



Public Service Commission

State of North Dakota

COMMISSIONERS

Kevin Cramer
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28 July 2010

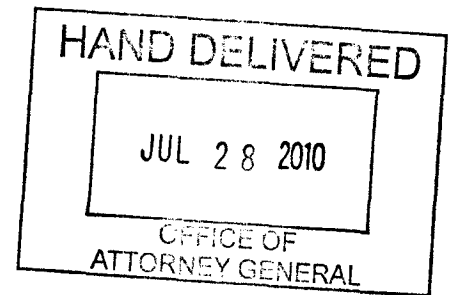
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The Honorable Wayne Stenehjem
North Dakota Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0040

RE:

Weights and Measures and Decommissioning Rulemakings
Case No. WM-10-63 and Case No. PU-10-159

Dear Attorney General Stenehjem:



Enclosed please find proposed amendments to the North Dakota Administrative Code by the North Dakota Public Service Commission. In accordance with N.D.C.C. § 28-32-14, the North Dakota Public Service Commission requests your examination of these rules as to their legality so they may be considered for formal adoption and publication in the North Dakota Administrative Code.

Attached for purposes of review is a copy of each of the following:

- The proposed rule changes as ordered by the Commission (no change from the originally proposed);
- Full Notice of Intent to Amend Administrative Rules;
- Abbreviated Notice of Intent to Amend Administrative Rules;
- Affidavit of Publication from the North Dakota Newspaper Association;
- North Dakota Newspaper Association invoice showing the names of the newspapers where the abbreviated Notice was published;
- A copy of one of the actual notices, as published (others are available if you want them);
- A copy of the cover letter filing the Notice and Administrative Rules with the Legislative Council with the filing acknowledgment;
- Affidavit of Service showing that rules were sent to bill sponsors as applicable;
- A statement for each rule case regarding the required regulatory analyses, takings assessments, and small entity regulatory analysis;
- Staff testimony presented at the 14 July 2010 Public Hearing;
- Comments received on each case (there were none); and

22 PU-10-159 Filed 07/28/2010 Pages: 44
Letter to Attorney General Requesting Examination of Rules for Legality
Public Service Commission

21 WM-10-63 Filed 07/28/2010 Pages: 44
Letter to Attorney General Requesting Examination of Rules for Legality
Public Service Commission

- The 28 July 2010, Public Service Commission Order Submitting Rules to the Attorney General which summarizes the comments and the Commission's consideration of them.

No regulatory analysis was required as the proposed rules are not expected to have an impact on the regulated community in excess of \$50,000, and neither the Governor nor any member of the Legislative Assembly requested a regulatory analysis. No takings assessment was required because the proposed rules do not effect a regulatory taking. No small entity analyses was required for the Weights and Measures rules because the revisions propose no additional compliance standards or reporting requirements and consequently, they will have no economic impact on small entities . No small entity analyses was required for the Decommissioning rules because the existing rules for filing a decommissioning plan are not stringent, and this addition to the rules is written to allow substantial flexibility, so there is no need to provide less-stringent requirements or exemptions for small entities.

The Weights and Measures proposed rules, Case No. WM-10-63, implement legislation from the most recent legislative session, 2009 House Bill 1008. The only written comments filed were received at the hearing and were those of Commission staff and copies are attached. No other oral or written comments were received on the rules.

The proposed Decommissioning rules, Case No. PU-10-159, implement legislation from the most recent legislative session, 2009 House Bill 1449. The only written comments filed were received at the hearing and were those of Commission staff and copies are attached. No other oral or written comments were received on the rules.

As Illona Jeffcoat-Sacco previously discussed with Assistant Attorney General Edward Erickson, we would appreciate your opinion on the rules proposed in Case No. WM-10-63 and Case No. PU-10-159 prior to the next regular Commission meeting scheduled for 4 August 2010. Our reason for requesting expedited action on the Weights and Measures and Decommissioning rules is so the rules can be filed with the Legislative Council by the next filing date of 13 August 2010. If your office could approve the proposed Weights and Measures and Decommissioning rules in time for the Commission meeting on 4th of August it would be most appreciated.

Thank you for your consideration of the rules and our request for expedited review. If you have any questions please do not hesitate to call or email.

