

ARTICLE 74:12

OIL AND GAS CONSERVATION

Chapter

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CHAPTER 74:12:01

DEFINITIONS

Section

74:12:01:01	Definitions.
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74:12:01:01. Definitions. Words defined in SDCL [45-9-2](#) have the same meaning when used in this article. In addition, terms used in this article mean:

(1) "Barrel," 42 United States gallons measured at 60 degrees Fahrenheit and atmospheric pressure at sea level;

(2) "Barrel of oil," 42 United States gallons of oil after deductions for the full amount of basic sediment, water, and other impurities present, ascertained by centrifugal or another recognized and customary test;

(3) "Bottom hole or subsurface pressure," the pressure in pounds per square inch gauge under conditions existing at or near the producing horizon;

(4) "Casinghead gas," any gas or vapor indigenous to and produced from a pool classified as an oil pool by the board;

(5) "Christmas tree fittings," an assembly of valves, spools, pressure gauges and chokes fitted to the wellhead of a completed well to control production;

(6) "Completion," for an oil well, the date that the first oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after production casing has been run; for a gas well, the date a well is capable of producing gas through wellhead equipment from the ultimate producing zone after production casing has been run; for a dry hole, the date all provisions of plugging are complied with as set out in §§ 74:12:03:01 and 74:12:03:02;

(7) "Cubic foot of gas," the volume of gas contained in one cubic foot of space and computed at a pressure of 14.65 pounds per square inch absolute at a base temperature of 60 degrees Fahrenheit;

(8) "Directional well," a well bore that is intentionally deviated from vertical with an intentional azimuth;

(9) "Enhanced recovery," the injection of water, gas, air, steam, hydrocarbon miscible fluids, microemulsions, or other substances into a formation containing oil or gas for the purpose of stimulating the movement of the contained oil or gas toward production wells;

(10) "Freshwater resource," an underground source of water which contains fewer than 10,000 milligrams per liter of total dissolved solids or which supplies water for human consumption;

(11) "Gas-oil ratio," the ratio of the gas produced in cubic feet to the number of barrels of oil concurrently produced during any stated period;

(12) "Gas transportation facility," a pipeline in operation serving one or more gas wells for the transportation of gas or some other device or equipment in operation that can transport gas produced from gas wells connected with it;

(13) "Gas well," a well capable of producing gas from a common source of gas supply as determined by the board, excluding gas that cannot be sold for use;

(14) "Horizontal drilling," high-angle directional drilling of boreholes in excess of 80° from the vertical;

(15) "Horizontal well," a well drilled, completed, or recompleted in which the horizontal component of the completion interval in the producing formation exceeds the vertical component;

(16) "Injection or input well," a class II or oil and gas-related well used for the injection of any nonhazardous substance for the purpose of maintaining reservoir pressure, for enhanced recovery operations, for disposal of exploration and production waste, or for storage of hydrocarbons which are liquid at standard temperature and pressure;

(17) "Limiting gas-oil ratio," the gas-oil ratio assigned by the board to a particular oil pool to limit the volumes of casinghead gas, which may be produced from the various oil-producing units within the particular pool;

(18) "Log of well," a systematic, detailed, and correct record of formations encountered in the drilling of a well, including commercial electric and geophysical logs and similar records;

(19) "Mechanical integrity," the condition of a well that has no significant leak in the casing, tubing, or packer and where there is no fluid movement into a freshwater resource through vertical channels adjacent to the injection bore;

(20) "Offset well," a well drilled in a spacing unit adjacent to a spacing unit in which a discovery well has been drilled to further define the pool;

(21) "Oil well," a well capable of producing oil;

(22) "Operator," one or more authorized persons who are in charge of the development of a well or the operation of a producing property;

(23) "Pit," any excavation, used during oil and gas operations, including drilling, workover, production, or plugging operations, for the retention of drilling muds, additives, produced water, and other related fluids and solids;

(24) "Pressure maintenance," the injection of gas or other fluid into a reservoir, either to increase or maintain the existing pressure in the reservoir or to retard the natural decline in the reservoir pressure;

(25) "Produced water," water that is produced during operations of an oil or gas well;

(26) "Produced water handling facilities," a facility or container, such as a pit, tank, pool, or disposal well, whether covered or uncovered, used for the handling, storage, or

disposal of produced water;

(27) "Recomplete," the subsequent completion of a well in a pool different from the pool in which it was originally completed;

(28) "Reservoir," a pool or common source of supply;

(29) "Secretary," the secretary of the South Dakota Department of Agriculture and Natural Resources;

(30) "Shut-in pressure," the pressure noted at the wellhead when the well is completely shut-in, not bottom hole pressure;

(31) "Shoe," a device attached to the bottom of the casing to allow the casing to pass obstructions in the well bore, protect the casing, and aid in bit reentry;

(32) "Spacing unit," the area in each pool within which a well may be drilled as authorized by rule or order;

(33) "Sidetrack," a secondary well bore drilled away from the original horizontal well; and

(34) "State geologist," the state geologist as described in SDCL [1-40-7](#).

Source: 38 SDR 117, effective January 12, 2012; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-2](#).

Cross-Reference: Definition of a hazardous substance, subdivision 74:52:01:01(22).

CHAPTER 74:12:02

DRILLING

Section

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74:12:02:13	Operators to seal off or plug wells with defective casings or cement.
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74:12:02:01. Requirements to drill, deepen, or reenter for oil or gas. A person drilling for oil and gas must obtain a permit to drill, deepen, or reenter a well before initiating drilling activities. The secretary may issue a permit to drill upon receipt of the following:

- (1) Organization report, including the name and address of the registered agent and parent companies;
- (2) Application for permit to drill on a form provided by the secretary;
- (3) A plat map certified by a surveyor registered in South Dakota and depicting proposed access roads;
- (4) The permit fee required by SDCL [45-9-4](#);
- (5) A plugging and performance bond consisting of a financial instrument approved by the department;
- (6) A surface restoration bond consisting of a financial instrument approved by the department, if the surface owner or lessee or a successor is not a party to the oil and gas leasing agreement;
- (7) Certification of negotiation with surface owner or lessee;
- (8) A bonding company information sheet;
- (9) Plans and specifications showing the construction details for any proposed site, including the size and location of all pits on the site, as well as a cross-section of the pit, showing the soil types;
- (10) A completed certification of applicant form required by SDCL 1-40-27;
- (11) A completed permission to inspect form required by § 74:12:08:03;
- (12) The source of the applicant's legal right to enter and initiate drilling on the affected land.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [1-40-27](#), [45-9-4](#), [45-9-15](#), [45-9-73](#).

74:12:02:02. Requirements to drill a directional or horizontal well. In addition to the requirements set forth in § 74:12:02:01, an application for a permit to drill a directional or horizontal well shall include the following information:

- (1) Size, weight, and amount of all casing strings;
- (2) Top of cement behind each casing string;
- (3) Mud program;
- (4) Coordinates of the casing shoe;
- (5) Coordinates of the terminus;
- (6) Depth of kick-off point for horizontal well;
- (7) Azimuth of the horizontal segment;
- (8) Down-hole survey frequency;
- (9) Name and address of surveying contractor; and
- (10) Location of cementing tool.

The secretary may issue a permit to drill a directional or horizontal well upon order of the board, or for areas not appropriately spaced, utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-73](#).

74:12:02:03. Failure to commence drilling cancels permit -- Extensions. Failure to commence drilling, deepening, or reentering a well within one year after issuance of a permit cancels the permit unless an extension is granted in writing by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-14](#).

