



# NORTH DAKOTA ADMINISTRATIVE CODE

## Supplement 324

April 1, 2007

The North Dakota Administrative Code Supplement is published each month following the month that rules are filed with the Legislative Council office. A historical source note immediately follows an affected section and indicates the effective date of any amendment, creation, or repeal. A supplement change without any historical source note corrects a nonsubstantive error in the section.

This supplement instruction page should be retained and placed behind your "supplement instruction sheets" divider in Volume 1. **Before inserting any supplement into the code be sure the previous supplement has been inserted.** For those codes purchased after August 1, 1996, the first supplement is Supplement 207.

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**CHAPTER 69-05.2-06**  
**PERMIT APPLICATIONS - REQUIREMENTS FOR LEGAL, FINANCIAL,  
COMPLIANCE, AND RELATED INFORMATION**

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**69-05.2-06-01. Permit applications - Identification of interests.**

1. In addition to satisfying the applicable requirements of subsection 1 of North Dakota Century Code section 38-14.1-14, each application must contain:
  - a. The names and addresses of the owner of record of surface and coal subsurface rights contiguous to the permit area extending one-fourth mile [402.33 meters] from the permit boundary.
  - b. The mine name and the mine safety and health administration identification number.
  - c. A statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands contiguous to the permit area extending one-fourth mile [402.33 meters] from the permit boundary.
  - d. The name, address, telephone number, and, as applicable, social security number and employer identification number of the:
    - (1) Applicant.
    - (2) Applicant's resident agent.
    - (3) Person who will pay the abandoned mine land reclamation fee.
  - e. For each person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls", as applicable:
    - (1) The person's name, address, social security number, and employer identification number.

- (2) The person's ownership or control relationship to the applicant, including percentage of ownership and location in the organizational structure.
  - (3) The title of the person's position, date position was assumed, and, when submitted under subdivision e of subsection 3 of section 69-05.2-10-05, the date of departure from the position.
  - (4) Each additional name and identifying number, including employer identification number, federal or state permit number, and mine safety and health administration number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five years preceding the date of the application.
  - (5) The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.
- f. For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls", the operation's:
- (1) Name, address, identifying numbers, including employer identification number, federal or state permit number and mine safety and health administration number, the date of issuance of the mine safety and health administration number, and the regulatory authority.
  - (2) Ownership or control relationship to the applicant, including percentage of ownership and location in the organizational structure.
2. After notification that the application is deemed ready for approval but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subdivisions d through f of subsection 1.
  3. The applicant shall submit information required by this section in any format prescribed by the office of surface mining reclamation and enforcement.

4. The submission of a social security number in subdivisions d and e of subsection 1 is voluntary.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; May 1, 1992; July 1, 1995.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-14

**69-05.2-06-02. Permit applications - Compliance information.** In addition to satisfying the applicable requirements of subsection 1 of North Dakota Century Code section 38-14.1-14, each application must contain:

1. A statement of any current or previous coal mining permits in any state held during the five years prior to application and by any person identified in paragraph 3 of subdivision e of subsection 1 of North Dakota Century Code section 38-14.1-14, and of any pending application to conduct operations in any state. The information must be listed by permit and pending application number for each.
2. The explanation required by subdivision h of subsection 1 of North Dakota Century Code section 38-14.1-14 including:
  - a. Identification number and permit issue date or date and amount of bond or similar security.
  - b. Identification of the authority that suspended or revoked a permit or forfeited a bond and the reasons for that action.
  - c. The current status of the permit, bond, or security.
  - d. The date, location, type, and current status of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture.
3. A list of all violation notices as required by subdivision g of subsection 1 of North Dakota Century Code section 38-14.1-14 including violations received by any person who owns or controls the applicant.
4. A list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant.
5. The lists required by subsections 3 and 4 must include, as applicable:
  - a. Any identifying numbers for the operation, including the federal or state permit number and mine safety and health administration number, the date of issuance of the violation notice and mine safety and health administration number, the name of the person to whom

the violation was issued, and the identity of the issuing authority, department, or agency.

- b. A brief description of the violation alleged.
  - c. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including proceedings initiated by the applicant or by any person who owns or controls the applicant, to obtain administrative or judicial review.
  - d. The current status of the proceedings and violation notice.
  - e. Any actions taken by the applicant or by any person who owns or controls the applicant to abate the violation.
  - f. Any final resolution of each notice.
6. After notification that the application is deemed ready for approval but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections 3 through 5.

**History:** Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994; July 1, 1995.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-14

**69-05.2-06-03. Permit applications - Right of entry and operation information.**

1. In addition to satisfying subdivision k of subsection 1 of North Dakota Century Code section 38-14.1-14, the application must also contain a narrative and supporting certified copies of the appropriate documents which demonstrate that the applicant has complied with North Dakota Century Code section 38-18-06.
2. Following completion of coal removal operations on the lands covered by a coal lease, the copy of the lease may be deleted from an approved permit if:
  - a. The lease is no longer needed to show the surface right of entry for carrying out reclamation operations; or
  - b. The lease has expired or has been terminated.

If a coal lease is no longer provided for surface right of entry, other documents granting the permittee surface right of entry must be added to the permit.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; April 1, 2007.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-14

**69-05.2-06-04. Permit applications - Identification of other licenses and permits.** Each application must contain a list of all other licenses and permits needed to conduct mining activities and identify each license and permit by:

1. Type.
2. Name and address of issuing authority.
3. Identification numbers of permit or license applications or, if issued, the permit or license identification numbers.
4. If a decision has been made, the date of approval or disapproval by each issuing authority.

**History:** Effective August 1, 1980; amended effective May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-14

**69-05.2-06-05. Permit applications - Relationship to areas designated unsuitable for mining.**

1. Each application must contain a statement of available information on whether the permit area is within an area designated unsuitable for mining under North Dakota Century Code section 38-14.1-05 and chapter 69-05.2-04 or under study for designation in an administrative proceeding.
2. If claiming the exemption in subdivision d of subsection 3 of North Dakota Century Code section 38-14.1-21, the applicant shall provide information supporting the assertion of substantial legal and financial commitments made before January 4, 1977.