Best regards,



Pat Fahh
Director of Compliance and Competitive Markets

enclosures

The Honorable Wayne Stenehjem
28 July 2010
Page 2

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
2010 Weights and Measures Rules
Rulemaking**

Case No. WM-10-63

ARTICLE 69-10

TESTING AND SAFETY DIVISION

Chapter	
69-10-01	Weights and Measures - General
69-10-02	Scales
69-10-03	Standards
69-10-04	Service Registration
69-10-05	Oil and Gas Metering Systems [Repealed]

**CHAPTER 69-10-03
STANDARDS**

Section	
69-10-03-01	National Institute of Standards and Technology (NIST) Handbook No. 44
69-10-03-01.1	National Institute of Standards and Technology (NIST) Handbook No. 44 - NTEP - Exceptions
69-10-03-01.2	National Institute of Standards and Technology (NIST) Handbook No. 105-1 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Class F Field Standard Weights
69-10-03-01.3	National Institute of Standards and Technology (NIST) Handbook No. 105-3 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Graduated Neck-Type Volumetric Field Standards
69-10-03-01.4	National Institute of Standards and Technology (NIST) Handbook No. 105-4 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Liquefied Petroleum Gas and Anhydrous Ammonia Liquid Volumetric Provers
69-10-03-02	Adequate Standards
69-10-03-03	Master Test Weights and Prover Tanks [Repealed]
69-10-03-04	Enforcement [Repealed]
69-10-03-05	Weight Carts [Repealed]
69-10-03-06	Metrology Service [Repealed]
69-10-03-07	Delivery of Standards for Certification [Repealed]
69-10-03-08	Rejection of Standards

69-10-03-02. Adequate standards. A standard used to certify any commercial weighing and measuring device must be annually certified as traceable by a NIST-recognized metrology laboratory. The ~~state-metrologist~~ commission may extend the twelve-month recertification interval up to fifteen months.

A current legible copy of the certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a NIST-recognized laboratory at least once every five years.
2. The volumetric provers used to certify loading-rack meters must be certified traceable by a NIST-recognized laboratory at least once every three years.
3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.
4. A master meter may not be used as a standard to certify commercial LPG devices.
5. Notwithstanding the other provisions of this section, the commission may require recertification of any standard if upon inspection the physical condition of a standard indicates a need for recertification.

History: Amended effective April 1, 1992; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008; _____.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

~~69-10-03-05. Weight carts. Effective January 1, 2002, weight carts not already in service in North Dakota and seeking metrology certification must meet the following design specifications: wheelbase must not exceed sixty inches [152.4 centimeters]; motors must be electric or powered by gel core batteries, gross weight must not exceed five thousand pounds [2267.95 kilograms], tires must be of solid rubber with smooth tread, and sealing cavities must be capable of containing twenty pounds [9.072 kilograms] of lead adjustment.~~

~~History: Effective January 1, 2002.~~

~~General Authority: NDCC 64-02-03~~

~~Law Implemented: NDCC 64-02-02~~

~~Repealed effective _____.~~

~~69-10-03-06, Metrology service. Metrology service at the commission laboratory will only be provided as set out in this section:~~

- ~~1. All metrology service requests must be by appointment only and will be according to the following:
 - a. Testing and safety division metrology;
 - b. State registered service company metrology;
 - c. North Dakota law enforcement metrology;
 - d. Industrial customer metrology; and
 - e. All other metrology.~~
- ~~2. The director shall send out annual appointment notifications by mail to all state registered service companies at least thirty days prior to each company's appointment date.~~
- ~~3. If a party with a scheduled metrology appointment needs to cancel that appointment, the party shall notify the commission of the need to cancel at least seven days in advance of the appointment. Appointments cancelled within less than seven days advance notice will lose scheduling priorities. The party canceling a metrology appointment may request a new appointment date at that time.~~
- ~~4. A metrology appointment must be scheduled at least thirty days in advance.~~
- ~~5. A metrology request not previously scheduled may only be serviced as time becomes available.~~
- ~~6. A metrology request for service beyond the scope of the laboratory's recognition level will be referred to an appropriate NIST-recognized metrology laboratory.~~

~~History: Effective May 1, 2005; amended effective July 1, 2008.~~

~~General Authority: NDCC 64-02-03~~

~~Law Implemented: NDCC 64-02-02~~

~~Repealed effective _____.~~

~~69-10-03-07. Delivery of standards for certification. Standards delivered to the metrology laboratory for testing and certification must be submitted undamaged and serviceable and must comply with the following:~~

- ~~1. Vehicle scale test carts must be cleaned and painted with all fluid levels topped off to their calibrated reference levels.~~
- ~~2. Cast iron weights must be cleaned and painted following the requirements in NIST Handbook No. 105-1, section 2, as adopted by reference in section 69-10-03-01.2.~~
- ~~3. Provers and test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
- ~~4. Provers must have a simple, sturdy, and adequate leveling means on the legs allowing for adequate adjustments.~~
- ~~5. Provers must have two level indicators mounted on the body of the prover at right angles to each other for leveling purposes.~~
- ~~6. Mild steel provers must be periodically painted as determined by the metrologist, and as recorded in the remarks section on the previous year's calibration report.~~
- ~~7. Mild steel test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
- ~~8. Glass F weights must meet the applicable material and design requirements of NIST Handbook No. 105-1, as adopted by reference in section 69-10-03-01.2.~~
- ~~9. Fabricated weights, brass weights, and cast iron weights equal to or less than ten pounds [4.54 kilograms] may not be used.~~
- ~~10. Laminated weights must not be adjusted and must be removed from service when the weights fail to maintain the applicable tolerance.~~
- ~~11. Volume standards placed in service after January 1, 1998, must meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4.~~
- ~~12. A volume standard placed in service before January 1, 1998, that has maintained annual certification need not meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-~~