74:12:02:04. Minimum spacing of oil wells. In the absence of an order by the board setting spacing units for a pool, a well drilled for oil may not be drilled on any tract of land other than a governmental quarter-quarter-section, a governmental lot corresponding to it, or, in areas not covered by U.S. public land surveys, an arbitrarily designated 40-acre tract. The well must be located not closer than 500 feet to any boundary line of the governmental quarter-quarter-section, the governmental lot corresponding to it, or the arbitrarily designated 40-acre tract nor closer than 1,000 feet to the nearest well drilling to, or capable of producing from, the same pool. If the governmental quarter-quarter-section, governmental lot, or arbitrarily designated tract contains less than 35 acres, a well may not be drilled on it except with the written permission of the secretary after utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-20](#), [45-9-21](#).

74:12:02:05. Minimum spacing of gas wells. In the absence of an order by the board setting spacing units for a pool, a well may not be drilled for gas on any tract of land other than a governmental section or, in areas not covered by U.S. public land surveys, an arbitrarily designated 640-acre tract. Such wells must be located not closer than 500 feet to any boundary line of the governmental section or arbitrarily designated 640-acre tract nor closer than 3,750 feet to the nearest well capable of producing from the same pool. If the governmental section or arbitrarily designated tract contains less than 576 acres, a well may not be drilled on it except with the written permission of the secretary, after utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-20](#), [45-9-21](#).

74:12:02:06. Spacing of wells after discovery of oil or gas. After the discovery of oil or gas in a pool not covered by an order of the board, the operator or other interested person shall file a petition for a contested case hearing requesting a specified spacing pattern and proposed field name. The petition must comply with § 74:09:01:01. After notice, and hearing if held, the board or secretary, as appropriate shall issue an order prescribing a spacing pattern for the development of the pool and the name of the field.

During the interim period between the discovery and the issuance of the order, no permits may be issued for the drilling of offsets to the discovery well unless there is a showing of good cause that may include lease expiration.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-25](#).

74:12:02:07. Dissolution of abandoned oil or gas fields. Any person may request the dissolution of an abandoned oil or gas field by submitting a petition to the secretary. After determining that an oil or gas field no longer has any producing oil or gas wells, the secretary may dissolve the field.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-15](#).

74:12:02:08. Secretary authorized to approve exception location. If the secretary finds that a well drilled at the location prescribed in any applicable rule or order of the board would not produce in paying quantities, that surface conditions would substantially add to the burden or hazard of the well, or there is good cause, such as geological or geophysical indications of oil or gas, the secretary may grant permission for the well to be drilled at an exception location within the spacing unit other than that prescribed, after using the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-27](#).

74:12:02:09. Identification sign required at each well. Each well must be identified by a sign posted not more than 20 feet from the well. The sign must be of durable construction. The lettering on the sign must be kept in a legible condition and must be large enough to be legible under normal conditions at a distance of 50 feet. Each sign must show the number of the well; the name of the lease, which must be different or distinctive for each lease; the name of the lessee, owner, or operator; the permit number; and the location by quarter-quarter-section, township, and range.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-5](#).

74:12:02:10. Pit construction and reclamation. All pits used for storage of exploration and production wastes must be constructed, maintained, and reclaimed to prevent contamination of soil and all waters of the state. Under no circumstances may these pits be used for disposal, dumping, or storage of solid or hazardous wastes, and other debris not commonly used in these operations. The following construction and reclamation procedures for earthen pits are minimum requirements:

(1) Pits may not be located in stream beds or within other defined or established drainages;

(2) Synthetic membrane liners, which are compatible with the materials to be contained, are required in all pits, unless a variance is granted by the secretary for good cause shown. Good cause shown includes permeability characteristics, lack of shallow ground water, and the water quality of the contained fluids. The synthetic membrane liner must have a minimum thickness of 12 mils. The synthetic membrane liner seams must be sealed according to the manufacturer's instructions. The synthetic liner must be installed undamaged on a properly prepared subgrade, free from angular rocks, roots, grass and other vegetation, and other foreign matter that may damage the integrity of the synthetic membrane liner. Any liner which incurs damage must be repaired or replaced immediately according to the manufacturer's instructions;

(3) All pits must be constructed so the bottom of the pit is above the seasonal high-water table;

(4) All pits must be constructed so that no surface water enters the pit; and

(5) Within one year of site abandonment the pit must be reclaimed in a manner approved by the secretary that will prevent ground water or surface water contamination. If conditions that prevent reclamation within one year exist, a six-month extension may be granted by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

Cross-References: Solid waste standards, art 74:27; Hazardous waste standards, art 74:28.

74:12:02:11. Oil, gas, and water strata required to be sealed. During construction of oil, gas, and injection wells all oil and gas bearing strata and freshwater resources must be sealed to preclude vertical migration of fluids or gas between strata. Freshwater or freshwater muds must be used from the surface to no less than 50 feet below the base of all locally utilized freshwater resources when drilling.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-14](#).

74:12:02:12. Procedures for setting surface casing and production casing. The procedure for setting surface and production casing must meet the following conditions:

(1) The surface hole must be drilled with fresh water. Surface casing must be set to protect freshwater resources as determined by the secretary. Cement must be used in the annulus to circulate to the surface. Unless otherwise waived by the secretary, no less than 100 feet of surface casing may be set under any circumstances; and

(2) Freshwater resources not presently utilized must be protected by production casing and cement. Cementing in stages, if necessary, must be done for the purpose of sealing or separating aquifers with cement that circulates in the annulus.

The secretary shall prescribe variations in the casing and cementing procedures from area to area. The operator shall file a cement bond log within 60 days after completion of a well.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:02:13. Operators to seal off or plug wells with defective casings or cement. In any well that appears to have defective casing or cement that will permit or may create underground waste or contamination, the operator must immediately seal off or plug and abandon the well according to § 74:12:03:02.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-14](#), [45-9-18](#).

74:12:02:14. Blowout prevention equipment required. In all drilling operations, precautions must be taken for keeping the well under control, including the use of blowout preventers and high pressure fittings attached to a cemented casing string. If the drilling operation is in an area where a blowout preventer may not be needed, an exception to the blowout preventer requirement may be granted by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-14](#).

74:12:02:15. Vertical deviation test. When a well is drilled or deepened, it must be done so that the deviation from the vertical distance between the top and bottom of the hole is at all times a minimum. The secretary may require a test to determine the deviation from the vertical and may require the hole to be straightened, unless it is permitted as a directional or horizontal well.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

74:12:02:16. Wellhead pressure testing equipment. Christmas tree fittings or wellhead connections with a working pressure at least equivalent to the calculated or known pressure to which the equipment will be subjected must be installed and maintained on all operating oil, gas, and Class II injection wells. Valves and gauges must be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing. The secretary may at any time require a demonstration proving the effectiveness of the equipment.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

74:12:02:17. Well logs, completion/recompletion reports, and sundry notice reports to be filed with secretary. The operator must notify the secretary by telephone, facsimile, or email before fracing, acidizing, or perforating a well. Within 30 days of completing or recompleting a production or injection well or performing any work affecting a different source of supply, a completion/recompletion or sundry notice report must be filed with the secretary on a form provided by the secretary. The sundry notice report may also be used for the following purposes:

(1) To request approval from the secretary for the following:

- (a) Proposed cementing;
- (b) Proposed plugging;
- (c) Temporary abandonment;
- (d) Testing casing;
- (e) Drilling without a blowout preventer;
- (f) Extending term of drilling, deepening, or reentry permits beyond 12 months;
- (g) Using open burning as a soil remediation method;
- (h) Using produced water on roads for dust suppression;
- (i) Atmospherically discharging water produced from a gas well;
- (j) Completing surface restoration;
- (k) Constructing produced water handling facilities or converting a mud pit to an evaporation pit;
- (l) Dissolving abandoned oil or gas fields;
- (m) The method of annual gas well test to determine daily open flow volume;
- (n) The method of determining production from separate pools prior to commingling fluids from separate pools;
- (o) Confidentiality of technical data; and
- (p) The method of checking tank metering equipment;

(2) To report the following information to the secretary:

- (a) Spills;
- (b) Spudding;
- (c) Change of operator;
- (d) Change of elevation;
- (e) Change to dry hole marker;
- (f) Change of location;
- (g) Fracing;
- (h) Acidizing;
- (i) Perforating;
- (j) Working over;
- (k) Repairing;
- (l) Venting or flaring of gas;
- (m) Drilling program;
- (n) Drilling mud program;
- (o) Blowout preventer program;
- (p) Geologic and hydrologic conditions;
- (q) Gas-oil ratio;

- (r) Shut-in pressures;
- (s) Working fluid level;
- (t) Casing program;
- (u) Directions to a well site;
- (v) Casing test results.
- (w) Fire, releases, breaks, leaks, and blowouts pursuant to § 74:12:04:11;
- (x) Commencement and discontinuance of injection operations pursuant to § 74:12:07:11;
- (y) Mechanical problems, well failures, or malfunctions of the injection system pursuant to § 74:12:07:16; and
- (z) Tank battery meter tests.