**History:** Effective August 1, 1980; amended effective May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-05, 38-14.1-14, 38-14.1-21



**CHAPTER 69-05.2-10  
PERMIT APPLICATIONS - REVIEW, PUBLIC PARTICIPATION, AND  
APPROVAL OR DISAPPROVAL**

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69-05.2-10-01	Permit Applications - Public Notices of Filing
69-05.2-10-02	Permit Applications - Informal Conferences
69-05.2-10-03	Permit Applications - Criteria for Permit Approval or Denial
69-05.2-10-04	Permit Applications - Criteria for Permit Approval or Denial - Existing Structures
69-05.2-10-05	Permit Applications - Approval or Denial Actions
69-05.2-10-06	Permit Applications - Permit Approval for Surface Disturbances Over Federal Mineral Estates

**69-05.2-10-01. Permit applications - Public notices of filing.**

1. The advertisement required by North Dakota Century Code section 38-14.1-18 must also include:
  - a. The applicant's name and business address.
  - b. A map or description which must:
    - (1) Clearly show or describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the permit area.
    - (2) Clearly show or describe the exact location and boundaries of the permit area.
    - (3) Show the north point (if a map).
    - (4) State the name of each owner of record of surface rights and, if the applicant proposes to mine coal or conduct activities that may impact future coal recovery, the names of each owner of record of coal rights within the permit boundaries.
  - c. The address of the commission, to whom written comments, objections, or requests for informal conferences on the application may be submitted.
  - d. If an applicant seeks a permit to conduct operations within one hundred feet [30.48 meters] of the outside right of way of a public road or to relocate a public road, a concise statement describing the road, the particular part to be relocated, where the relocation is to occur, and its duration.

2. The commission will distribute appropriate portions of the application to the state advisory committee specified in subsection 2 of North Dakota Century Code section 38-14.1-21 formed to aid the commission in evaluating the operations and reclamation plan. Members of the committee shall forward their evaluation to the commission within forty-five days of receipt.
3. If the application contains prime farmlands to be mined, the commission will furnish the state conservationist of the natural resource conservation service with the prime farmland reclamation plan submitted under section 69-05.2-09-15. The state conservationist shall provide review and comment on the proposed method of soil reconstruction and suggest remedial revisions if the plan is considered inadequate.
4. The applicant shall make a copy of the complete application available for the public to inspect and copy by filing it with the county auditor in the county where the mining is proposed. The applicant shall file the copy by the first date of the newspaper advertisement and any subsequent changes at the same time they are submitted to the commission.
5. In addition to the requirements of subsection 3 of section 38-14.1-18 of the North Dakota Century Code, the commission will notify all federal or state government agencies with authority to issue permits and licenses applicable to the proposed operations as part of the permit coordinating process and those with an interest in the proposed operations. These agencies include the soil conservation district office, the local United States army corps of engineers district engineer, the national park service, and the United States fish and wildlife service.
6. The commission will provide notice and opportunity for hearing for persons seeking and opposing disclosure prior to declaring any permit information confidential. Notice will be published in the official county newspaper of the county where the proposed operations will be located at least fifteen days prior to the hearing. Information requested to be held confidential must be clearly identified by the applicant and submitted separately. Confidential information is limited to:
  - a. Analysis of the chemical and physical properties of the coal to be mined, except information on coal components potentially toxic in the environment.
  - b. The nature and location of archaeological resources on public land and Indian land as required by the Archaeological Resources Protection Act of 1979.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; June 1, 1997; April 1, 2007.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-18

**69-05.2-10-02. Permit applications - Informal conferences.**

1. A request for an informal conference under subsection 5 of North Dakota Century Code section 38-14.1-18 must be in writing and:
  - a. Briefly summarize the issues the requester will raise.
  - b. State whether the requester desires to have the conference in the locality of the operations.
2. The commission will appoint one or more hearing examiners to preside at informal conferences on applications held under this section. No commissioner may preside at such informal conference. Hearing examiners shall have the authority delegated under section 69-02-04-07.
3. Informal conferences held under this section may be used by the commission as the public hearing opportunity required under section 69-05.2-04-01 on proposed uses or relocation of public roads.

**History:** Effective August 1, 1980; amended effective May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-18

**69-05.2-10-03. Permit applications - Criteria for permit approval or denial.**

1. The commission will not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation, or if any of the following are outstanding:
  - a. Delinquent civil penalties under North Dakota Century Code sections 38-12.1-08 and 38-14.1-32, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation.
  - b. Bond forfeitures where violations upon which the forfeitures were based have not been corrected.
  - c. Delinquent abandoned mine reclamation fees.

- d. Unabated violations of federal and state laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining and reclamation operation.
  - e. Unresolved federal and state failure-to-abate cessation orders.
  - f. Unresolved imminent harm cessation orders.
2. If a current violation exists, the commission will require the applicant or person who owns or controls the applicant, before the permit is issued, to:
    - a. Submit proof that the violation has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation; or
    - b. Establish that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. If the administrative or judicial authority either denies a stay applied for in the appeal or affirms the violation, then any operations being conducted under a permit issued under this section must immediately cease, until the provisions of subdivision a are satisfied.
  3. Any permit issued on the basis of proof submitted under subdivision a of subsection 2 that a violation is being corrected, or pending the outcome of an appeal under subdivision b of subsection 2, will be conditionally issued.
  4. The commission will not issue a permit if it finds the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any state or federal program approved under the Surface Mining Control and Reclamation Act of 1977, of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with those laws, rules, or programs. The applicant, anyone who owns or controls the applicant, or the operator must be given an opportunity for hearing on the determination under North Dakota Century Code section 38-14.1-30.
  5. After an application is deemed ready for approval, but before the permit is issued, the commission's decision to approve or disapprove the application will be made, based on the compliance review required by subsection 1, in light of any new information submitted under

subsection 2 of section 69-05.2-06-01 and subsection 6 of section 69-05.2-06-02.