- ~~03-01.3 and 60-10-03-01.4, unless a standard has been removed from service for a period greater than twelve months.~~
- ~~13. Special seals or special tools required for the test or calibration, which is of a unique nature to a particular standard, must be supplied by the standard owner prior to the beginning of the metrology process.~~
 - ~~14. If weights greater than one hundred pounds [45.36 kilograms] or provers with capacities greater than fifty gallons [189.27 liters] are shipped to the metrology laboratory, the weights or provers must be shipped on an open flatbed truck or trailer.~~
 - ~~15. Standards that are not in compliance with any of the above requirements will not be accepted for testing and certification.~~
 - ~~16. A standard that is not tested and certified may not be used to test and certify a commercial device unless a variance permit is obtained from the commission, or unless the standard is recertified.~~

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

Repealed effective _____.

69-10-03-08. Rejection of standards. ~~Rejected standards~~ Standards rejected by a NIST recognized laboratory must be removed from service as follows:

1. A standard that has been rejected must be conspicuously marked by sealing, tagging, or painting as appropriate to that standard.
2. A rejected standard may not be used to test and certify a commercial weighing and measuring device. The use of a rejected standard may result in commission enforcement action.
3. A standard not meeting appropriate design criteria may be allowed to remain in service for a limited time, provided a variance permit is obtained from the commission prior to certification or recertification.

History: Effective May 1, 2005; amended effective July 1, 2008; _____.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

**CHAPTER 69-10-04
SERVICE REGULATIONS**

Section	
69-10-04-01	Registration of Service Persons
69-10-04-01.1	Registration of Service Companies
69-10-04-02	Application for Registration and Permitting of a Service Person
69-10-04-02.1	Self-Certification
69-10-04-02.2	Application for Registration of a Service Company
69-10-04-02.3	Issuing a Placing in Service Permit
69-10-04-03	Revocation of Registration
69-10-04-04	Reports
69-10-04-05	Standardized Report Forms
69-10-04-06	Quality Control - Witnessing
69-10-04-06.1	Quality Control – Failures [<u>Repealed</u>]
69-10-04-06.2	Procedures for the Quality Control of Registered Service Persons
<u>69-10-04-06.3</u>	<u>Quality Control – Failures</u>
69-10-04-07	Adequate Field Standard Requirements - Exception
69-10-04-08	Devices Taken out of Service [<u>Repealed</u>]

69-10-04-02. Application for registration and permitting of a service person. Annual application for registration as a registered service person must be submitted to the commission under the following requirements:

1. A first-time applicant shall:
 - a. Provide a written history of education and work experience to show that the applicant is fully qualified to repair, test, and certify a commercial weighing or measuring device; and
 - b. Complete written tests that must be taken ~~in Bismarck, North Dakota~~, at a location and time designated by the commission, and must be administered as follows:
 - (1) The written test will be open book, with seventy-five percent as the minimum passing score. The test material will cover the applicable sections of the adopted 1999 edition of NIST Handbook No. 44, North Dakota Century Code title 64, and North Dakota Administrative Code article 69-10; and
 - (2) In the case of a test failure, an applicant may retake the tests after a review period of ten working days.
2. Each applicant registered by the commission shall utilize adequate standards during the testing and certification of a commercial device.
3. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least fifteen days prior to the expiration date of the applicant's existing registration. Each applicant who has renewed an existing registration shall utilize adequate standards during the testing and certification of a commercial device.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005; July 1, 2008; _____.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02.3. Issuing a placing in service permit. Upon acceptance and approval of an application, the commission shall issue a placing in service permit to the applicant. All permits issued under this section remain the property of the commission and must be surrendered upon demand. Permits issued will be either probationary or permanent as defined in this section.

1. Probationary permits.

- a. An applicant with less than three months' experience repairing and placing devices into service will receive a probationary permit;
- b. The duration of a probationary permit will be at the discretion of the ~~testing and safety division director~~ commission but will not exceed six months from the date of testing; and
- c. A probationary permitholder shall be accompanied by, and have each placing in service test report cosigned by, a permanent permitholder from the same service company in order for the test report or the placing in service to be considered valid.

2. Permanent permits.

- a. An applicant with more than three months' experience repairing and placing devices into service will receive a permanent permit;
- b. An applicant who has been previously tested and issued a permanent permit by the commission within the last five years, but has allowed it to expire, will receive a permanent permit; or
- c. A probationary permitholder who has completed probationary time assigned without receiving any quality control failures will receive a permanent permit.

