



# QUALIFIED FLARE MITIGATION CREDITS INSTRUCTIONS



# PROCEDURE FOR REPORTING QUALIFIED FLARE MITIGATION CREDITS

## GENERAL DEFINITIONS

**Flare Mitigation:** means the quantity in millions of British thermal units of heat content of gas used by an onsite flare mitigation system. The term does not include the heat content of any gas flared before, during, or after intake by a flare mitigation system.

**Onsite Flare Mitigation System:** means a system at a well site which intakes gas and natural gas liquids from a well, separating and collecting or utilizing over 50 percent of the propane and heavier hydrocarbons, to achieve a reduction of flared thermal intensity through beneficial consumption.

**Qualify Flare Mitigation System:** means a system at a well site which has been certified by the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division as meeting all the statutory qualification requirements of an "onsite flare mitigation system".

### Flare Mitigation Credits:

- A producer may receive a credit against their tax liability under North Dakota Century Code (N.D.C.C.) ch. 57-51.1 (oil extraction taxes) of up to 75 cents per one million British thermal units of flare gas mitigation resulting from the operation of a qualified flare mitigation system.
  - Credits are computed on a per well basis.
  - Credits are limited to \$6,000 per well per month.
  - Qualifying well periods are limited to the lesser of 12 months per well or the period in which the system is deemed qualifying pursuant to the statutory provisions.

## FILE AND REMIT TAX

**Flare Mitigation System Operator:** The operator of a qualifying flare mitigation system, eligible for the flare mitigation credits, must file a separate M-01 Gas Mitigation Facility Operator Report for each qualifying mitigation system on or before the 15th day of the month following the flare mitigation activity.

**Oil Producer:** The operator of wells connected to a qualified flare mitigation system, eligible for flare mitigation credits, must file a separate M-02 Well Operator Report for Gas Mitigation Credits for each qualifying mitigation system that receives gas from the producer's wells. The M-02 reports are due on or before the 25th day of the month following the month in which the flare mitigation reported by the mitigator on the M-01 report. Without exception, the well operator must remit the gross production and oil extraction tax on all wells connected to a qualified flare mitigation system that is eligible for flare mitigation credits. Tax is not remitted with the M-02 report. **Tax is remitted via a separately filed T-12 Oil Gross Production and Oil Extraction Tax Report.**

**Oil Purchaser:** The oil purchaser must file a T-12 Oil Gross Production Tax Report for oil purchased from wells connected to a qualified flare mitigation system eligible for the flare mitigation credits. The purchaser's reporting on qualifying mitigation wells will be reported utilizing the "tax paid by others" fields during the mitigation periods.

## FORMS REQUIRED

- **M-01 Gas Mitigation Facility Operator Report** calculates the average MMBtu of gas received and the ratio of MMBtu's mitigated during the reporting period.
- **M-02 Well Operator Report for Gas Mitigation Credits** calculates the flare mitigation credits on a per well basis and determines the effective oil extraction tax due on a per well basis after application of the mitigation credits.
- **T-12 Oil Gross Production and Oil Extraction Tax Report** is used to file and remit the gross production and oil extraction taxes due on wells connected to a qualifying flare mitigation system, eligible for mitigation credits.

The due date of the M-01 Gas Mitigation Facility Operator Report is on or before the 15th day of the month immediately following the flare mitigation period (i.e., the July 2021 mitigation facility report would be due on or before August 15, 2021).

The due date of the M-02 Well Operator Report for Flare Mitigation Credits and the corresponding T-12 Oil Gross Production and Oil Extraction Tax Report is on or before the 25th day of the month following the month in which the flare mitigation reported by the mitigator on the M-01 Flare Mitigation Report occurred (i.e., August 2021 operator report for gas mitigation credits and corresponding T-12 – Oil Taxes report are due on or before September 25, 2021).

**PROJECT ELIGIBILITY REQUIREMENTS**

**Flare Mitigation Credits:** The operator of an “onsite flare mitigation system” must file a request with the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division (NDIC) and receive a qualification certifying that the mitigation project meets the statutory provisions of N.D.C.C. § 57-51.1-02.2. For all qualifying “onsite flare mitigation systems,” the NDIC must certify each well, connected to the qualified system, as eligible for the statutory “flare mitigation credits” and a copy of the NDIC well certification must be provided to Tax Commissioner before any credits may be claimed.

**Wells Located Within the Exterior Boundaries of the Fort Berthold Indian Reservation (FBIR):** All wells located within the exterior boundaries of the FBIR are excluded from eligibility for the “flare mitigation credits” in N.D.C.C. § 57-51.1-02.2, unless the Three Affiliated Tribes, through the tribal chair, notifies the Tax Commissioner in writing that the Three Affiliated Tribes desires to include production from wells from within the boundaries of the exterior boundaries of the Fort Berthold Indian Reservation without altering the provisions of the compact on oil and gas production taxes within the Fort Berthold Indian Reservation.

## **FORM M-01 COVERSHEET INSTRUCTIONS**

**Gas Mitigation Period:** Enter numerals, i.e., 202107 for July 2021.

**Original or Amended Report:** Enter "O" for "original" or "A" for "amended." Amended data will not be accepted on an original report. Amended reports will replace previously filed reports; therefore, all data fields must be completed with the correct information.