6. In addition to the requirements of subsection 3 of North Dakota Century Code section 38-14.1-21, no permit or significant revision will be approved, unless the application affirmatively demonstrates and the commission finds, in writing, on the basis of information in the application or otherwise available, which is documented in the approval and made available to the applicant, that:
  - a. The permit area is not on any lands subject to the prohibitions or limitations of North Dakota Century Code section 38-14.1-07 or the area has met the application review procedures of section 69-05.2-04-01.
  - b. For alluvial valley floors:
    - (1) The applicant has obtained either a negative determination; or
    - (2) If the permit area or adjacent area contains an alluvial valley floor:
      - (a) The operations would be conducted according to chapter 69-05.2-25 and all applicable requirements of North Dakota Century Code chapter 38-14.1.
      - (b) Any change in the use of the lands covered by the permit area from its premining use in or adjacent to alluvial valley floors will not interfere with or preclude the reestablishment of the essential hydrologic functions of the alluvial valley floor.
    - (3) The significance of the impact of the operations on farming will be based on the relative importance of the vegetation and water of the developed grazed or hayed alluvial valley floor area to the farm's production, or any more stringent criteria established by the commission as suitable for site-specific protection of agricultural activities in alluvial valley floors.
    - (4) Criteria for determining whether a mining operation will materially damage the quantity or quality of waters include:
      - (a) Potential increases in the concentration of total dissolved solids of waters supplied to an alluvial valley floor to levels above the threshold value at which crop yields decrease, based on crop salt tolerance research studies approved by the commission, unless the applicant demonstrates compliance with subdivision e

of subsection 3 of North Dakota Century Code section 38-14.1-21.

- (b) The increases in subparagraph a will not be allowed unless the applicant demonstrates, through testing related to local crop production that the operations will not decrease crop yields.
  - (c) For types of vegetation specified by the commission and not listed in approved crop tolerance research studies, a consideration must be made of any observed correlation between total dissolved solids concentrations in water and crop yield declines.
  - (d) Potential increases in the average depth to water saturated zones (during the growing season) within the root zone that would reduce the amount of subirrigated land compared to premining conditions.
  - (e) Potential decreases in surface flows that would reduce the amount of irrigable land compared to premining conditions.
  - (f) Potential changes in the surface or ground water systems that reduce the area available to agriculture as a result of flooding or increased root zone saturation.
- (5) For the purposes of this subsection, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage [hectarage] and boundaries in existence prior to July 1, 1979, or, if established after July 1, 1979, with boundaries based on enhancement of the farm's agricultural productivity not related to mining operations.
- (6) If the commission determines the statutory exclusions of subsection 3 of North Dakota Century Code section 38-14.1-21 do not apply and that any of the findings required by this section cannot be made, the commission may, at the applicant's request:
- (a) Determine that mining is precluded and deny the permit without the applicant filing any additional information required by this section; or
  - (b) Prohibit surface coal mining and reclamation operations in all or part of the area to be affected by mining.

- c. The applicant has, with respect to prime farmland, obtained either a negative determination or if the permit area contains prime farmlands:
    - (1) The postmining land use will be cropland.
    - (2) The permit specifically incorporates the plan submitted under section 69-05.2-09-15 after consideration of any revisions suggested by the natural resource conservation service.
    - (3) The operations will be conducted in compliance with chapter 69-05.2-26 and other standards required by this article and North Dakota Century Code chapter 38-14.1.
    - (4) The permit demonstrates that the applicant has the technological capability to restore prime farmland, within a reasonable time, to equivalent or higher yields as nonmined prime farmland in the surrounding area under equivalent management practices.
    - (5) The aggregate total prime farmland acreage will not be decreased from that which existed prior to mining based on the cooperative soil survey. Any postmining water bodies that are part of the reclamation must be located within the nonprime farmland portions of the permit area. If any such water bodies reduce the amount of prime farmland that a surface owner had before mining, the affected surface owners must consent to the creation of the water bodies and the plans must be approved by the commission.
  - d. The operations will not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats.
  - e. The applicant has submitted proof that all reclamation fees required by 30 CFR subchapter R have been paid.
  - f. The applicant has, if applicable, satisfied the requirements for approval of a cropland postmining land use under section 69-05.2-22-01.
7. The commission may make necessary changes in the permit to avoid adverse effects on finding that operations may adversely affect any publicly owned park or places included on the state historic sites registry or the national register of historic places. Operations that may adversely affect those parks or historic sites will not be approved

unless the federal, state, or local governmental agency with jurisdiction over the park or site agrees, in writing, that mining may be allowed.

**History:** Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994; July 1, 1995; June 1, 1997; May 1, 2001.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-21, 38-14.1-33

**69-05.2-10-04. Permit applications - Criteria for permit approval or denial - Existing structures.**

1. No application which proposes to use an existing structure will be approved, unless the applicant demonstrates and the commission finds in writing that:
  - a. If the applicant proposes to use an existing structure under the exemption provided in subsection 4 of section 69-05.2-09-03:
    - (1) The structure meets the performance standards of North Dakota Century Code chapter 38-14.1 and this article.
    - (2) There will be no significant harm to the environment or public health or safety.
  - b. If the commission finds that an existing structure does not meet the performance standards, the applicant shall submit a compliance plan for modifying or rebuilding the structure. The permit will not be issued unless the commission finds that:
    - (1) The modification or reconstruction will bring the structure into compliance with the design and performance standards of this article and North Dakota Century Code section 38-14.1-24 as soon as possible, but not later than six months after permit issuance;
    - (2) The risk to the environment or to public health or safety is not significant during modification or reconstruction; and
    - (3) The applicant will monitor the structure to determine compliance with this article and North Dakota Century Code section 38-14.1-24.
2. Should the commission find that the existing structure cannot be reconstructed without causing significant harm to the environment or public health or safety, the applicant shall abandon the existing structure. The structure must not be used after the effective date of the

permit. Structure abandonment must proceed on a schedule approved by the commission under section 69-05.2-13-11.