History: Effective May 1, 2005; _____
General Authority: NDCC 64-02-03
Law Implemented: NDCC 64-02-02

69-10-04-06. Quality control – Witnessing Evaluation. The commission may evaluate the work performed by a registered service person to ensure that the person is performing proper inspections and tests. The evaluation method may be by direct observation of a registered service person placing a commercial device into service or by reinspection of a device previously placed into service by a registered service person. The commission shall may consider the following criteria during the evaluation:

1. The results of a random sampling of at least one inspection and test per year, or more if so ordered by the commission, of the devices certified by a registered service person;
2. Complaints filed against a registered service person, and whether those complaints are valid; and
3. Other factors deemed relevant by the commission.

~~The quality control evaluation must be completed within forty five days of the date the work is completed by the registered service person and at no charge to the owner of the device.~~

History: Effective September 1, 1994; amended effective February 1, 1996;
October 1, 1999; July 1, 2008; _____
General Authority: NDCC 64-02-03
Law Implemented: NDCC 64-02-02, 64-02-13

~~60-10-04-06.1. Quality control - Failures. Quality failures must include the outcome of any actual quality control inspections and tests, and any violations of title 64 of the North Dakota Century Code, title 60 of the North Dakota Administrative Code, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 60-10-03-01. If a registered service person fails three consecutive quality control inspections within a twelve-month period, the commission may:~~

- ~~1. Issue either a verbal warning or a formal warning letter requiring remedial action within thirty days from the date of the warning;~~
- ~~2. Schedule a conference with the division director or chief inspector, the registered service person, and that person's supervisor;~~
- ~~3. Require that the registered service person retake the written tests required for licensing under section 60-10-04-02;~~
- ~~4. Reduce the registered service person's permit status to probationary for up to six months; and~~
- ~~5. Suspend the registered service person's permit and assess a civil penalty.~~

~~The results of any quality control failures and associated enforcement actions may be sent to the individual permitholder's company or to the owner or operator of the affected device.~~

~~Any quality control failures and associated enforcement actions must be kept on file as part of the overall quality control profile of the registered service person for a twelve-month period from the date of the failure.~~

~~History: Effective October 1, 1990; amended effective May 1, 2005.~~

~~General Authority: NDCC 64-02-03~~

~~Law Implemented: NDCC 64-02-02, 64-02-13~~

~~Repealed effective _____.~~

69-10-04-06.2. Procedures for the ~~quality control of~~ evaluating work of registered service persons. A quality control inspection to evaluate the work of a registered service person will be conducted as set forth in this section:

1. ~~Quality control inspection selection~~ Selection criteria is as follows includes:
 - a. ~~Established by permitholder number;~~
 - b. ~~Set at one percent, or one placing in services, of average annual production;~~
 - ca. ~~Location of the device versus in relation to~~ location of the appropriate state inspector is a controlling factor;
 - b. Each registered service person whose annual device testing total is at least 100 will be evaluated on one of every 100 devices tested;
 - dc. ~~Each permitholder registered service person whose annual production device testing total is less than twenty one hundred will be placed into a special pool of which ten percent will have a quality control performed each year assigned a trigger~~ quality control level related to the number of total devices tested the previous year;
 - ed. ~~Average annual production must be based upon the previous inspection year totals~~ Receipt of a complaint.
2. A permanent ~~permitholder~~ registered service person who receives multiple quality control inspections within a twelve-month period because of the holder ~~has logged a large number of devices tested placing in services, and; has received not failed a "pass" on the first scheduled quality control inspection for that time period, will receive an "honorary pass" on the second scheduled quality control inspection. If the number of placing services devices tested requires a third quality control inspection for which the holder registered service person receives a "pass" does not fail,~~ the fourth scheduled quality control inspection will again be an "honorary pass".
3. ~~The quality control inspection may be based upon the applicable tolerance, acceptance or maintenance tolerance, or design requirements that are applicable to the device.~~
4. ~~The quality control inspection must be completed within forty-five days from the date of the permitholder's test report.~~

63. A specific quality control inspection ends when the tested device either fails a portion of the inspection or it passes the inspection.
64. If When a device fails a quality control inspection, the ~~failed quality control failure~~ is will be documented ~~for that permit holder,~~ the device is will be rejected, and a follow-up quality control inspection ~~must will~~ be scheduled conducted as soon as practicable ~~on the next device placed into service~~ by the ~~permit holder~~ responsible for the ~~previous quality control failure~~.
7. ~~At the discretion of the division director, weights and measures inspectors may conduct quality control inspections of self-certifying permit holders either by performing a test on that holder's device or by witnessing the testing of a device by the self-certified permit holder.~~

History: Effective May 1, 2005; _____.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.3. Quality control - Failures. A quality control evaluation test report that discloses a failure must include any alleged violations of Chapter 64-03 of the North Dakota Century Code, Chapter 69-10-03 of the North Dakota Administrative Code, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 69-10-03-01. If a registered service person fails three consecutive quality control inspections within a twelve month period, the commission may:

1. Issue a written warning requiring remedial action within thirty days from the date of the warning;
2. Schedule a conference with the registered service person and that person's employer;
3. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;
4. Reduce the registered service person's permit status to probationary for up to six months;
5. Suspend the registered service person's permit and assess a civil penalty.