The electrical, geophysical, and sample descriptive logs, drill-stem test reports, core analyses and reports, water analyses, production data, and any other important geologic and engineering data on such wells must be forwarded to the secretary. All of this information is confidential for six months if requested by the operator in writing. The secretary may use confidential production data in calculating total production figures for summarized production reports and other publications.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-6](#), [45-9-7](#), [45-9-14](#), [45-9-16](#), [45-9-17](#), [45-9-18](#).

74:12:02:18. Cores and samples required to be sent to the state geologist. Sections of cores, if taken, and a washed, dry cut of sample cuttings from all wells drilled for oil and gas must be identified by operator, well name, location, and depth of sample or core and shipped free of cost to the office of the state geologist.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-18](#).

74:12:02:19. Hydraulic fracturing reporting requirements. If hydraulic fracture stimulation is performed on an oil or gas well, the operator shall post on the FracFocus Chemical Disclosure Registry the following stimulation detail:

- (1) Fracture date;
- (2) American petroleum institute number;
- (3) The operator name, county, and state;
- (4) Well name and number, longitude, latitude, longitude/latitude projection, production type, true vertical depth, total water volume, and hydraulic fracturing fluid composition as follows:

- (a) Trade name;
- (b) Supplier;
- (c) Purpose;
- (d) Intentionally added ingredients;
- (e) Chemical abstract number;
- (f) Maximum ingredient concentration in additive; and
- (g) Maximum ingredient concentration in hydraulic fracturing fluid.

Trade secret information is not required to be disclosed to the FracFocus Chemical Disclosure Registry.

For the purpose of this section, the term, hydraulic fracturing stimulation, means the pressurized injection of fluids commonly made up of water and chemical additives into a geologic formation for the purposes of fracturing the host geologic formation.

Source: 39 SDR 168, effective April 22, 2013.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

Note: The FracFocus Chemical Disclosure Registry website address is <http://fracfocus.org/>.

CHAPTER 74:12:03

ABANDONMENT AND PLUGGING OF WELLS

Section

- [74:12:03:01](#) Notification of plugging and abandoning of well.
 - [74:12:03:02](#) Secretary to approve method of plugging.
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74:12:03:01. Notification of plugging and abandoning of well. The operator must notify the secretary before plugging and abandoning of a well. This notification must include the proposed plugging method. The operator must file a complete plugging record within 30 days after plugging and abandonment operations are complete on a form provided by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

74:12:03:02. Secretary to approve method of plugging. Before a well is abandoned, it must be plugged in a manner that will permanently confine all oil, gas, water, and other fluids to the strata in which they originally occurred. Plugging requirements may vary from area to area depending on geological characteristics. Variations in procedure may be used only after approval of the secretary. Plugging must conform to the following requirements:

(1) The method of placing cement in the hole must be proposed by the operator and approved by the secretary;

(2) No substance other than that normally used in drilling or plugging operations may be placed in any well at any time before or during plugging operations;

(3) The interval between all cement plugs must be filled with a heavy mud-laden fluid approved by the secretary;

(4) Cement plugs must be placed in all oil, gas, and injection wells as follows:

(a) Wells without production casing:

(i) All aquifers, salt zones, and fluid-bearing formations must be sealed or separated with individual cement plugs, circulated to fill at least 100 feet of hole. Each individual cement plug must be at least 50 feet above the top of these formations, as specified by the secretary;

(ii) Cement must be circulated to fill at least a 100-foot interval, of which at least 50 feet must be above the shoe of the surface casing; and

(iii) A cement plug of 25 feet must be set at the surface;

(b) Wells with production casing:

(i) All perforations must be isolated, either by squeeze cementing or placing a cast iron bridge plug, with a minimum of 20 feet of cement, above the perforations. A bridge plug may not be set in any well at a depth where the pressure or temperature exceeds the ratings recommended by the bridge plug manufacturer;

(ii) The operator may leave the production casing in place, but must demonstrate that the casing exhibits mechanical integrity in a manner prescribed by the secretary. If the casing fails a mechanical integrity test, the secretary may require additional perforating and squeeze cementing or the placing of balanced cement plugs inside the casing. If it is determined that any formations identified in subsection 74:12:03:02(4)(a) were not sealed or separated when the production casing was cemented, the secretary may also require additional perforating and squeeze cementing. The secretary may also require the production casing to be perforated at the depth of the shoe of the surface casing and that cement be squeezed or circulated through the perforations; and

(iii) The operator may attempt to pull the production casing. After the retrievable part of the production casing has been removed, cement must be circulated to fill at

least a 100-foot interval, of which at least 50 feet must be inside the casing stub. If reentry into the casing stub is not possible, the secretary shall determine the placement of the cement plug. The remainder of the hole must be plugged in the manner prescribed in subsection 74:12:03:02(4)(a);

(c) Conversion of a well to a water well:

(i) If a test hole may safely be used by the landowner as a potential freshwater well, the operator must follow the plugging procedures in this section to the base of the objective freshwater strata, if applicable. The surface owner must give a signed release to the operator before the conversion is made; and

(ii) The well must then be constructed to meet specifications established in article 74:02.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

74:12:03:03. Temporary abandonment of a well. Written approval must be obtained from the secretary for the temporary abandonment of a well. A well that is not completed with production casing may not be temporarily abandoned and must be plugged immediately. A well with production casing may not be temporarily abandoned for more than six months, unless the operator is granted an extension by the secretary.

Before approving a request for extension, the secretary may require mechanical integrity testing of the temporarily abandoned or shut-in well. A temporarily abandoned or shut-in well that successfully passes a mechanical integrity test may not be required to undergo another test for five years unless the secretary finds that circumstances have substantially changed to alter the condition of the well.

The manner in which the well is to be maintained must be reported to and approved by the secretary. Bonding requirements must be met until the well is permanently abandoned.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

Cross-Reference: Bonding requirements, § 74:12:02:01.

74:12:03:04. Markers required on abandoned wells. All casing strings of wells to be abandoned must be cut off at least three feet below the final ground surface contour. A plate with the name of the operator, well name and number, and legal location by quarter-quarter section, township and range must be welded to the casing stub. The location of the abandoned well must be surveyed with high resolution global positioning system equipment or other appropriate survey methods sufficient to accurately locate the well. Survey coordinates must be included in the final abandonment report.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

74:12:03:05. Operators of wells responsible for plugging. The operator of any well drilled for oil or gas, whether cased or uncased, is liable and responsible for plugging in accordance with this chapter.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

74:12:03:06. Surface reclamation of abandoned well sites. Within one year after plugging and abandoning a well, the site must be reclaimed. Reclamation includes replacing topsoil, reseeding, revegetation, grading, disposing of drilling wastes, backfilling pits, correcting subsidence of backfilled pits or trenches, controlling weeds, controlling erosion, removing equipment, disposing of demolition debris, and related activities. Reclamation shall be conducted to return the land to a condition suitable for the use to which it was subjected immediately before drilling commenced. Alternatives to this standard may be proposed by the operator and approved by the department if they are acceptable to the surface landowner. Reclamation shall be conducted to prevent ground water or surface water contamination. If a reportable crude oil release occurred at the site in the past and was not properly remediated, the secretary may require additional soil contamination assessment and remediation pursuant to § 74:12:04:12, before reclamation is approved. Completion of reclamation must be reported to the secretary on a sundry notice in accordance with § 74:12:02:17.