**Facility Tax Group Number:** Enter the property/group number assigned to the mitigation facility by the Tax Commissioner.

**Facility Location:** Enter the legal location of the qualified "onsite flare mitigation system," (i.e., NENW29155095).

**Facility Operator Name:** Enter the name of the registered flare mitigation system operator filing the report.

**Federal I.D. Number:** Enter nine-digit Federal I.D. number of the flare mitigation system operator filing the report.

**Mailing Address, Telephone Number and Preparer:** Enter the company mailing address (including a nine-digit zip code). Enter the telephone number and the name of the individual filing the report.

**Line 1. Gas Received from Source Wells** - Enter the gas volumes from qualifying source wells (list wells on the "Source Well" tab).

**Line 2. Gas Received from Nonqualifying Sources** - Enter the nonqualifying gas volumes received (i.e., Fort Berthold Wells or Montana wells).

**Line 3. Total Volume Received** - Calculated field equal to Line 1 plus Line 2.

**Line 4. Volume Returned to Lease** - Enter the gas volumes returned to lease after receipt into the mitigation system.

**Line 5. Volume Vented or Flared** - Enter the gas volumes vented or flared after receipt into the mitigation system.

**Line 6. Nonqualifying Volume** - Enter the nonqualifying gas volumes received (i.e., Fort Berthold or Montana sources) plus any volumes utilized for nonexempt purposes.

**Line 7. Total Nonqualifying Volume** - Calculated field equal to Line 4 plus Line 5 plus Line 6.

**Line 8. Qualifying Mitigation Volumes** - Calculated field equal to Line 3 minus Line 7.

**Line 9. Average MMBtu per Mcf** - Calculated field equal to Line 1 MMBtu volume divided by Line 1 Mcf volume.

**Line 10. Mitigation Ratio** - Calculated field equal to Line 8 MMBtu volume divided by Line 1 MMBtu volume.

## **FORM M-01 SOURCE WELLS INSTRUCTIONS**

**Source Well Name** - Enter the well name as permitted with the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division (NDIC)

**API Number** - Enter the three-character county code (enter leading 0's) and the five-character lease code from the API number assigned to well by the NDIC. Do not include the state code 33 (i.e., 05301234).

**Pool Code** - Enter the pool code assigned by the Tax Commissioner. If reporting wells with multiple production formations, separate line entries need to be included for each source well and pool. If the well is subject to Tribal Reporting Producers pursuant to a revenue sharing agreement - enter the base pool. (A list of pool codes is available on the website.)

**Connection Date** - Enter the date that the source well was connected to the qualified mitigation system (i.e., 7/25/2021).

## **FORM M-02 COVERSHEET INSTRUCTIONS**

**Oil Credit Period** - Enter the month in which the gas mitigation credit can be used by well operator to reduce an oil extraction tax liability. The oil credit period will be the month following the month in which gas mitigation occurs. Enter the credit period as numerals, i.e., 202107 for July 2021.

**Original or Amended Report** - Enter "O" for "original" or "A" for "amended." Amended data will not be accepted on an original report. Amended reports will replace previously filed reports; therefore, all data fields must be completed with the correct information.

**Producer Name** - Enter the name of the registered well operator filing the report.

**Federal I.D. Number** - Enter nine-digit Federal I.D. number of the well operator filing the report.

**Mailing Address, Telephone Number and Preparer** - Enter the company mailing address (including a nine-digit zip code). Enter the telephone number and the name of the individual filing the report.

**Line 1. Gas Mitigation Period** - Enter the mitigation period from the gas mitigation facility report (i.e., 202107 for July 2021).

**Line 2. Facility Tax Group Number** - Enter the property/group number from the gas mitigation facility report

**Line 4. Facility Location** - Enter the legal location from the gas mitigation facility report (i.e., NENW29155095).

**Line 5. Facility Operator Name** - Enter the name of the registered flare mitigation system operator from the gas facility report.

**Line 6. Facility Operator FEIN** - Enter the nine-digit Federal I.D. number from the gas mitigation facility report.

**Line 7. Mcf of Gas Received from Source Wells** - Enter the Mcf volume reported on Line 1 of the gas mitigation facility report.

**Line 8. MMBtu of Gas Received from Sources** - Enter the MMBtu volume reported on Line 1 of the gas mitigation facility report.

**Line 9. Average MMBtu per Mcf** - Calculated field equal to Line 8 MMBtu divided by Line 7 Mcf.

**Line 10. Mitigation Mcf** - Enter the Mcf volume reported on Line 8 of the gas mitigation facility report.

**Line 11. Mitigation MMBtu** - Enter the MMBtu volume reported on Line 8 of the gas mitigation facility report.

**Line 12. Mitigation Ratio** - Calculated field equal to Line 11 MMBtu divided by Line 8 MMBtu.

## **FORM M-02 GAS MITIGATION WORKSHEET INSTRUCTIONS**

**API Number** - Enter the three-character county code (enter leading 0's) and the five-character lease code from the API number assigned to well by the NDIC. Do not include the state code 33 (i.e., 05301234).