The results of any quality control failures and associated enforcement actions may be sent to the registered service person's employer and to the owner or operator of the affected device.

A quality control evaluation report and a record of any associated enforcement action is filed as part of the overall quality control profile of the affected registered service person and must remain part of that profile for twelve months from the date of the failure.

History: Effective _____.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities - Decommissioning
Rulemaking

Case No. PU-10-159

69-09-09-06. Decommissioning plan. Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file for commission review the estimated decommissioning cost per turbine, in current dollars at the time of filing, for the proposed facility or turbine and a comprehensive decommissioning plan that describes any expected effect on present and future natural resource development and how the facility or turbine owner or operator plans to pay for decommissioning the facility or turbine as required by section 69-09-10-05 at the appropriate time. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

History: Effective October 1, 2008; _____.

General Authority: NDCC 28-32-02, 49-02-27

Law Implemented: NDCC 49-02-27

**Public Service Commission
Weights and Measures
Rulemaking**

Case No. WM-10-63

**Public Service Commission
Siting
Rulemaking**

Case No. PU-10-128

**Public Service Commission
Electric
Rulemaking**

Case No. PU-10-129

**Public Service Commission
Decommissioning
Rulemaking**

Case No. PU-10-159

**Public Service Commission
Practice and Procedure
Rulemaking**

Case No. AD-10-167

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

June 2, 2010

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code. The hearing will be held at 1:30 p.m., on July 14, 2010, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed revisions to the North Dakota Administrative Code are:

Weights and Measures: Case No. WM-10-63

The North Dakota Metrology Laboratory will officially close on June 30, 2010 and all of the proposed rule changes are related to that closing.

Siting - Case No. PU-10-128

Siting proposed rules incorporate a minor change relating to determining corridor size, a proposed rule concerning requests for jurisdictional determinations, and a proposed rule concerning letters of intent.

5 PU-10-159 Filed 06/02/2010 Pages: 2
Notice of Intent to Amend Admin. Rules
and Notice of Hearing
Public Service Commission

4 AD-10-167 Filed 06/02/2010 Pages: 2
Notice of Intent to Amend Admin. Rules
and Notice of Hearing
Public Service Commission

5 WM-10-63 Filed 06/02/2010 Pages: 2
Notice of Intent to Amend Admin. Rules
and Notice of Hearing
Public Service Commission

4 PU-10-128 Filed 06/02/2010 Pages: 2
Notice of Intent to Amend Admin. Rules
and Notice of Hearing
Public Service Commission

4 PU-10-129 Filed 06/02/2010 Pages: 2
Notice of Intent to Amend Admin. Rules
and Notice of Hearing
Public Service Commission

Electric: Case No. PU-10-129

The renewable electricity and recycled energy tracking proposed rule standardizes the content and format of required annual reports of electric retail providers.

Decommissioning: Case No. PU-10-159

The proposed rule implements the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development.

Practice and Procedure: Case No. AD-10-167

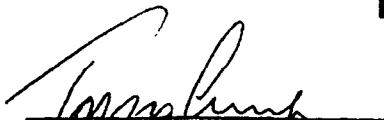
The proposed amendment repeals language regarding practice before the Commission that is inconsistent with the North Dakota Admission to Practice Rules.

All of the proposed rule changes and the statements concerning Regulatory Analyses, Small Entity Analyses and Takings Assessments may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes or the statements contact the Public Service Commission at 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, or 701-328-2400, toll free 1-877-245-6685. This information is also available to view on the Commission's web site at www.psc.state.nd.us under "Formal Actions/Case Search".

Interested persons may submit written comments on the proposed rules. Written comments should be filed with Darrell Nitschke, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480. The comment period closes 10 days after the hearing. Comments received by July 26, 2010 will be considered.

If individuals require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify, Darrell Nitschke, Executive Secretary, at least 24 hours prior to the hearing at 701-328-2400, Relay North Dakota TTY: 1-800-366-6888, or dnitschk@nd.gov.

PUBLIC SERVICE COMMISSION


Tony Clark
Commissioner


Kevin Cramer
Chairman


Brian P. Kalk
Commissioner

NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND NOTICE OF PUBLIC HEARING

June 2, 2010

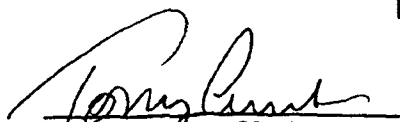
TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to closing the metrology laboratory, determining corridor size, letters of intent, and requests for jurisdictional determinations in energy conversion and transmission facility siting cases, standardizing the content and format of annual reports tracking renewable electricity and recycled energy, implementing the requirement that the commission's wind farm decommissioning rules address present and future natural resource development, and repealing inconsistent language regarding practice before the Commission.