Source: 38 SDR 117, effective January 12, 2012; 39 SDR 168, effective April 22, 2013.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-15](#), [45-9-15.1](#).

Cross-Reference: Remediation criteria for petroleum-contaminated soils, ch 74:56:05.

74:12:03:07. Interim reclamation of well sites. Interim reclamation must be conducted on all areas disturbed by a well drilling operation and not needed for production operations within 12 months after the well is completed. Interim reclamation includes replacing topsoil, reseeding, revegetation, grading, disposing of drilling wastes, backfilling temporary pits, correcting subsidence of backfilled pits or trenches, controlling weeds, controlling erosion, removing unused or discarded equipment, and related activities. Interim reclamation shall be conducted to return the land to a condition suitable for the use to which it was subjected immediately before drilling commenced. Alternatives to this standard may be proposed by the operator and approved by the department if they are acceptable to the surface landowner. Interim reclamation shall be conducted to prevent ground water or surface water contamination. Completion of interim reclamation must be reported to the secretary on a sundry notice in accordance with § 74:12:02:17.

Source: 39 SDR 168, effective April 22, 2013.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-15](#).

CHAPTER 74:12:04

OIL PRODUCTION OPERATING PRACTICES

Section

- [74:12:04:01](#) Gas-oil ratio test required on oil wells -- Procedure.
 - [74:12:04:02](#) Subsurface pressure tests required on oil wells -- Procedure.
 - [74:12:04:03](#) Commingling of oil from separate pools prohibited underground.
 - [74:12:04:04](#) Control of multiple completed wells to ensure segregation of sources required.
 - [74:12:04:05](#) Vented casinghead gas -- Volume to be measured.
 - [74:12:04:06](#) Use of vacuum prohibited.
 - [74:12:04:07](#) Oil to be measured before being sent to collection point.
 - [74:12:04:08](#) Tank battery meters to be checked -- Reports.
 - [74:12:04:09](#) Oil storage in open receptacles prohibited -- Fire walls required on oil tanks.
 - [74:12:04:10](#) Immediate notice by telephone, facsimile, or email required of fire, releases, breaks, leaks, or blowouts.
 - [74:12:04:11](#) Written follow-up report required.
 - [74:12:04:12](#) Remediation and disposal of soils contaminated by crude oil.
 - [74:12:04:13](#) Open burning as remediation alternative.
 - [74:12:04:14](#) Monthly reports of production required.
 - [74:12:04:15](#) Disposal of produced water.
 - [74:12:04:16](#) Approval required for construction of produced water handling facilities.
 - [74:12:04:17](#) Pits to be constructed and operated to protect certain birds and other species.
 - [74:12:04:18](#) Transfer of ownership of oil and gas operations.
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74:12:04:01. Gas-oil ratio test required on oil wells -- Procedure. The operator shall conduct a gas-oil ratio test within 30 days after the completion or recompletion of an oil well. The test shall follow the procedure authorized by the secretary. Test results must be reported to the secretary within 30 days of performing the test. Operators shall annually report the gas-oil ratio for all producing oil wells. The limiting gas-oil ratio is 2,000 cubic feet of gas per barrel of oil. This section does not apply to pressure maintenance operations for enhanced oil recovery. An exception to the gas-oil ratio may be granted by the secretary, utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-6](#), [45-9-10](#).

74:12:04:02. Subsurface pressure tests required on oil wells -- Procedure. The operator shall conduct a subsurface pressure test on new wells. The operator shall report the results to the secretary within 30 days after the completion of the well.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-6](#).

74:12:04:03. Commingling of oil from separate pools prohibited underground.

Unless approved by the secretary using the notice of recommendation procedure in chapter 74:12:09, each pool must be produced as a single common reservoir without commingling of fluids from different pools in the well bore. After fluids from different pools have been brought to the surface, they may be commingled if the amount of production from each pool is determined by a method approved by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

74:12:04:04. Control of multiple completed wells to ensure segregation of sources required. Wells to be completed in more than one pool may be authorized by the secretary through the notice of recommendation procedure in chapter 74:12:09. Multiple completed wells must at all times be operated, produced, and maintained to ensure the complete segregation of the various common sources of supply unless commingling is authorized by the secretary in accordance with § 74:12:04:03. Tests to determine the effectiveness of the segregation of the different sources of supply shall be performed by the operator at the request of the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-6](#), [45-9-7](#), [45-9-11](#).

74:12:04:05. Vented casinghead gas -- Volume to be measured. All casinghead gas not put to some useful purpose shall be burned, and the volume shall be reported to the secretary. Casinghead gas that contains high contents of nitrogen and carbon dioxide that will not burn by itself must also be measured before venting.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-9](#).

74:12:04:06. Use of vacuum prohibited. Vacuum pumps or other devices may not be used to create a partial vacuum in any stratum containing oil or gas.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#).

74:12:04:07. Oil to be measured before being sent to collection point. Oil may not be transported from a tank battery or a central collection point until its volume has been determined in barrels of oil through the use of calibrated meter measurements or tank measurements. Central collection may be used if the production from each well can be accurately determined.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-9](#), [45-9-11](#).

74:12:04:08. Tank battery meters to be checked -- Reports. After metering equipment has been installed on central tank batteries, the meters shall be checked annually as approved by the secretary. The results of the tests must be reported to the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-9](#).

74:12:04:09. Oil storage in open receptacles prohibited -- Fire walls required on oil tanks. Oil may not be stored or retained in earthen reservoirs or in open receptacles. Dikes or fire walls must be erected and kept around all oil tanks or battery of tanks. The dikes or fire walls must be constructed so they can contain at least one hundred and ten percent of the volume of the largest tank in the battery.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-14](#).

74:12:04:10. Immediate notice by telephone, facsimile, or email required of fire, releases, breaks, leaks, or blowouts. A person controlling or operating an oil well, gas well, pipeline, receiving tank, or other storage receptacle into which crude oil or gas is produced, received, or stored, or through which crude oil or gas is piped or transported shall immediately notify the secretary by telephone, facsimile, or email of all fires, breaks, leaks, releases, and blowouts that create the following hazardous conditions:

(1) The fire or release threatens or is in a position to threaten an adjacent body of water or stream, causes an immediate danger to human health or safety, or harms or threatens to harm wildlife or aquatic life;

(2) A release of crude oil exceeds the reportable quantities of § 74:34:01:04 or causes a sheen on surface water; or

(3) A release of gas exceeds 1,000,000 cubic feet. If gas loss less than 1,000,000 cubic feet causes the evacuation of an area or threatens public health, it must be reported immediately.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:04:11. Written follow-up report required. All telephone, facsimile, or email reports of fire, releases, breaks, leaks, and blowouts must be followed with a written report within 30 days. The written report must include:

- (1) The location of the incident by quarter-quarter-section, township, and range;
- (2) The date and time of the incident and the amount of oil or gas lost or destroyed;
- (3) The responsible person or operator's name, address, and telephone number;
- (4) The surface owner's name, address, and telephone number; and
- (5) The suspected cause of the incident and any steps or procedures used to remedy the situation, including plans for soil disposal and treatment and any additional assessment and remediation.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:04:12. Remediation and disposal of soils contaminated by crude oil. All visibly contaminated soil resulting from crude oil releases at operating oil wells, tank batteries, and Class II injection wells must be remediated or removed and disposed of in accordance with article 74:27.