**History:** Effective August 1, 1980; amended effective May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-14, 38-14.1-21

**69-05.2-10-05. Permit applications - Approval or denial actions.** The commission will approve, require modification of, or deny all applications for permits according to the following:

1. The commission will not approve or disapprove a permit application prior to the expiration of the thirty-day period for requesting an informal conference or the filing of written comments or objections following the last publication of the public notice required by North Dakota Century Code section 38-14.1-18.
2. If no informal conference has been held under North Dakota Century Code section 38-14.1-19, the commission will approve, require modification of, or deny all permit applications within the review period specified in section 69-05.2-05-01.
3. If an application is approved, the permit will contain the following conditions:
  - a. The permittee shall minimize adverse impacts to the environment or public health and safety resulting from noncompliance with any term or condition, including:
    - (1) Accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance.
    - (2) Immediate implementation of compliance measures.
    - (3) Warning, as soon as possible after learning of noncompliance, any person whose health and safety is in imminent danger.
  - b. The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the treatment or control of waters or atmospheric emissions as required by North Dakota Century Code chapter 38-14.1, this article, and any other applicable law.
  - c. The permittee shall conduct operations:
    - (1) To prevent significant, imminent environmental harm to public health or safety; and

- (2) Utilizing methods specified in the permit if the commission approves alternative methods of compliance with the performance standards of North Dakota Century Code section 38-14.1-24 and this article.
- d. The operator shall pay all reclamation fees required by 30 CFR subchapter R for coal produced under the permit for sale, transfer, or use.
- e. Within thirty days after a cessation order is issued under North Dakota Century Code section 38-14.1-28, except where a stay of the cessation order is granted and remains in effect, the permittee shall either submit the following information, current to the date the cessation order was issued, or notify the commission in writing that there has been no change since the last submittal:
  - (1) Any new information needed to correct or update the information previously submitted under subdivision e of subsection 1 of section 69-05.2-06-01; or
  - (2) If not previously submitted, the information required from a permit applicant by subdivision e of subsection 1 of section 69-05.2-06-01.
4. When the application is approved, the commission will publish notice in the official county newspapers and in daily newspapers of general circulation in the area of the proposed operations. The publication will provide a summary of the decision and notice that any person with an interest which is or may be adversely affected may request and initiate formal hearing procedures on the decision and may request temporary relief from permit issuance within thirty days of the publication of the notice.
5. At the time of publication of the decision required by subsection 4, the commission will:
  - a. Provide copies of all findings, decisions, and orders on an application to:
    - (1) Each person and government official who filed a written objection or comment.
    - (2) Each reclamation advisory committee member.
    - (3) The office of surface mining reclamation and enforcement, together with a copy of the approved application materials.

- b. Notify the appropriate government officials in the relevant county that a permit application has been approved and describe the location of the lands.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; May 1, 1992.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-03, 38-14.1-21

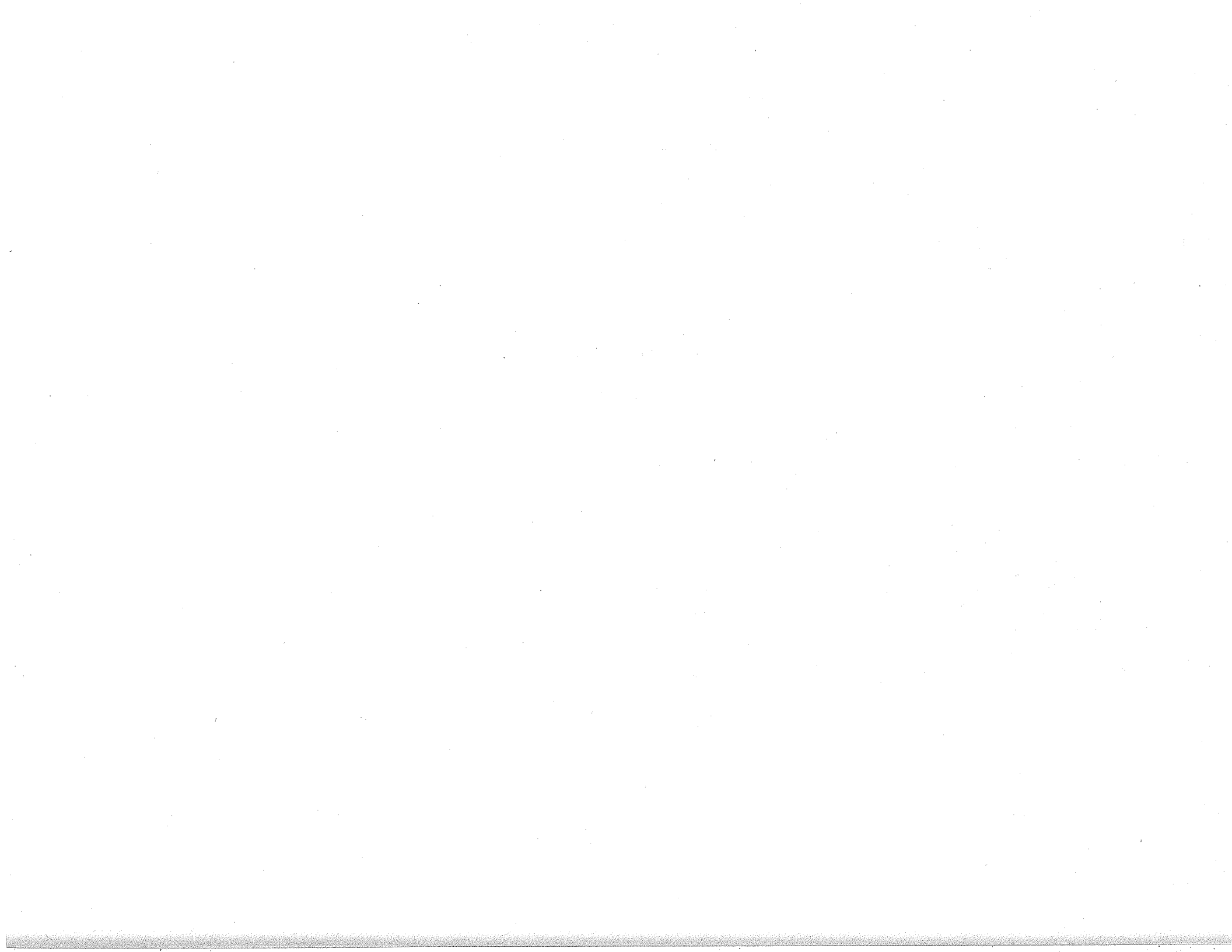
**69-05.2-10-06. Permit applications - Permit approval for surface disturbances over federal mineral estates.** The commission may approve and issue permits, revisions, and renewals for operations on lands where the surface estate is nonfederal and the mineral estate is federal, if:

1. The proposed surface disturbances support operations on adjacent nonfederal lands.
2. The commission consults with the office of surface mining reclamation and enforcement, to ensure that actions are not taken which would substantially and adversely affect the federal mineral estate.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-21, 38-14.1-22, 38-14.1-23



**CHAPTER 69-05.2-12**  
**PERFORMANCE BONDS - LIABILITY INSURANCE**

Section	
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69-05.2-12-05.1	Performance Bond - Self-Bond of Permit Applicant
69-05.2-12-06	Performance Bond - Replacement of Bonds
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69-05.2-12-08	Performance Bond - Adjustment of Amount
69-05.2-12-09	Performance Bond - Period of Liability
69-05.2-12-10	Performance Bond - Request for Reduction [Repealed]
69-05.2-12-11	Release of Performance Bond - Criteria for Bond Release
69-05.2-12-12	Release of Performance Bond - Bond Release Application
69-05.2-12-13	Release of Performance Bond - Location of Hearing
69-05.2-12-14	Release of Performance Bond - Commission Inspection - Time of Release
69-05.2-12-15	Release of Performance Bond - Objections to the Decision and Request for a Public Hearing
69-05.2-12-16	Forfeiture of Performance Bond - Procedures
69-05.2-12-17	Forfeiture of Performance Bond - Criteria [Repealed]
69-05.2-12-18	Forfeiture of Performance Bond - Amount of Forfeiture
69-05.2-12-19	Permit Revocation - Forfeiture of Performance Bond [Repealed]
69-05.2-12-20	Liability Insurance

**69-05.2-12-01. Performance bond - General requirements.**

1. Permit applicants shall submit an estimate of bond for the entire permit area or that area specified in subsection 5.
2. The commission will review the estimated bond amount, approve or modify the required amount and notify the applicant.
3. Liability on the bond must cover all surface coal mining and reclamation operations to be conducted within the legally described area attached to the bond.
4. The applicant may file either the entire bond for the permit term or an incremental bond schedule and bond required for the first scheduled increment. Increments must be of sufficient size and configuration to provide for efficient reclamation operations should reclamation by the regulatory authority become necessary under section 69-05.2-12-18.

5. When the permittee elects to increment the amount of the bond, the permittee shall:
  - a. Furnish a legal description of each incremental area.
  - b. Furnish a schedule when each increment will require bond.
  - c. Furnish with the application the estimated costs for the commission to complete the reclamation plan for the initial increment.
  - d. Provide the estimated cost to complete the reclamation plan for the next increment at least ninety days prior to the expected starting date of mining.
6. The permittee will be notified of the commission's bond determination within thirty days of receipt of the permittee's reclamation cost estimate for the next bond increment.
7. The permittee shall not disturb the bond area prior to commission approval of the entire bond or incremental bond covering the area to be affected.
8. Once surface coal mining operations have begun within the bond area, adequate bond coverage must be in effect at all times. Except as provided by subsection 3 of section 69-05.2-12-03, operating without a bond is a violation of a permit condition.
9. The indemnity agreement for a collateral bond or self-bond must be executed according to the following:
  - a. If a corporation or rural electric cooperative:
    - (1) By two officers authorized to sign the agreement by a resolution of the board of directors, a copy of which must be provided; and
    - (2) To the extent the history or assets of a parent organization are relied upon to make the required showings for a collateral bond or self-bond, by every parent organization at any tier.
  - b. If a partnership, each general partner and each parent organization or principal investor. "Principal investor" or "parent organization" means anyone with a ten percent or more beneficial ownership interest, directly or indirectly, in the applicant.
  - c. If married, the permit applicant's spouse, if directly involved as part of the business on a regular basis or as an officer of the organization.

10. The name of each person who signs the indemnity agreement must be typed or printed beneath the signature. The agreement is binding jointly and severally on all who execute it.
11. The commission may allow the posting of more than one bond to guarantee specific phases of reclamation within the permit area provided the sum of phase bonds posted equals or exceeds the total amount required under sections 69-05.2-12-07 and 69-05.2-12-08. The scope of work to be guaranteed and the liability assumed under each phase bond must be specified in detail and approved by the commission before posting the bonds.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; May 1, 1992; January 1, 1993; March 1, 2004.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-02. Performance bond - Form of the performance bond.** The form for the performance bond shall be either:

1. A surety bond;
2. A collateral bond;
3. A self-bond; or
4. A combination of the above.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-03. Performance bond - Surety bond.** Surety bonds shall be subject to the conditions of subsections 6 and 7 of North Dakota Century Code section 38-14.1-16 and the following conditions:

1. The notice required by subsection 6 of North Dakota Century Code section 38-14.1-16 shall be by certified mail to the permittee and the commission and is not effective until received by both.
  - a. Cancellation is not effective for lands subject to bond coverage which are disturbed after receipt of notice, but prior to approval by the commission.
  - b. The commission may approve cancellation if a replacement bond is filed by the permittee prior to the cancellation date, or the permit is revised so that the surface coal mining operations approved under the permit are reduced to cover all the costs for completion of reclamation operations.

