITY

State Historic Society of North Dakota participation in the Federal Historic Preservation Program NDCC 55-10-11. State Historic Sites Registry NDCC 55-03-01 through 09.

C. TITLE OF REGULATION

National Historic Preservation Act and Historic Preservation Regulations 36 CFR 800. National Environmental Protection Act. Archaeological Resources Protection Act. Reservoir Salvage Act.

D. SUMMARY OF APPROVAL PROCESS

1. APPLICABILITY.

To identify and evaluate cultural resources within any area of proposed federally funded, assisted, or licensed projects. To notify State Historical Society of North Dakota of acquisition and to obtain approval prior to alteration of property listed on the State Historic Sites Registry.

2. GENERAL REQUIREMENTS.

Identification, evaluation, registration and protection of sites, buildings, structures, objects, and districts composed of significant

cultural resources which are of local, state-wide, or national significance.

3. SUBMISSION REQUIREMENTS.

- a. Map and description of the proposed project, and potential impacts on cultural resources (archaeological, historical, architectural).
- b. For buildings and structures: photographs; historical data on construction, architect, and builder; use and changes by date; historically significant individuals and/or events related to the property; statement of impact proposed project will have on property.
- c. For archaeological sites: completed archaeological site forms, detailed area sketch, and topographic maps; feature and artifact description; copy of all survey, testing, and mitigation reports; statement of proposed impacts, site significance and integrity; and proposed or recommended mitigative actions where applicable.
- d. For sites listed in the State Historic Sites Registry: a thorough description of the project and of the proposed alterations, with alternatives considered and basis for their rejection.

4. PROCEDURE FOR OBTAINING APPROVAL.

Submittal of complete project application. Review within 30 days. Permittee must satisfy requirement of adequate scientific training. If area for which permit is granted is owned by an instrumentality of the state, all materials found and removed must be delivered to the State Historical Society of North Dakota.

5. OPERATIONS REQUIREMENTS.

Conduct activities according to preservation/mitigation plan. Copies of all maps, notes, photographs and other records, and a final project report are delivered to the State Historical Society.

6. FEES.

\$5 for each investigation, exploration, or excavation.

7. APPEAL PROCESS.

For sites listed in the State Historical Sites Registry, to the State Historical Board, which shall rule within 7 to 90 days following receipt of appeal.

E. ADMINISTERING AGENCY

Superintendent
State Historical Society
North Dakota Heritage Center
Bismarck, ND 58505

(701) 224-2666

Director
Division of Archaeological and
Historic Preservation
State Historical Society
North Dakota Heritage Center
Bismarck, ND 58505

(701) 224-2672

FEDERAL COUNTERPART

Interagency Archaeological Services
P. O. Box 25387
Denver Federal Center
Denver, CO 80225

(303) 234-2560

Advisory Council on
Historic Preservation
Suite 530-1522 K Street, N.W.
Washington, D.C. 20005

(202) 254-3974

CHAPTER 6.3 WETLANDS

INTRODUCTION

Prior to the construction of a drainage ditch that will drain a pond, slough or lake having a watershed area of more than 80 acres, a drainage permit must be secured from the State Engineer and local water resource districts.

A. NAME OF PERMIT

North Dakota State Engineer Application to Drain.

B. STATUTORY AUTHORITY

Drainage of Ponds, Sloughs, and Lakes or Any Series Thereof, Section 61-16.1-59, NDCC.

C. TITLE OF REGULATION

Rules and Regulations of the North Dakota State Engineer Governing the Drainage of Water, Article 89-02.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY.

Any person, before draining water by any means, from a pond, slough, or lake, or any series thereof, which drains an area comprising 80 acres (32.37 hectares) or more into a watercourse, requires a permit from the State Engineer and the appropriate local water resource district. This requirement does not apply to drain construction under the supervision of a Federal or State agency. (Notification of any such State or Federal projects are required.)