Soil remediation or removal of contaminated soil resulting from crude oil releases that either occur or move outside of these facilities must be removed or remediated in accordance with chapter 74:56:05.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:04:13. Open burning as remediation alternative. The secretary may approve open burning as a remediation alternative for soils contaminated by crude oil. If open burning is to be used, the operator must submit a written proposal to the secretary for approval. The proposal must include the following:

- (1) Procedures for the proposed burning activities detailing the criteria to be used to determine when open burning will be used and what is to be burned;
- (2) A description of the surrounding area, including residences, public facilities, animal grazing areas, or other potential receptors;
- (3) Approval from the surface owner or lessee; and
- (4) A comparison of the cost of the proposed open burning activities with the cost of alternative disposal options, including documentation of alternative disposal costs.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:04:14. Monthly reports of production required. The operator of a well shall, by the twenty-fifth day of each month after production, file with the secretary a sworn statement showing the amount of oil, gas, and water produced by each well on forms provided by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-14](#).

74:12:04:15. Disposal of produced water. All water produced with oil and gas shall be disposed of by injection in a permitted disposal or enhanced recovery well, by evaporation in an approved pit, or by discharge into a surface water source through an outfall permitted under chapter 74:52:01. Produced water must be disposed of without pollution of waters of the state. Dumping of produced water on roads is prohibited, unless permitted by the secretary for dust suppression. Produced water blown from a gas well must be contained in lined pits or surface tanks and may not be allowed to freely blow into the atmosphere or surrounding environment, unless the secretary determines that the discharge will cause no environmental degradation and approves the discharge.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-14](#).

74:12:04:16. Approval required for construction of produced water handling facilities. Operators must obtain written approval from the secretary before constructing or converting an earthen pit for produced water disposal by evaporation. All pits shall be kept reasonably free of surface accumulations of oil and other liquid hydrocarbon substances. The construction and reclamation requirements of the pit shall be in accordance with § 74:12:02:10.

Surface tanks may be used as a storage facility for produced water if they are constructed of materials resistant to the corrosive effects of the contained liquids. The tanks must be protected by a dike that is capable of containing one hundred and ten percent of the volume of the largest tank.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-14](#).

74:12:04:17. Pits to be constructed and operated to protect certain birds and other species. Any permanent or semipermanent pit used for the production of oil or gas must be constructed and operated to protect migratory birds and state and federal threatened, endangered, or protected species.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-55](#).

74:12:04:18. Transfer of ownership of oil and gas operations. The current operator of any oil, gas, or Class II injection well shall submit to the department a completed notice of transfer of ownership or operation, on a form provided by the secretary, by certified mail within ten days of the closing date of the transfer. If not already on file with the department, the transfer form must be accompanied by an organization report, a plugging and performance bond, a surface restoration bond, a bonding company information sheet, a certification of applicant form, and a permission to inspect the form. The transfer is effective upon approval by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-73](#).

Cross-Reference: Transfer of permits to inject, § 74:12:07:06.

CHAPTER 74:12:05

GAS PRODUCTION OPERATING PRACTICES

Section

- [74:12:05:01](#) Annual tests required to determine potential of gas wells.
 - [74:12:05:02](#) Method for making pressure tests -- Special orders -- Filing.
 - [74:12:05:03](#) Gas from gas wells to be measured.
 - [74:12:05:04](#) Gas waste prohibited.
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74:12:05:01. Annual tests required to determine potential of gas wells. Each operator shall annually test all gas wells from which gas is being used or marketed to determine daily open flow potential volume. The test procedure shall be approved by the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-6](#).

74:12:05:02. Method for making pressure tests -- Special orders -- Filing. Each operator shall measure the shut-in pressure on all wells with a calibrated gauge annually. Shut-in pressure tests shall be performed after the well has been shut-in for at least 24 hours. Results of the tests shall be filed with the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-6](#).

74:12:05:03. Gas from gas wells to be measured. All gas produced shall be measured by metering or other methods approved by the secretary. Results must be reported to the secretary by the operator in cubic feet of gas. Gas produced from a gas well which is not delivered to a gas transportation facility shall also be reported by the operator of the well.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-7](#), [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-9](#).

74:12:05:04. Gas waste prohibited. No gas from a completed gas well may be permitted to escape to the air except as necessary for cleaning or testing.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-12](#).

CHAPTER 74:12:06
UNIT OPERATIONS

Section

[74:12:06:01](#) Application for unit operations.

74:12:06:01. Application for unit operations. Pursuant to the provisions of chapter 74:09:01, an operator may file an application to conduct unit operations for any specified oil, gas, or injection wells in a common pool. The application must be filed with the secretary and must contain:

- (1) The name and address of the operator;
- (2) The location and type of all existing and proposed wells and the legal description of all land proposed to be operated as a unit;
- (3) A description of the pool proposed to be unitized;
- (4) A description of the proposed enhanced recovery method to be used, including its costs. Information on costs will be held confidential by the secretary and the board if requested by the operator;
- (5) A list of all operators affected by the application;
- (6) A plan for unit operations which, at a minimum, addresses the requirements of SDCL [45-9-39](#);
- (7) A statement of how the proposed operation will increase the recovery of oil or gas and the value of the additional recovery. The value will be held confidential if requested by the operator; and
- (8) A plan of operation of injection wells being proposed in the unit operation. The plan shall address the requirements of §§ 74:12:07:03 to 74:12:07:24, inclusive. Requirements which cannot be addressed at the time of the application must be addressed by the operator and approved by the secretary prior to injection.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-37](#) to [45-9-49](#).

CHAPTER 74:12:07

ENHANCED RECOVERY AND UNDERGROUND INJECTION

Section

74:12:07:01	Requirements for injection well application and modifications.
74:12:07:02	Time to apply.
74:12:07:03	Application requirements.
74:12:07:04	Applicant for permit to inject to notify other operators.
74:12:07:05	Duration of permit to inject.
74:12:07:06	Transfer of permit to inject.
74:12:07:07	Termination of permit to inject.
74:12:07:08	Major modifications.
74:12:07:09	Minor modifications.
74:12:07:10	Casing and cementing of injection wells.
74:12:07:11	Notice of commencement and discontinuance of injection operations.
74:12:07:12	Monitoring of injected fluids.
74:12:07:13	Injection project records.
74:12:07:14	Retention of records.
74:12:07:15	Inspection and monitoring of injection project.
74:12:07:16	Reporting of mechanical problems, well failures, or malfunctions of the injection system.
74:12:07:17	Injection prohibited.
74:12:07:18	Demonstration of mechanical integrity required.
74:12:07:19	Notice of lack of mechanical integrity.
74:12:07:20	Correction of adverse effects required.
74:12:07:21	Secretary to set maximum injection pressure.
74:12:07:22	Secretary to set maximum injection volume.
74:12:07:23	Injection well drilling requirements.
74:12:07:24	Designation of exempted aquifer.

74:12:07:01. Requirements for injection well application and modifications. The injection of any substance for the purpose of maintaining reservoir pressure, for enhanced recovery operations, for disposal of exploration and production waste, or for storage of hydrocarbons that are liquid at standard temperature and pressure may be permitted by the secretary pursuant to the procedures set out in this chapter and chapter 74:12:09. To obtain a permit to inject, an applicant must demonstrate that the project will not cause any degradation of freshwater resources or other mineral resources, except where an aquifer exemption is approved. The secretary may not allow any major modification of the permit unless the permit is modified utilizing the notice of recommendation procedure in chapter 74:12:09.