The public hearing will be held at 1:30 p.m., July 14, 2010, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Written comments may be submitted to the Public Service Commission until July 26, 2010.

A copy of the proposed rules may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, or Relay North Dakota TTY: 1-800-366-6888. This information is also available to view on our web site at www.psc.state.nd.us under Formal Actions/Case Search.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission by telephone or by writing to the address above at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION


Tony Clark
Commissioner


Kevin Cramer
Chairman


Brian P. Kalk
Commissioner

5 AD-10-167 Filed 06/02/2010 Pages: 1
Abbreviated Notice of Intent to Amend Admin. Rules and Notice of Hearing
Public Service Commission

5 PU-10-129 Filed 06/02/2010 Pages: 1
Abbreviated Notice of Intent to Amend Admin. Rules and Notice of Hearing
Public Service Commission

6 WM-10-63 Filed 06/02/2010 Pages: 1
Abbreviated Notice of Intent to Amend Admin. Rules and Notice of Hearing
Public Service Commission

6 PU-10-159 Filed 06/02/2010 Pages: 1
Abbreviated Notice of Intent to Amend Admin. Rules and Notice of Hearing
Public Service Commission

5 PU-10-128 Filed 06/02/2010 Pages: 1
Abbreviated Notice of Intent to Amend Admin. Rules and Notice of Hearing
Public Service Commission



Affidavit of Publication RECEIVED

JUL 06 2010

Colleen Park, being duly sworn, states as follows:

PUBLIC SERVICE COMMISSION

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of: **Public Service Commission Administrative Rules**; 1 time(s) as required by law or ordinance (please see attached memo).

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

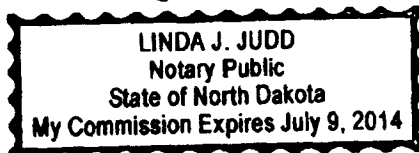
Signed: Colleen Park

State of NORTH DAKOTA

County of BURLEIGH

Subscribed and sworn to before me this 2nd day of July, 20 10.

Linda J. Judd



13 **PU-10-129** Filed: 7/6/2010 Pages: 53
Affidavit of Publication with tear sheets

12 **AD-10-167** Filed: 7/6/2010 Pages: 53
Affidavit of Publication with tear sheets

14 **WM-10-63** Filed: 7/6/2010 Pages: 53
Affidavit of Publication with tear sheets

15 **PU-10-159** Filed: 7/6/2010 Pages: 53
Affidavit of Publication with tear sheets

13 **PU-10-128** Filed: 7/6/2010 Pages: 53
Affidavit of Publication with tear sheets



North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, ND 58503-0567
Ph (701) 223-6397 • Fax (701) 223-8185

RECEIVED

JUL 06 2010

INVOICE

PUBLIC SERVICE COMMISSION

Order 27973-10065PP0

Invoice # 132388

July 2, 2010

Attn: JOHNG. HAMRE
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD AVE.
STATE CAPITOL
BISMARCK, ND 58505

Voice: 701-328-4076

Advertiser: Public Service Commission

P.O.#:

Amount Due

\$2,046.18

Amount Paid

Please detach and return this portion with your payment

When placing an administrative rule notice, please fax or email your request. Regular mail is not always reliable when a deadline must be met. Thank you.

Public Service Commission Invoice # 27973-10065PP0-132388

Ad Size	Rate Type	Rate	Total	Discount (%)	Caption	Page	Run Date
COUNTY							
Ashley Tribune (Ashley ND)	6.50 SPR1	5.41	Did Not Run	0.00	PSC Admin Rules		06/16/10
Ashley Tribune (Ashley ND)	6.50 SPR1	5.41	Did Not Run	0.00	PSC Admin Rules		06/23/10
Ashley Tribune (Ashley ND)	6.50 SPR1	5.57	36.21	0.00	PSC Admin Rules		06/30/10
Beach Golden Valley News (Beach ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/17/10
Bismarck Tribune (Bismarck ND)	6.50 SPR1	10.82	70.33	0.00	PSC Admin Rules		06/14/10
Bottineau Courant (Bottineau ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/15/10
Bowbells Burke County Tribune (Bowbells ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/16/10
Bowman County Pioneer (Bowman ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/18/10
Cando Towner Co Record Herald (Cando ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/19/10
Carrington Foster Co Independ (Carrington ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/14/10
Carson Press (Elgin ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/16/10
Cavalier Chronicle (Cavalier ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/16/10
Center Republican (Hazen ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/17/10
Cooperstown Griggs County Courier (Cooperstown ND)	6.50 SPR1	5.41	35.17	0.00	PSC Admin Rules		06/18/10