2. a. GENERAL REQUIREMENTS.

A permit is required before a drain may be constructed. This includes pumping, modification of existing drainage by widening or extension, and filling.

b. REGULATORY REQUIREMENTS.

Proposals to drain, supported by sufficient detailed planning and

engineering information to enable the State Engineer to determine the impact of individual drainage projects on the receiving waters of the watershed or basin in which the drain is located.

3. SUBMISSION REQUIREMENTS.

The application is submitted to the State Engineer on SWC Form 28 (9/28/79) and referred by him to the appropriate water resource district or districts for consideration and approval. Applications proposing drainage of statewide or interdistrict significance, as determined by the State Engineer are returned to him for final approval. The application, if requested by the State Engineer, requires engineering analysis of downstream impacts; detailed information on location and description, investigation of capacity and adverse effects, and method of investigation; relationship to existing water management plan; construction dates; and contractor or supervisor.

4. PROCEDURE FOR OBTAINING PERMIT.

a. TIME REQUIREMENTS.

Notice of hearing - 30 days. Determination by water resource district - within 30 days after a hearing.

b. PUBLICATION NOTIFICATION, HEARINGS.

The board of commissioners of the water resource district shall set a date for a hearing. (Hearings are optional where drainage is not of statewide nor interdistrict significance). Publication, at applicant's expense, in a newspaper of general circulation once a week for 2 consecutive weeks. Notice is also given not more than 30 days from date of hearing to affected landowners and other water resource districts, as well as the North Dakota Game and Fish Department, North Dakota Department of Health, and State Highway Department.

c. REVIEW AND PROCESSING TIME.

The State Engineer generally completes review of the

application within 45 days. After the State Engineer review, the water resources board has 45 days to consider the application. After water resources board approval, the State Engineer determines whether the permit shall be granted on applications of statewide or interstate significance. (Drainage applications determined not to be of statewide interest are administered by the appropriate water resource district.)

5. OPERATIONS REQUIREMENTS.

Post-construction surveys may be required by the State Engineer, with any other conditions on the approved permit.

6. FEES.

None.

7. APPEAL PROCESS.

Applicant appeals directly to the appropriate district court.

E. ADMINISTERING AGENCY

State Engineer,
North Dakota State Water
Commission
900 East Boulevard
Bismarck, North Dakota 58505

(701) 224-2750

FEDERAL COUNTERPART

Missouri River Basin
U.S. Corps of Engineers
Omaha District - Permits Branch
P.O. Box 5
Omaha, NB 68101

(402) 221-4133 or 4129

or

Red & Souris River Basins
U.S. Corps of Engineers
St. Paul District
1135 U.S. Post Office & Custom House
St. Paul, MN 55101

(612) 725-7506

SECTION 7.0

LOCAL REGULATORY POLICY

**CHAPTER 7.1
LOCAL GOVERNMENT LAND USE AND
NATURAL RESOURCE CONTROL ENABLING LAWS**

INTRODUCTION

Municipal and county enabling legislation as a regulatory function is contained in general law for land use planning, zoning, and subdivision regulation.

A. NAME OF APPROVAL

Local Government Enabling Legislation.

B. STATUTORY AUTHORITY

Airport Zoning, Chapter 2-04, NDCC; County Zoning, Chapter 11-33, NDCC; Regional Planning and Zoning, Chapter 11-35, NDCC; City Zoning, Chapter 40-47, NDCC; Municipal Master Plans and Planning Commission, Chapter 40-48, NDCC; Platting Townsites and Correction and Vacation of Plats, Chapter 40-50, NDCC; Powers of the Township and of the Electors of the Township, Chapter 58-03, NDCC.

C. TITLE AND SUMMARY OF REGULATION

1. Local jurisdictions adopt their own regulations and must be contacted directly for regulatory requirements. State law protects the extraction and/or production of minerals; however, local regulation may require application for permits.