This section does not apply to well stimulation including acidizing, hydraulic fracturing (fracing), shooting, or other accepted oil field practices used to improve oil and gas recovery.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:02. Time to apply. Any person who proposes any underground injection for which a permit is required pursuant to this chapter shall submit a complete application to the secretary in accordance with this chapter at least 90 days before injection is expected to begin.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:03. Application requirements. The application for a permit to inject must contain the following complete information:

(1) Maps:

(a) For vertical wells, a one-half mile fixed radius area of review plat which shows the location of the injection well or wells, existing or proposed; the location of all oil and gas wells; the location of all water wells active and abandoned; the location of all other wells, including plugged and abandoned wells; abandoned locations; dry holes; current drilling locations; the names of operators; the surface and mineral owners; and each offset operator;

(b) For horizontal wells, a one-half mile fixed radius area of review plat extending in all directions from the horizontal well and any sidetracks. The plat must show the location of each injection well, existing or proposed; the location of all oil and gas wells; the location of all water wells active and abandoned; the location of all other wells, including plugged and abandoned wells; abandoned locations; dry holes; current drilling locations; the names of operators; the surface and mineral owners; and each offset operator;

(2) The formation or formations from which oil, gas, and water wells are producing or have produced;

(3) The name, stratigraphic and structural description, and depth of the receiving formation or formations and the overlying confining zone or formation;

(4) The well type, construction, spud date, total depth, formation tops, record of completion or recompletion, and plugging for all oil, gas, and injection wells within the area of review, and any additional pertinent information which the secretary determines is necessary to make an informed judgment on the issuance of a permit, including drill stem tests and well logs for all oil and gas wells identified in the area of review;

(5) Information on abandoned and active water wells, as follows:

(a) Abandoned water wells:

- (i) The legal location;
- (ii) Well name; and
- (iii) Method of abandonment, if available;

(b) Active water wells:

- (i) The legal location;
- (ii) Well name;
- (iii) An analysis of water quality, including information on total dissolved solids content, chlorides, sodium, sulfates, nitrates, and hydrocarbons;
- (iv) The construction program, including casing size and type, if available;
- (v) Depth of well, if available;
- (vi) A geologic/driller's log, if available; and
- (vii) The water level and pump type, if available;

(6) A description of the injection well's casing and the proposed casing program, and the proposed method for testing the casing for mechanical integrity before use as an injection well;

(7) The geologic name and the depth to and interval of all freshwater resources which may be affected by injection;

(8) The names and addresses of the operators of the project;

(9) Schematic drawings of the surface and subsurface construction details of the well with detailed drawings of the gauge connections;

(10) The source and nature of the substance or substances to be injected, its viscosity, its compatibility with the receiving formation, including stability indices, and the estimated average and maximum daily amounts to be injected. If the nature of the injected fluid is produced water, a water quality analysis must be submitted and must include information on total dissolved solids content, chlorides, sodium, sulfates, nitrates, and hydrocarbons;

(11) The average and maximum estimated injection pressure;

(12) A narrative description of any proposed production stimulation program, including a feasibility study, process description, and an explanation of how the data were determined, such as working calculations;

(13) A list of wells identified in subdivision 74:12:07:03(1) in need of corrective action or where corrective action has been performed, and a written justification describing how the corrective action will protect freshwater resources;

(14) The injection zone characteristics, including porosity, compressibility, and intrinsic permeability;

(15) The expected project life; and

(16) The surface owner's name, address, and telephone number.

The secretary may not process a permit application until the secretary considers the application complete.

All permits to inject are issued pursuant to the provisions of chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:04. Applicant for permit to inject to notify other operators. The applicant shall mail or deliver a copy of the application to each operator in the pool on or before the date the application is filed with the secretary. An affidavit showing the names and addresses of the parties to whom the application has been delivered shall be attached to the application.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#).

74:12:07:05. Duration of permit to inject. Permits to inject issued pursuant to this chapter may be issued for a period up to the operating life of the well. The secretary shall review each permit to inject at least once every five years to determine whether it should be modified, terminated, or a minor modification made as provided for in this chapter.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:06. Transfer of permit to inject. If permitted injection volumes, pressures, and fluid characteristics remain unchanged, a permit to inject may be transferred to a new owner or operator by using the transfer of ownership or operation procedure in § 74:12:04:18.

If there will be a major modification in permitted injection volumes, pressures, or fluid characteristics, the new owner or operator must submit an application for a permit to inject modification pursuant to this chapter. The application must be approved by the secretary before initiating the proposed changes at the well.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:07. Termination of permit to inject. The secretary may terminate a permit to inject for the following causes:

- (1) Noncompliance by the permittee with any condition of the permit;
- (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The secretary shall issue a notice of termination to the operator specifying the basis for termination of the permit to inject. Termination is effective within ten days after issuance of the notice of termination unless the owner or operator requests a hearing pursuant to chapter 74:09:01.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:08. Major modifications. Modifications of permits to inject issued pursuant to this chapter that cannot be processed as a minor modification under § 74:12:07:09 must conform to the application and notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

74:12:07:09. Minor modifications. The secretary, with the consent of the owner or operator of the injection well, may modify a permit to inject to make corrections or allowances to the permit, if the corrections or allowances are listed in this section and will not threaten or degrade freshwater resources. Such modifications are:

(1) Correction of typographical errors and language changes that have no legal or substantive effect;

(2) A requirement for more frequent monitoring or reporting by the permittee;

(3) A change in ownership or operational control of a well if the secretary determines that no other change in the permit is necessary, provided a written agreement containing a specific date for transfer of responsibility for the injection well, coverage, and liability between the current and new owner or operator has been submitted to the secretary pursuant to § 74:12:07:06;

(4) A change in quantities or types of fluids injected which are within the capacity of the injection well as permitted and, in the judgment of the secretary, would not interfere with the operation of the injection well or its ability to meet conditions described in the permit and would not change its classification;

(5) A change in construction requirements approved by the secretary pursuant to this chapter if the alteration complies with the conditions of the permit to inject and this section;

(6) Amendment of a plugging and abandonment plan which has been updated pursuant to this article.

(7) Recementing, reworking, or reconditioning a well; and

(8) Deepening, extending, or sidetracking an existing well within the permitted injection horizon.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Cross-Reference: Abandonment and plugging of wells, ch 74:12:03.

74:12:07:10. Casing and cementing of injection wells. Wells used for the injection of any substance must be constructed with adequate casing, tubing, and packer. There shall be no leak in the casing, tubing, or packer that results in the well failing a mechanical integrity test. The wells must be cased and cemented to prevent fluid movement into freshwater resources. Operators shall repair or plug wells with defective casings, in compliance with §§ 74:12:02:13, 74:12:03:01, and 74:12:03:02.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#).

74:12:07:11. Notice of commencement and discontinuance of injection operations.

The following provisions for notice of commencement and discontinuance of injection operations apply to all injection projects:

(1) The operator shall notify the secretary of the injection date immediately upon commencement of injection and submit a written notice within 30 days;

(2) The operator shall notify the secretary of the date of the discontinuance and the reason therefore within 10 days, and submit a written notice within 30 days; and

(3) The operator shall serve written notice on, and receive written approval from the secretary prior to plugging an injection well. The operator shall follow the procedure for plugging wells prescribed in § 74:12:03:02.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#).

74:12:07:12. Monitoring of injected fluids. The owner or operator shall monitor the nature of the injected fluids at least once within the first year of injection activity and thereafter when changes are made to the fluid. All water quality analyses of the fluid must be submitted to the secretary.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-14](#).

74:12:07:13. Injection project records. The operator of an injection project shall keep accurate records and shall report at least annually the amount of fluid produced, the volumes of fluid injected, and the average and maximum injection pressure, and any major changes in characteristics or sources of injected fluids.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-17](#).

