



November 7, 2022

North Dakota Oil Producers and Purchasers:

RE: Oil Extraction Tax Price Trigger

North Dakota Century Code (N.D.C.C.) § 57-51.1-02 establishes an oil extraction tax rate of 5%, along with a “trigger” provision. The “trigger” provision increases the tax rate from 5% to 6% if the average price of a barrel of crude oil exceeds the trigger price for three consecutive months. The original rate of 5% is reinstated if the average price of a barrel of crude oil is less than the trigger price for three consecutive months.

The “average price of a barrel of crude oil” reference in N.D.C.C. § 57-51.1-02 is defined as:

“... the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, Midwest edition. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.”

Following the statutory guidelines, the Office of State Tax Commissioner has determined the trigger price for calendar year 2022 is \$94.69. The average prices for the three-month period of August-October 2022 were:

August	September	October
\$91.42	\$84.06	\$86.74

Based on these prices, the Office of State Tax Commissioner determines the oil extraction tax rate of 5% will apply for the production period beginning November 1, 2022.

The Office of State Tax Commissioner reviewed the applicable statutory provisions and established the following method for administration of the rate change relating to the trigger price:

1. Beginning November 1, 2022, the well code T6 is terminated and replaced with well code T5.
2. Inventory in storage, at the close of business on October 31, 2022, must be reported as a “split” entry, in the month of sale, at the well code in effect when the oil was produced (i.e., T5 or T6).
3. Production from stripper wells (S1, S2, S3, and S4), Non-Bakken/Three Forks wells (RN), or wells qualified for enhanced oil recovery (R1) will continue to use the well codes currently assigned.
4. When the average price of a barrel of crude oil is again more than the trigger price for three consecutive months, a notification letter will be mailed to all producers and purchasers the first week of the following month regarding the reversal of the trigger.

If you have any questions or concerns regarding the implementation of the trigger or reporting changes, please contact our office.

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