2. Fees are determined locally.

D. ADMINISTERING AGENCIES

(See respective County Seat at County listed below, or Municipality. Number following County Seat is Regional Planning Council number. See map following Chapter 7.2.)

Hettinger, Adams County (VIII)
Valley City, Barnes County (VI)
Minnewaukan, Benson County (III)
Medora, Billings County (VIII)
Bottineau, Bottineau County (II)
Bowman, Bowman County (VIII)
Bowbells, Burke County (II)
Bismarck, Burleigh County (VII)
Fargo, Cass County (V)
Langdon, Cavalier County (III)
Ellendale, Dickey County (VI)
Crosby, Divide County (VIII)
Manning, Dunn County (VIII)
New Rockford, Eddy County (III)
Linton, Emmons County (VII)
Carrington, Foster County (VI)
Beach, Golden Valley County (VIII)
Grand Forks, Grand Forks County (IV)
Carson, Grant County (VII)
Cooperstown, Griggs County (VI)
Mott, Hettinger County (VIII)
Steele, Kidder County (VII)
La Moure, La Moure County (VI)
Napoleon, Logan County (VI)
Towner, McHenry County, (II)
Ashley, McIntosh County (VI)
Watford City, McKenzie County (I)
Washburn, McLean County (VII)
Stanton, Mercer County (VII)
Mandon, Morton County (VII)
Stanley, Mountrail County (II)
Lakota, Nelson County (IV)
Center, Oliver County (VII)
Cavalier, Pembina County (IV)
Rugby, Pierce County (II)
Devils Lake, Ramsey County (III)
Lisbon, Ransom County (V)
Mohall, Renville County (II)
Wahpeton, Richland County (V)
Rolette, Rolette County (III)
Forman, Sargent County (V)
McClusky, Sheridan County (VII)
Fort Yates, Sioux County (VII)
Amidon, Slope County (VIII)
Dickinson, Stark County (VIII)
Finley, Steele County (V)
Jamestown, Stutsman County (VI)
Cando, Towner County (III)
Hillsboro, Traill County (V)
Grafton, Walsh County (IV)
Minot, Ward County (II)
Fessenden, Wells County (VI)
Williston, Williams County (I)

CHAPTER 7.2 SUB-STATE MANAGEMENT DISTRICTS

INTRODUCTION

By Executive Order the State has been delineated into eight regions for the purpose of establishing statewide policy for planning, program operations, coordination, and related cooperative activities of State and local governmental units.

A. NAME OF PERMIT

The Regional Planning Councils have no permit issuing authority.

B. AUTHORIZING STATUTE

Regional Planning Councils, Chapter 54-40.1, North Dakota Century Code.

C. ADMINISTERING AGENCIES

REGION I

Williston Basin Regional Council
512 4th Avenue East
Williston, ND 58801
(701) 572-8191

REGION III

North Central Planning Council
Box 651-224 S.W. 4th Street
Devils Lake, ND 58301
(701) 662-8131

REGION V

Lake Agassiz Regional Council
Suite 205 South Plaza
1621 South University Drive
Fargo, ND 58103
(701) 235-7885

REGION VII

Lewis and Clark 1805
Regional Council for Development
802 Boundary Road
Mandan, ND 58554
(701) 663-6588