74:12:07:14. Retention of records. The owner or operator shall retain records of all monitoring information, including the following:

(1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and copies of all reports required by this chapter for a period of at least three years from the date of the sample, measurement, or report; and

(2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified in this chapter.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-16](#).

74:12:07:15. Inspection and monitoring of injection project. The secretary may sample injection fluids at any time during the inspection and may inspect all injection facilities pursuant to the provisions of §§ 74:12:08:02 to 74:12:08:04, inclusive.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-17](#), [45-9-55](#).

74:12:07:16. Reporting of mechanical problems, well failures, or malfunctions of the injection system. The owner or operator shall report any mechanical problem, well failure, or malfunction of the injection system, including any monitoring or other information which indicates that a contaminant may endanger freshwater resource; and anything which may cause fluid migration into or between freshwater resources.

The information must be provided orally to the secretary as soon as the owner or operator becomes aware of the circumstances, but no later than the end of the next business day. A written submission must be provided within five days from the time the owner or operator becomes aware of the circumstances. The written submission must contain the following:

- (1) A description of the problem and its cause;
- (2) The period of the problem, including exact dates and times, and, if the problem has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate, and prevent recurrence of the problem.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#), [45-9-17](#).

74:12:07:17. Injection prohibited. Injection between the outermost casing protecting freshwater resources and well bore is prohibited.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:18. Demonstration of mechanical integrity required. The operator of an injection project shall demonstrate the mechanical integrity of a new or converted injection well prior to operation. All injection wells must be tested at least once every five years thereafter as directed by the secretary. Mechanical integrity must be maintained at all times and must be proven on all injection wells which receive corrective action before the well can be brought back on line. The secretary shall witness the mechanical integrity tests. The operator shall contact the secretary at least 72 hours before each test.

The owner or operator shall demonstrate mechanical integrity by monitoring the annulus pressure during a 15 minute pressure fall-off test, a 15 minute wellhead pressure test, or another secretary approved test, and by submitting cementing records, which include cement bond logs and completion or recompletion records that demonstrate adequate cement is present to prevent vertical fluid migration adjacent to the well bore.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-14](#).

74:12:07:19. Notice of lack of mechanical integrity. If the secretary determines, pursuant to § 74:12:07:18, that an injection well permitted under this chapter lacks mechanical integrity, the secretary shall notify the owner or operator in writing. Unless the secretary requires immediate cessation of the injection, the owner or operator shall cease injection into the well within 48 hours after receipt of the secretary's notice. The secretary shall require the owner or operator to either plug the well in accordance with the requirements of chapter 74:12:03, or perform any operation, monitoring, reporting, or corrective action necessary to prevent the movement of fluid into or between freshwater aquifers caused by the lack of mechanical integrity. The owner or operator may resume injection upon receipt of written notice from the secretary that the owner or operator has demonstrated mechanical integrity pursuant to § 74:12:07:18.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:20 Correction of adverse effects required. If monitoring or testing indicates that a freshwater resource may be degraded by the injection activities, the operator of an injection well shall make corrections on existing wells within the area of review which may serve as an avenue of contamination from proposed injection activities. The corrections shall be specified by the secretary and may include recementing, reworking, reconditioning, redrilling, or a similar correction.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:21. Secretary to set maximum injection pressure. The secretary shall set a maximum injection pressure for each well which assures that the pressure in the injection zone during injection does not initiate new fractures in the confining zone, propagate existing fractures in the confining zone, or cause the movement of fluids into a freshwater resource. The injection pressure at the wellhead may not exceed the maximum permitted pressure, which must be calculated by methods approved by the secretary. If requested by the operator, the secretary may allow an increase in the maximum injection pressure utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:22. Secretary to set maximum injection volume. The secretary may set a maximum volume of fluid to be injected to ensure that the injection will not cause cross-contamination of aquifers. The secretary shall determine the maximum injection volume based on radius-of-influence calculations, pressure buildup calculations, well construction data from wells in the radius of influence, or any other information considered necessary by the secretary. The injection volume may not exceed the maximum permitted amount. The operator shall monitor injection volume monthly and shall report the injection volumes to the secretary according to § 74:12:07:13. If requested by the operator, the secretary may allow an increase in the injection volume, utilizing the notice of recommendation procedure in chapter 74:12:09.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:23. Injection well drilling requirements. All wells drilled for the purpose of injection of any substance must meet the requirements of §§ 74:12:02:01 to 74:12:02:03, inclusive; 74:12:02:09 to 74:12:02:11, inclusive; and 74:12:02:12 to 74:12:02:18, inclusive.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

74:12:07:24. Designation of exempted aquifer. Following the notice of recommendation procedure in chapter 74:12:09, the secretary may exempt a portion of an aquifer from protection under this chapter and designate it as an exempted aquifer if it does not currently serve as a source of drinking water, if the total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 milligrams per liter and it is not expected to supply a public water system, and if it cannot now, and will not in the future, serve as a source of drinking water for any of the following reasons:

- (1) It produces hydrocarbons;
- (2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical; or
- (3) It is so contaminated that it would be economically or technologically impractical to render the water fit for human consumption.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#), [45-9-14](#).

CHAPTER 74:12:08

RECORDKEEPING AND INSPECTIONS

Section

[74:12:08:01](#) Books and records to be kept to substantiate reports.

[74:12:08:02](#) Inspections -- Scope.

[74:12:08:03](#) Inspections -- Permission.

[74:12:08:04](#) Inspections -- Search warrants

[74:12:08:05](#) Pipeline maps required.

74:12:08:01. Books and records to be kept to substantiate reports. Producers, injectors, transporters, storers, refiners, gasoline or extraction plant operators, and initial purchasers of oil or gas in this state shall keep the books and records covering their operations in South Dakota for not less than five years to substantiate the reports required by this article.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-17](#), [45-9-59](#).

74:12:08:02. Inspections -- Scope. The secretary may inspect all oil, gas, or injection wells; oil apparatus; pits; tanks; fire walls; dikes; pipelines; and other production, storage, or transportation facilities, records, and reports necessary for production or disposal under SDCL chapter [45-9](#) or this article. The scope of an inspection shall be limited to that reasonably necessary to ensure oil or gas is not being wasted, pollution of waters of the state and other natural resources is not occurring, reports filed with the secretary are accurate, and the operation is being conducted pursuant to the permits, approvals, and orders required by SDCL chapter 45-9 or this article.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-53](#), [45-9-54](#), [45-9-55](#).

74:12:08:03. Inspections -- Permission. All applications for permits, approvals, or orders filed under SDCL chapter [45-9](#) or this article shall contain a notarized statement of the operator granting permission to the secretary for the performance of inspections required or authorized by SDCL chapter 45-9 or this article. If the board finds, after notice and hearing, that an operator has withdrawn permission for the secretary to conduct any oil and gas inspection required or authorized by this article, the board may revoke or suspend any permit, approval, or order affected by the refusal to an inspection.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-53](#), [45-9-54](#), [45-9-55](#).

74:12:08:04. Inspections -- Search warrants. The secretary shall obtain a search warrant from the magistrate court in the area of the involved well before conducting an inspection if an operator has withdrawn permission to inspect, unless the involved violation can be discerned by the secretary without entering the operator's property. If the secretary is investigating a complaint alleging waste, pollution, or noncompliance with the provisions of SDCL chapter [45-9](#) or this article, an inspection may be conducted by the secretary only if the operator consents to the inspection or if a search warrant is obtained.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-53](#), [45-9-54](#), [45-9-55](#).

74:12:08:05. Pipeline maps required. Pipeline maps indicating the location, size, extensions, and any portions abandoned or not used must be annually filed with the secretary. This section does not apply to lease lines which are only used in the operation of the lease on which they are located or to any line or appurtenant tankage not located in this state.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-13](#).