2. The bond must provide that:
  - a. The surety will promptly notify the permittee and the commission of any notice received or action filed alleging the insolvency or bankruptcy of the surety, or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's license to do business.
  - b. If the surety becomes unable to fulfill its obligations under the bond, it shall immediately notify the permittee and the commission.
  - c. The surety and permittee are jointly and severally liable.
  - d. The surety may not cancel the bond during the period of liability, except as provided in subsection 6 of North Dakota Century Code section 38-14.1-16 and subsection 1 of this section.
3. Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license to do business in North Dakota, the permittee is deemed to be without bond coverage and shall, after receiving notice from the commission, substitute for that surety, a surety licensed to do business in North Dakota, or provide a substitute performance bond. If substitution is not made within thirty days, the commission may suspend the permit. If substitution is not made within ninety days, the commission will suspend the permit, and the operator shall cease surface mining activities and comply with section 69-05.2-13-11.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; May 1, 1990.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-04. Performance bond - Collateral bond.** The guarantor of a collateral bond may be the permit applicant or a qualified third party.

1. Collateral bonds are subject to the following conditions:
  - a. All collateral must be kept in the commission's custody until authorized for release or replacement.
  - b. Collateral must be valued at market value.
  - c. Certificates of deposit must be assigned to the state, in writing, and upon the books of the issuer.
  - d. Except for certificates issued by the Bank of North Dakota, the commission will not accept an individual certificate in excess of one hundred thousand dollars, or the maximum amount insured by the

federal deposit insurance corporation and the federal savings and loan insurance corporation, whichever is greater.

- e. An issuer shall waive all rights of setoff or lien against the certificate.
  - f. The commission will accept only automatically renewable certificates of deposit.
  - g. The permit applicant shall deposit sufficient collateral to assure the commission will be able to liquidate the certificates prior to maturity, upon forfeiture, for the amount of the bond.
2. A collateral bond pledging a letter of credit may be approved by the commission subject to the following conditions:
- a. The permit applicant has obtained prior commission approval for the bank issuing the letter of credit.
  - b. The commission may accept a letter of credit which is irrevocable for a term of at least one year if:
    - (1) The letter of credit is automatically renewable for additional terms unless the bank gives at least ninety days prior written notice to the commission and the permittee of its intent to terminate the letter of credit at the end of the current term.
    - (2) The commission has the right to draw upon the letter of credit before the end of its term and convert it into a cash collateral bond if the permittee fails to replace the letter of credit with other acceptable bond within thirty days of the bank's notice to terminate the credit.
  - c. The letter of credit must be payable to the commission in part or in full upon demand and receipt from the commission of a notice of forfeiture issued in accordance with sections 69-05.2-12-16 and 69-05.2-12-18 or demand for payment under paragraph 2 of subdivision b.
  - d. The commission will not accept letters of credit from a bank for a permittee, on permits held by that permittee, in excess of ten percent of the bank's total equity (stock, surplus capital, and retained earnings) as shown on a balance sheet certified by a certified public accountant. A copy of the bank's most recent balance sheet must be provided with the letter of credit and updated balance sheets must be submitted annually to the commission within ninety days after the close of the bank's fiscal year.

- e. A letter of credit is governed by:
    - (1) The laws of the state of North Dakota.
    - (2) The current version of the uniform customs and practices for documentary credits, published by the international chamber of commerce.
  - f. Letters of credit shall provide that the bank will give prompt notice to the permittee and the commission of notices received or actions filed alleging the insolvency or bankruptcy of the bank or alleging violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business. In the event of actions which could result in suspension or revocation of the bank's charter or license, the commission has the right to draw upon the letter of credit before the end of its term and convert it into a cash collateral bond if the permittee fails to replace the letter of credit with a substitute bond within thirty days after receipt of such a notice from the commission. If a substitute bond is not filed and the commission is unable to draw on the letter of credit, the commission will suspend the permit and the operator shall cease surface coal mining activities and comply with section 69-05.2-13-11.
- 3. For a collateral bond the guarantor shall execute an indemnity agreement according to subsections 9 and 10 of section 69-05.2-12-01.
  - 4. Persons with an interest in collateral posted as a bond, who desire notice of actions relating to the bond, shall request the notice in writing to the commission when collateral is offered.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; May 1, 1990; March 1, 2004.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-05. Performance bond - Self-bond of permit applicant.**  
Repealed effective June 1, 1983.

**69-05.2-12-05.1. Performance bond - Self-bond of permit applicant.**

- 1. The commission may accept a self-bond if the following conditions are met:
  - a. The applicant designates an agent for service of process in the state.
  - b. The applicant has been in continuous operation as a business entity the five years preceding the application. The commission may allow a joint venture with less than five years of continuous

operation if each member has been in continuous operation for the five years preceding the application.

c. The applicant submits financial information in sufficient detail to show one of the following:

- (1) The applicant has a current Moody's investors service or Standard and Poor's rating for its most recent bond issuance of "A" or higher.
- (2) The applicant has a tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.
- (3) The applicant's fixed assets in the United States total at least twenty million dollars and the applicant has a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.

d. The applicant submits:

- (1) Financial statements for the last complete fiscal year audited by an independent certified public accountant, and a report containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion; and
- (2) Financial statements for completed quarters in the current fiscal year and additional information requested by the commission.

e. "Tangible net worth" means net worth less intangibles.

