

APPROVED

DATE: 9-24-08

MOTION

September 24, 2008

Public Service Commission  
Reclamation  
Rulemaking

Case No. RC-07-163

Having received approval from the Attorney General and the federal Office of Surface Mining, I move the Commission adopt the proposed amendments to Article 69-05.2 of the North Dakota Administrative Code in Case No. RC-07-163 and forward them to the Legislative Council for publication.

JRD


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**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**

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**Memorandum**

**TO:** Commissioners Wefald, Cramer and Clark  
Darrell Nitschke  
Illona A. Jeffcoat-Sacco

**FROM:**  Jim Deutsch

**DATE:** September 15, 2008

**SUBJECT:** Reclamation Rulemaking, Case No. RC-07-163

In October 2007, the Commission proposed some reclamation rule changes that were based on a request from the Falkirk Mining Company and staff recommendations. After the January hearing and receipt of the Attorney General's opinion in February, the changes were then submitted to the Office of Surface Mining as State Program Amendment XXXVII (37). OSM approved the changes on September 12, 2008 so the Commission can now adopt the changes and submit them to Legislative Council for review by the Legislative Rules Committee and publication in the Administrative Code. Attached is a motion for the September 24<sup>th</sup> Commission meeting and draft letter to submit the rules to Legislative Council.

The most significant change pertains to the bond ratings for companies that guarantee self-bonds and the others are more minor in nature. At the request of Falkirk, additional language has been added to NDAC 69-05.2-12-05.1 to allow the Commission to accept bond ratings from other national recognized rating organizations for companies that guarantee self-bonds. This is in addition to using Moody's Investors Service or Standards and Poor's ratings.

In NDAC 69-05.2-08-08, the premine land use and vegetation data requirements, some terminology used for native grassland descriptions is being updated to reflect that now used by USDA's Natural Resource Conservation Service. The use of the terms "range site" and "range condition" are being replaced with "ecological site" and "similarity index".

Also, in the permit approval criteria under NDAC 69-05.2-10-03, a cross reference is being changed to Section 69-05.2-04-01.1, rather than 69-05.2-04-01. This is needed due to a rule numbering change that was made several years ago.

Attachments