Law Implemented: SDCL [45-9-11](#), [45-9-13](#).

CHAPTER 74:12:09

NOTICE OF RECOMMENDATION PROCEDURE

Section

[74:12:09:01](#) Applicability of procedure.

[74:12:09:02](#) Contents of notice.

[74:12:09:03](#) Publication of notice.

[74:12:09:04](#) Service of notice.

[74:12:09:05](#) Final decision.

74:12:09:01. Applicability of procedure. The secretary shall publish a notice of recommendation before issuing, denying, suspending, revoking, transferring, or renewing any permit application or petition filed for the following:

- (1) Request to drill an oil well on a tract containing less than 35 acres, pursuant to § 74:12:02:04;
- (2) Request to drill a gas well on a tract containing less than 576 acres, pursuant to § 74:12:02:05;
- (3) Request to drill at an exception location to statewide or field spacing, pursuant to § 74:12:02:08;
- (4) Request to drill a directional well or a horizontal well in an area not already spaced by the Board of Minerals and Environment for directional or horizontal wells, pursuant to § 74:12:02:02;
- (5) Request for an exception to the gas-oil ratio, pursuant to § 74:12:04:01;
- (6) Request to commingle oil from separate pools underground, pursuant to § 74:12:04:03;
- (7) Permit to inject, pursuant to § 74:12:07:01;
- (8) Request for major modifications of permits to inject, pursuant to § 74:12:07:08;
- (9) Request to increase injection pressure, pursuant to § 74:12:07:21;
- (10) Request to increase injection volumes, pursuant to § 74:12:07:22;
- (11) Exemption of a portion of an aquifer, pursuant to § 74:12:07:24; and
- (12) Request to complete well in more than one pool, pursuant to § 74:12:04:04.

The secretary may require the applicant to submit geologic, geophysical, topographic, lease, ownership, engineering, or production information in support of any petition or application submitted under this section.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-73](#).

74:12:09:02. Contents of notice. A notice of recommendation shall indicate whether the secretary is recommending approval or denial of an application and include any recommended permit conditions. The notice of recommendation must contain a statement including the information in § 74:12:09:05. At the request of the applicant, the notice may indicate that, if an interested person files a timely petition to intervene, a hearing before the board will be held on a date certain and include the time, date, and location of the hearing.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-73](#).

74:12:09:03. Publication of notice. The department shall publish a notice of recommendation in accordance with the publication requirements of SDCL [45-9-58](#) except that the notice need only be published once. The department shall provide a copy of the notice of recommendation to the applicant before publication.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-73](#).

74:12:09:04. Service of notice. The applicant shall serve the notice of recommendation in accordance with the requirements of SDCL [45-9-58](#) for service of a notice of hearing.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-73](#).

74:12:09:05. Final decision. Unless an interested person files a petition to initiate a contested case hearing in accordance with chapter 74:09:01 within 20 days after the final date of publication of the notice of recommendation, the secretary's recommendation is final. If the secretary's recommendation is for approval or conditional approval, the permit or approval shall be issued in accordance with SDCL [45-9-73](#). If a hearing is scheduled on the application, it is subject to a final decision by the board.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#), [45-9-73](#).

Law Implemented: SDCL [45-9-73](#).

CHAPTER 74:12:10

RISK COMPENSATION IN COMPULSORY POOLING AND UNITIZATION ORDERS

Section

[74:12:10:01](#) Risk compensation in a compulsory pooling order.

[74:12:10:02](#) Compulsory pooling -- Risk compensation if ownership interest is derived from a lease or other contract for development.

[74:12:10:03](#) Compulsory pooling -- Risk compensation if ownership interest is not subject to a lease or other contract for development.

[74:12:10:04](#) Risk compensation in a compulsory unitization order.

[74:12:10:05](#) Compulsory unitization -- Risk compensation if ownership interest is derived from a lease or other contract for development.

[74:12:10:06](#) Compulsory unitization -- Risk compensation if ownership interest is not subject to a lease or other contract for development.

74:12:10:01. Risk compensation in a compulsory pooling order. In an application for a compulsory pooling order made pursuant to SDCL [45-9-31](#), the applicant may request the board to provide for the recovery of risk compensation, in addition to actual prorated costs, from an owner who elects not to participate in the risk and cost of drilling and operating a well in an established spacing unit. Before an order is entered with such a provision, the applicant must:

(1) Provide proof that an unsuccessful, good-faith attempt was made to have the nonparticipating owner execute a lease or participate in the risk and cost of drilling and operating the well; and

(2) Notify the nonparticipating owner with proof of service that the applicant intends to request the board to provide for the recovery of risk compensation and that the nonparticipating owner may object to the risk compensation provision by responding in opposition to the application for the compulsory pooling order.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-30](#) to [45-9-36](#), inclusive.

74:12:10:02. Compulsory pooling -- Risk compensation if ownership interest is derived from a lease or other contract for development. If the nonparticipating owner's interest in the spacing unit is derived from a lease or other contract for development, the risk compensation is two-hundred percent of the nonparticipating owner's share of the reasonable actual costs of drilling, reworking, side-tracking, deepening, plugging back, testing, completing and recompleting the well and the costs of newly acquired equipment in the well including the wellhead connection. Risk compensation may be recovered only out of production from the pooled spacing unit, exclusive of a one-eighth royalty as provided for in SDCL [45-9-35](#).

Source: 38 SDR 117, effective January 12, 2012

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-30](#) to [45-9-36](#), inclusive.

74:12:10:03. Compulsory pooling -- Risk compensation if ownership interest is not subject to a lease or other contract for development. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk compensation is one-hundred percent of the nonparticipating owner's share of the reasonable actual costs of drilling, reworking, side-tracking, deepening, plugging back, testing, completing and recompleting the well and the costs of newly acquired equipment in the well including the wellhead connection. Risk compensation may be recovered only out of production from the pooled spacing unit, exclusive of a one-eighth royalty as provided for in SDCL [45-9-35](#).

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-30](#) to [45-9-36](#), inclusive.

74:12:10:04. Risk compensation in a compulsory unitization order. In an application for a compulsory unitization order made pursuant to SDCL [45-9-37](#), the applicant may request the board to provide for the recovery of risk compensation, in addition to actual prorated unit expenses, from owners who elect to have their share of unit expenses carried or otherwise financed. Before an order is entered with such a provision, the applicant must:

(1) Provide proof that an unsuccessful, good-faith attempt was made to have the nonparticipating owner execute a lease or participate in the risk and cost of unit operations; and

(2) Notify the nonparticipating owner with proof of service that the applicant intends to request the board to provide for the recovery of risk compensation and that the nonparticipating owner may object to the risk compensation provision by responding in opposition to the application for the compulsory unitization order.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-37](#) to [45-9-52](#), inclusive.

74:12:10:05. Compulsory unitization -- Risk compensation if ownership interest is derived from a lease or other contract for development. If the nonparticipating owner's interest in the unit is derived from a lease or other contract for development, the risk compensation is two hundred percent of the nonparticipating owner's share of the reasonable actual unit expenses and may be recovered only out of production from the unit, exclusive of a one-eighth royalty.

Source: 38 SDR 117, effective January 12, 2012

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-37](#) to [45-9-52](#), inclusive.

74:12:10:06. Compulsory unitization -- Risk compensation if ownership interest is not subject to a lease or other contract for development. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the risk compensation is one hundred percent of the nonparticipating owner's share of the reasonable actual unit expenses and may be recovered only out of production from the unit, exclusive of a one-eighth royalty.

Source: 38 SDR 117, effective January 12, 2012.

General Authority: SDCL [45-9-11](#), [45-9-13](#).

Law Implemented: SDCL [45-9-37](#) to [45-9-52](#), inclusive.