REGION II

Souris Basin Planning Council
2001 Valker Road
Minot, ND 58701
(701) 852-4988

REGION IV

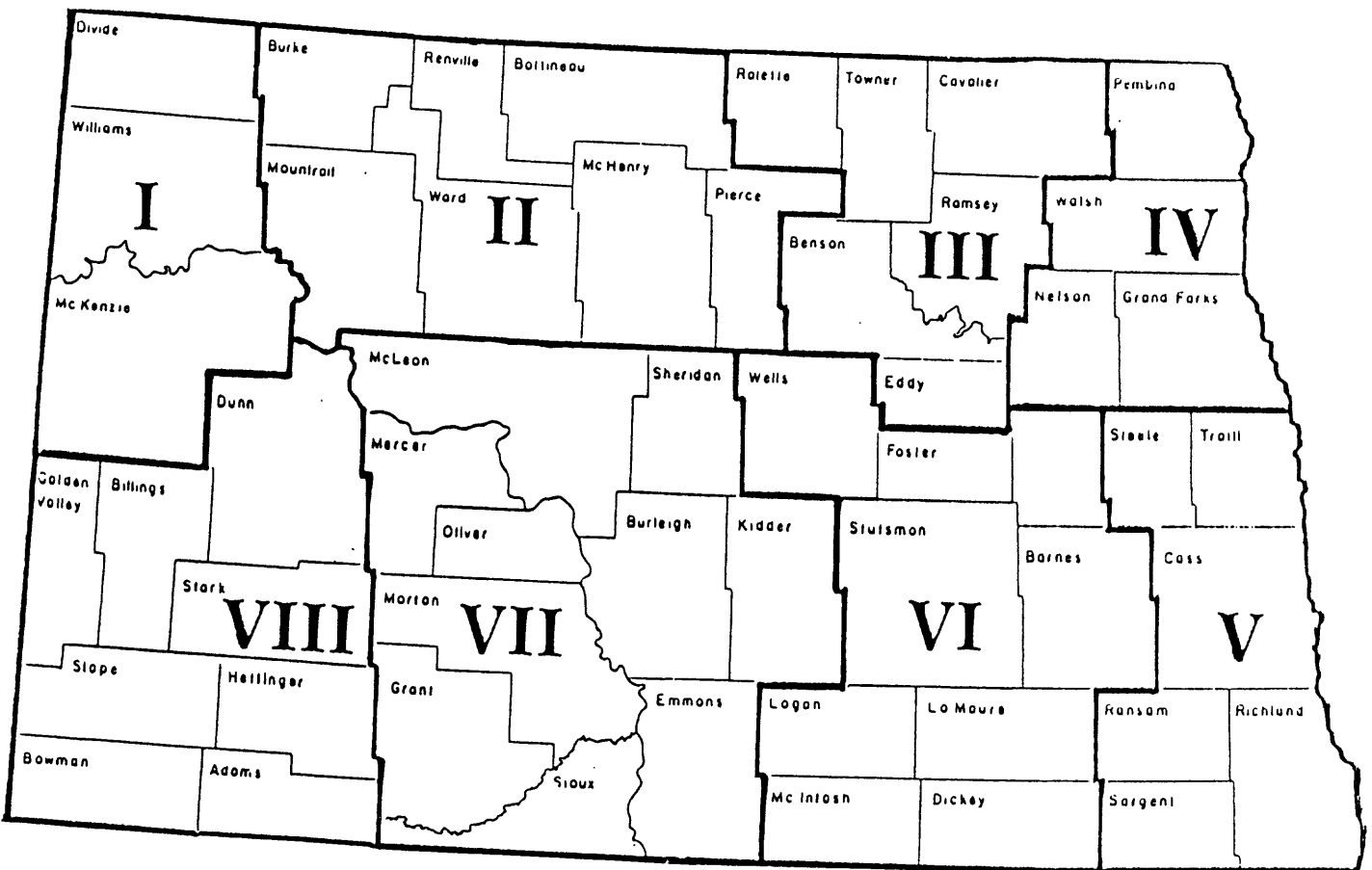
Red River Regional Planning Council
Box 633
Grafton, ND 58237
(701) 352-3550

REGION VI

South Central Dakota Regional
Council
Box 903
Jamestown, ND 58401
(701) 252-8060

REGION VIII

Roosevelt-Custer Regional Council
Pulver Hall
Dickinson, ND 58601
(701) 227-1241



COUNTIES AND SUB-STATE MANAGEMENT DISTRICTS OF NORTH DAKOTA