2. The commission may accept a written guarantee for an applicant's self-bond from any third-party guarantor, whenever the applicant meets the provisions of subdivisions a, b, and d of subsection 1 and the guarantor meets the provisions of subdivisions a, b, c, and d of subsection 1. The commission may require the applicant to submit information pertaining to the provisions of subdivision c of subsection 1 in order to determine the financial capabilities of the applicant. The written guarantee must provide that:

- a. If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide to the commission funds, up to the bond amount, sufficient to complete the reclamation plan.
- b. The guarantee must remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the

commission at least ninety days in advance of the cancellation date, and the commission accepts the cancellation.

- c. The cancellation may be accepted by the commission if the applicant obtains suitable replacement bond before the cancellation or if the covered lands have not been disturbed.
3. The total amount of the outstanding and proposed self-bonds for surface coal mining and reclamation operations may not exceed twenty-five percent of the applicant's or third-party guarantor's tangible net worth in the United States.
4. If the commission accepts a self-bond, an indemnity agreement executed by the applicant and any third-party guarantor must be submitted subject to the following:
  - a. The indemnity agreement is executed according to subsections 9 and 10 of section 69-05.2-12-01.
  - b. An affidavit is submitted certifying that such an agreement is valid under all applicable federal and state laws.
  - c. The guarantor provides a copy of the corporate authorization demonstrating that it may guarantee the self-bond and execute the indemnity agreement.
  - d. In the event of forfeiture, the applicant or third-party guarantor will complete the approved reclamation plan for the land in default or pay to the commission an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.
5. Self-bonded permittees and third-party guarantors shall submit an update of the information required under subdivisions c and d of subsection 1 within ninety days after the close of their fiscal years.
6. If the financial conditions of the permittee or the third-party guarantor change so that the criteria of this section are not satisfied, the permittee shall notify the commission immediately and post an alternate bond in the same amount as the self-bond. If substitution is not made within thirty days, the commission may suspend the permit. If substitution is not made within ninety days, the commission shall suspend the permit and the operator shall cease surface mining activities and comply with section 69-05.2-13-11.

**History:** Effective May 1, 1988; amended effective January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-06. Performance bond - Replacement of bonds.**

1. The commission may allow permittees to replace one form of bond with another, if the liability is transferred to the replacement bonds.
2. Bonds must remain in effect until the commission has approved replacement bonds.
3. Bond replacement is not a release of bond.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-07. Performance bond - Determination of bond amount.**

1. The amount of bond required is the estimated cost for the commission to perform the reclamation, restoration, and abatement work required.
2. The amount of bond required for each bonded area will:
  - a. Be determined by the commission;
  - b. Depend upon the requirements of the approved permit and reclamation plan;
  - c. Reflect the probable difficulty of reclamation considering topography, geology, hydrology, and revegetation potential; and
  - d. Consider the estimated cost submitted by the permit applicant.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-08. Performance bond - Adjustment of amount.**

1. The commission will review each bond consistent with section 69-05.2-11-01 or more frequently and notify the permittee of any proposed bond adjustment.
2. The commission will reevaluate bonds with the standards in section 69-05.2-12-07.
3. If the commission determines a bond adjustment is required, the permittee is entitled to an informal conference on the adjustment

under chapter 69-05.2-10 and North Dakota Century Code section 38-14.1-19.

4. A permittee may request reduction of the required bond amount upon submission of evidence showing the permittee's operations or other circumstances will reduce the maximum estimated cost for the commission to complete reclamation. Bond reductions which involve undisturbed land or revision of the cost estimate of reclamation are not bond releases. A request for reduction in bond for reclamation work performed on disturbed areas is a request for bond release.

**History:** Effective August 1, 1980; amended effective May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-09. Performance bond - Period of liability.**

1. The bond liability period is the time necessary to meet the requirements of North Dakota Century Code chapter 38-14.1, this article, and the permit and shall continue a minimum of ten years as specified in subsection 2 of section 69-05.2-22-07. The period of extended responsibility begins again whenever augmented seeding, fertilization, irrigation, or other work is required or conducted on the site prior to bond release, unless the management practice conducted is a part of normal management for that particular land use and is approved by the commission.
2. If the commission approves a long-term postmining land use of developed water resources, recreation, residential, industrial, or commercial, the commission may approve a liability period of less than ten years if the other requirements of this subsection and the requirements of subdivisions j and k of subsection 4 of section 69-05.2-22-07 are met prior to the final release of bond.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; July 1, 1995; May 1, 2001.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**69-05.2-12-10. Performance bond - Request for reduction. Repealed effective May 1, 1988.**

**69-05.2-12-11. Release of performance bond - Criteria for bond release.**

1. The commission will not release any bond liability if the release would reduce the total remaining liability to less than that necessary for the commission to complete the required reclamation.

2. Release of bond for any combination of release stages identified in subsection 7 of North Dakota Century Code section 38-14.1-17 requires compliance with the reclamation standards established for each individual bond release stage.

**History:** Effective August 1, 1980; amended effective May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-17

**69-05.2-12-12. Release of performance bond - Bond release application.**

1. The permittee may request the commission release all or part of a bond for lands disturbed after July 1, 1975, as follows:
  - a. For lands disturbed between July 1, 1975, and June 30, 1979, the application must comply with subsection 1 of North Dakota Century Code section 38-14.1-17 and subsections 3 and 4. The criteria for release of all or part of the bond will be according to the reclamation requirements in effect at the time of the disturbance.
  - b. For lands disturbed after June 30, 1979, the application must comply with the requirements of this section and section 69-05.2-12-11.
2. The permittee may file bond release applications only at times and seasons that allow the commission to properly evaluate the completed reclamation operations. Each application for bond release shall include a notarized statement by the permittee which certifies that all applicable reclamation activities have been accomplished in accordance with this article, North Dakota Century Code chapter 38-14.1, and the approved reclamation plan.
3. Within thirty days after filing a request for bond release, the permittee shall submit a copy of the newspaper advertisement that was published as required by North Dakota Century Code section 38-14.1-17. The advertisement published must include the permittee's name.
4. Lands for which the permittee requests final bond release must be legally described and delineated on maps of the permit area. Lands requested for partial bond release may be either legally described or otherwise clearly depicted and identified on maps of the permit area so the bond release tracts can be distinguished from other lands.
5. When the permittee requests a partial release of bond after regrading under subdivision a of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must, unless waived by

the commission, include surface profiles or topographic maps in accordance with section 69-05.2-21-06.