**Pool Code** - Enter the pool code assigned by the Tax Commissioner. If reporting wells with multiple production formations, separate line entries need to be included for each source well and pool. If the well is subject to Tribal Reporting Producers pursuant to a revenue sharing agreement - enter the base pool - allocation of Trust and Non-Trust interests will be completed on the T-12 Oil Report. (A list of pool codes is available on the website).

**Connection Date** - Enter the date that the source well was connected to the qualified mitigation system (i.e., 7/25/2021).

**Mitigation Month Count** - Enter the number of month's that the reported API number has been connected to the flare mitigation system.

**Mcf of Gas Delivered** - Enter the volume of wet gas delivered to the mitigation system from the individual source wells. The general rule is that the volume should correspond to the volume of "Wet Gas Custody Transferred" reported to the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division on the Form 5B - Gas Production Report. (Note: some exceptions may exist that result in volume differentials.)

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**Average MMBtu per Mcf** - Amount carried from Line 9 of the well operator's gas mitigation coversheet.

**MMBtu of Gas Delivered** - Calculated field equal to the Mcf of Gas Delivered multiplied by the Average MMBtu per Mcf (rounded to the nearest whole number).

**Mitigation Ratio** - Amount carried from Line 12 of the well operator's gas mitigation coversheet.

**MMBtu of Mitigation per Well** - Calculated field equal to the MMBtu of Gas Delivered multiplied by the Mitigation Ratio (rounded to the nearest whole number).

**Mitigation Credit** - Calculated field equal to the MMBtu of Mitigation per Well multiplied by \$.75 (rounded to the nearest cent).

## FORM M-02 OIL MITIGATION WORKSHEET INSTRUCTIONS

**API Number** - Value carried from the gas mitigation worksheet equal to the three-character county code (enter leading 0's) and the five-character lease code from the API number assigned to the well by the NDIC.

**Pool Code** - Value carried from the gas mitigation worksheet equal to the pool code assigned by the Tax Commissioner.

**Well Code** - Enter the appropriate well code assigned by the Tax Commissioner pursuant to N.D.C.C. ch. 57-51.1 and N.D.A.C. ch. 81-09-03.

**Barrels of Oil Purchased/Sold** - Enter the volume of oil purchased/sold (round to two decimal places).

**Value of Oil Purchased/Sold** - Enter the gross value paid for the oil pursuant to the valuation provisions in N.D.C.C. § 57-51-02.3 (round to the nearest cent).

**Value of Exempt Government Royalties** - Enter the value of exempt federal, state, other municipality, and Indian royalties actually paid (round to the nearest cent). The value should not exceed the amount calculated by taking the royalty percentage multiplied by the value of oil purchased/sold.

**Taxable Value of Oil** - Calculated field equal to the Value of Oil Purchased/Sold minus Value of Exempt Government Royalties.

**Extraction Tax Due Before Mitigation Credits** - Calculated field equal to the Taxable Value of Oil multiplied by the applicable oil extraction tax rate:

- 0% - Well codes S1, S2, S3 or S4
- 5% - Well code T5
- 6% - Well code T6

**Mitigation Credits from Gas Mitigation Worksheet** - Amount carried from the Gas Mitigation Worksheet for the API and pool code.

**Allowable Mitigation Credits Applied** - Calculated field equal to the lesser of the Extraction Tax Due Before Mitigation Credits, the Mitigation Credits from the Gas Mitigation Worksheet, or \$6,000.

**Extraction Tax Due After Mitigation Credits** - Calculated field equal to the Extraction Tax Due Before Mitigation Credits minus Allowable Mitigation Credits Applied.

**Mitigation Extraction Tax Code** - For Well Codes - S1, S2, S3, S4 the code is the assigned code - for Well Code "T5" the code is "M5" and for Well Code "T6" the code is "M6".

**NOTE:** The oil volume and value data for each mitigation well must be reported by the designated well operator (no Take-In-Kind reporting allowed) as a separate line entry on the T-12 Oil Gross Production and Oil Extraction Tax Report (see T-12 Worksheet Special Instructions).

## **FORM T-12 OIL GROSS PRODUCTION AND OIL EXTRACTION TAX REPORT INSTRUCTIONS**

The general reporting instructions for preparing the T-12 Oil Report can be found in the "North Dakota Reporting Instructions - Oil and Gas Taxes" located on the Tax Commissioner's website at [www.tax.nd.gov/OilGasReports](http://www.tax.nd.gov/OilGasReports).

The following modifications impact the reporting of Mitigation Credits on the T-12 Oil Report:

- **Well Code** - Enter the Mitigation Extraction Tax Code for the API and pool from the Oil Mitigation Worksheet of the Well Operator Report for Gas Mitigation Credits.
- **Total Extraction Tax Due** - For well codes M5 or M6 enter the value of Extraction Tax Due After Mitigation Credits as computed for the API and pool on the "Oil Mitigation Worksheet" of the "Well Operator Report for Gas Mitigation Credits," for all other well codes multiply the Taxable Value of Oil by the applicable oil extraction tax rate in effect for the reported well code.