6. When the permittee requests a partial release of bond after resspreading suitable plant growth material under subdivision b of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include the thickness of the resspread first lift and second lift suitable plant growth materials.
7. When the permittee requests a partial release of bond after vegetation has been established under subdivision c of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include:
  - a. The data collected, analyses conducted, and a narrative demonstrating vegetation establishment as required by subsection 3 of section 69-05.2-22-07.
  - b. Documentation that the lands to which the release would be applicable are not contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 69-05.2-16-04.
  - c. A discussion of how the provisions of a plan approved by the commission for the sound future management of any permanent impoundment by the permittee or landowner have been implemented.
8. When the permittee requests final bond release under subdivision d of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include:
  - a. The data collected, analyses conducted, and a narrative detailing compliance with subsection 4 of section 69-05.2-22-07.
  - b. The history of initial and subsequent seedings and fertilization, including mixtures and rates, appropriate soil tests, supplemental irrigation, or other management practices employed.
  - c. Documentation showing the reestablishment of essential hydrologic functions of alluvial valley floors.
  - d. If a premine water delivery system will not be replaced, the bond release application must address the requirements of subdivision b of subsection 90 of section 69-05.2-01-02.
9. When the permittee requests release of bond for any combination of release stages detailed in subsection 7 of North Dakota Century Code section 38-14.1-17, the application must contain all the information required at each bond release stage.

10. Requests for a reduction in bond amount for reclamation work performed according to subsection 4 of section 69-05.2-12-08 must include a detailed description of the work performed and a new reclamation cost estimate.
11. The commission may request any additional information necessary to evaluate the bond release application.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; May 1, 1992; January 1, 1993; May 1, 2001; March 1, 2004; April 1, 2007.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-17

**69-05.2-12-13. Release of performance bond - Location of hearing.** Any formal hearing on the release of bond under subsection 2 of North Dakota Century Code section 38-14.1-17 shall be held in the city nearest the permit area, or the state capitol, at the option of the objector. Any person having a valid legal interest in a proposed release from bond shall specify preference for the place of hearing in the request for a formal hearing.

**History:** Effective August 1, 1980; amended effective May 1, 1988.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-17

**69-05.2-12-14. Release of performance bond - Commission inspection - Time of release.**

1. The surface owner, agent, or lessee will be notified by the commission of the bond release inspection and may participate in the inspection. If requested by a person with an interest in the bond release, the commission may arrange with the permittee access to the permit area for that person to gather relevant information within the time specified by subsection 3 of North Dakota Century Code section 38-14.1-17.
2. The commission will not release bond until the time to request a formal hearing has expired, or the commission has issued a final decision after a formal hearing.

**History:** Effective August 1, 1980; amended effective May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-17

**69-05.2-12-15. Release of performance bond - Objections to the decision and request for a public hearing.**

1. The permittee or any person having a valid legal interest in the decision to release all or part of the performance bond shall have the right to file written objections to the release and to request a formal hearing under

subsection 3 of North Dakota Century Code section 38-14.1-30 within thirty days of the decision.

2. The location of the formal hearing shall be selected in accordance with section 69-05.2-12-13.

**History:** Effective August 1, 1980; amended effective May 1, 1988.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-17

**69-05.2-12-16. Forfeiture of performance bond - Procedures.** If forfeiture of the bond is required by section 69-05.2-12-18, the commission will:

1. Send notice by certified mail to the permittee and any surety of the commission's final decision to require forfeiture of the bond, the reasons for forfeiture, and the amount to be forfeited.
2. Advise the permittee and any surety of the permittee's right to request judicial review under North Dakota Century Code section 38-14.1-35.
3. Proceed to collect on the bond.

**History:** Effective August 1, 1980; amended effective June 1, 1983; May 1, 1988; January 1, 1993.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16, 38-14.1-30, 38-14.1-33, 38-14.1-35

**69-05.2-12-17. Forfeiture of performance bond - Criteria.** Repealed effective June 1, 1983.

**69-05.2-12-18. Forfeiture of performance bond - Amount of forfeiture.**

If the commission requires performance bond forfeiture, the total amount of all bonds for the bonded area for which liability is outstanding must be forfeited. Any bond proceeds remaining after reclamation is completed will be refunded. If there is more than one bond for a bonded area, including collateral bonds and self-bonds, any proceeds remaining after reclamation work is completed will be refunded proportionately.

**History:** Effective August 1, 1980; amended effective May 1, 1988; May 1, 1992.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16, 38-14.1-30

**69-05.2-12-19. Permit revocation - Forfeiture of performance bond.** Repealed effective June 1, 1983.

**69-05.2-12-20. Liability insurance.**

1. The permittee shall submit to the commission a certificate of public liability insurance in accordance with subsection 3 of North Dakota

Century Code section 38-14.1-14. Minimum coverage for bodily injury and property damage must be one million dollars for each occurrence and two million dollars aggregate.

2. The policy must be maintained in full force during the life of the permit or any renewal, as well as the liability period necessary to complete all reclamation operations under this article.

**History:** Effective August 1, 1980; amended effective June 1, 1983; March 1, 1987; May 1, 1990; May 1, 1992.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16, 38-14.1-30