12 PU-10-128 Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18

13 WM-10-63 Filed: 7/6/2010 Pages: 3

12 PU-10-129 Filed: 7/6/2010 Pages: 3

AD-10-167 Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18

11

PU-10-159 Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18

14

<i>Ad Size</i>	<i>Rate Type</i>	<i>Rate</i>	<i>Total</i>	<i>Discount (%)</i>	<i>Caption</i>	<i>Page</i>	<i>Run Date</i>
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6.50	SPR1	7.35	47.78	0.00	PSC Admin Rules		06/14/10
Dickinson Press (Dickinson ND)							
6.50	SPR1	7.35	47.78	0.00	PSC Admin Rules		06/13/10
Elgin Grant County News (Elgin ND)							
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Ellendale Dickey Co Leader (Ellendale ND)							
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Fargo, The Forum (Fargo ND)							
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Finley Steele County Press (Finley ND)							
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Garrison McLean Co Independ (Garrison ND)							
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Jamestown Sun (Jamestown ND)							
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Killdeer Dunn County Herald (Killdeer ND)							
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LaMoure Chronicle (LaMoure ND)							
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Langdon Cavalier Co Republican (Langdon ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/14/10
Linton Emmons County Record (Linton ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/17/10
Lisbon Ransom County Gazette (Lisbon ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/14/10
Mandan News (Bismarck ND)							
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Mayville * Traill County Tribune (Mayville ND)							
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McClusky Gazette (McClusky ND)							
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Medora Billings Co Pioneer (Beach ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/17/10
Milnor Sargent County Teller (Milnor ND)							
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COUNTY

Minnewaukan Benson Co Farmers Press (Minnewaukan ND)							
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Rugby Pierce County Tribune (Rugby ND)							
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Stanley Mountrail Co Promoter (Stanley ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/16/10
Steele Ozone & Kidder Co. Press (Steele ND)							
6.50	SPR1	5.41	35.17	0.00	PSC Admin Rules		06/16/10
Towner Mouse River Journal (Towner ND)							
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Valley City Times-Record (Valley City ND)							
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Wahpeton Daily News (Wahpeton ND)							
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Watford City McKenzie Co Farmer (Watford City ND)							
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Williston Herald (Williston ND)							
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Gross Advertising	2,046.18	Total Misc	0.00	Amount Paid	0.00
Agency Discount		Tax	0.00	Adjustments	0.00
Other Discount	0.00	Total Billed	2,046.18	Payment Date	
Service Charge	0.00	Unbilled	0.00	Balance Due	2,046.18

Your payment is due upon receipt. Thank you in advance for your prompt payment!



North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, ND 58503-0567
Ph (701) 223-6397 • Fax (701) 223-8185

RECEIVED

JUL 06 2010

INVOICE

PUBLIC SERVICE COMMISSION

Order **27973-10065PP0**

Invoice # **132388**

July 2, 2010

Attn: **JOHNG. HAMRE**
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD AVE.
STATE CAPITOL
BISMARCK, ND 58505

Voice: 701-328-4076

Advertiser: **Public Service Commission**

P.O.#:

Amount Due

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Amount Paid

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12 **PU-10-128** Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18

13 **WM-10-63** Filed: 7/6/2010 Pages: 3

12 **PU-10-129** Filed: 7/6/2010 Pages: 3

11 **AD-10-167** Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18
14 **PU-10-159** Filed: 7/6/2010 Pages: 3
Invoice #132388 Order 27973-10065PP0 \$2,046.18

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Service Charge	0.00	Unbilled	0.00	Balance Due	2,046.18

Your payment is due upon receipt. Thank you in advance for your prompt payment!

envelope contains a bid for the above project. In addition, the bidder shall place upon the exterior of such envelope the following information:

1. The work covered by the bidder
2. The name of the bidder
3. Separate envelope containing bid bond and a copy of Contractor's License or Renewal Certificate
4. Acknowledgement of the Addenda.

The work shall be completed by December 31, 2010.

The County Commission reserves the right to reject any and all bids to waive any informality in any bid, to hold all bids for a period not to exceed thirty (30) days from the date of opening bids, and to accept the bid deemed most favorable to the interest of Billings County.

Should the Contractor fail to complete the work within the time required herein or within such extra time as may have been granted by formal extensions of time approved by the Owner, there will be deducted from any amount due the Contractor the sum of \$200 per day for each day and every day that the completion of the work is delayed. The Contractor and his surety will be liable for any excess. Such payment will be as and for liquidated damages and not as a penalty.

All bidders are invited to be present at the public opening of the bids.

Dated this 1st day of June, 2010.

COUNTY OF BILLINGS, NORTH DAKOTA

s/ Joan Jurgens

Joan Jurgens, County Auditor
(June 10, 17 and 24)

Notice to Creditors

Probate No. 17-10-P-016

State of North Dakota,

In District Court, County of Golden Valley, Southwest Judicial District

In the Matter of the Estate of ROBERT W. McDANOLD, also known as Robert W. McDonald, Deceased.

NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative of the above estate. All persons having claims against the said deceased are required to present their claims within three months after the date of the first publication of this notice or said claims will be forever barred. Claims must either be presented to Ken Stedman, Personal Representative of the estate, at 137 First Avenue West, Dickinson, North Dakota, or filed with the Court.

HARDWARE,	189.74
24458, PRAXAIR,	137.23
24459, PREBLE MEDICAL SERVICES, INC,	75.00
24460, QUILL CORPORATION,	1,683.37
24461, RELIABLE OFFICE SUPPLIES,	533.95
24462, REMINGTON, DARREL,	340.00
24463, ROLLER, EDWARD,	103.47
24464, RUDY'S LOCK & KEY,	6.30
24465, SCHAIBLE, TIMOTHY O,	1,406.00
24466, SCHOOL NUTRITION ASSOCIATION,	33.25
24467, SMOLNIKAR, CAROLE,	187.50
24468, SOUTH HEART SCHOOL DISTRICT, 13,	227.98
24469, SOUTHWEST BUSINESS MACHINES,	411.91

Motion carried unanimously.

M/S Ebert/Krebs to offer L. Marie Lorge (elementary principal/teacher) a salary of \$50,000 for the 2010-2011 school year. Motion carried unanimously.

M/S Krebs/buckman to offer Jeffrey Lamprecht (HS principal/teacher/tech coordinator) a salary of \$54,600 for the 2010-11 school year. Motion carried unanimously.

M/S Krebs/Kadmas to offer Darrel A. Remington (superintendent) a

ABBREVIATED NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

relating to
Underground Storage Tanks
North Dakota
Department of
Health

will hold a public hearing to address proposed changes to the N.D. Admin. Code Chapter 33-24-08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks.

ND Dept. of Health
4th Floor Conference Rm.
918 E. Divide Ave.
Bismarck, ND
Wed., July 14, 2010
1:30 p.m. CDT

A copy of the proposed amendments may be obtained by writing the North Dakota Dept. of Health, Division of Waste Management, 918 E. Divide Ave., 3rd Floor, Bismarck, ND 58501-1947 or calling 701-328-5166. The proposed amendments can also be reviewed or downloaded from the Division's web site at www.ndhealth.gov/wm/PublicNotices.aspx. Written comments on the proposed amendments may be submitted to the above mailing address until July 24, 2010. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Division at the above phone number or address at least seven (7) days prior to the public hearing.

NOTICE OF INTENT TO AMEND

ADMINISTRATIVE RULES

relating to closing the metrology laboratory, determining corridor size, letters of intent, and requests for jurisdictional determinations in energy conversion and transmission facility siting cases, standardizing the content and format of annual reports tracking renewable electricity and recycled energy, implementing the requirement that the commission's wind farm decommissioning rules address present and future natural resource development, and repealing inconsistent language regarding practice before the Commission.

Public Service Commission

will hold a public hearing to address proposed changes to the N.D. Admin. Code.

Commission Hearing Rm.
12th Floor
State Capitol
Bismarck, ND
Wed., July 14, 2010
1:30 p.m.

A copy of the proposed rules may be obtained by writing the Public Service Commission, 600 E. Boulevard Ave., Dept. 408, Bismarck, ND 58505-0480 or by calling (701) 328-2400, toll free 1-877-245-6685 or Relay North Dakota TTY: 1-800-366-6888. This information is also available to view on our web site at www.psc.state.nd.us under Formal Actions/Case Search. Also, written comments may be submitted to the Public Service Commission at the above address, until July 26, 2010. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission by telephone or by writing to the address above at least 24 hours prior to the public hearing.

Tony Clark, Commissioner
Kevin Cramer, Chairman
Brian P. Kalk, Commissioner

6/17 Beach

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities - Decommissioning
Rulemaking

Case No. PU-10-159

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Shelly A. Bauske deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 7th day of June, 2010, she deposited in the United States Mail, at Bismarck, North Dakota, one envelope by regular mail, with postage fully prepaid, securely sealed and containing a photocopy of:

**Notice of Intent to Amend Administrative Rules and
Notice of Public Hearing
Proposed Rule – 69-09-09-06**

The envelope was addressed as follows:

Representative Duane DeKrey
4323 27th St SE
Pettibone ND 58475-9357

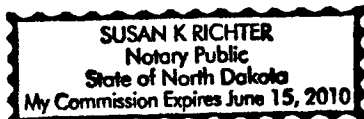
Each address shown is the respective addressee's last reasonably ascertainable post office address.

Shelly A Bauske

Subscribed and sworn to before me
this 7th day of June 2010.

Susan K Richter
Notary Public

SEAL



**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
2010 Weights and Measures Rules
Rulemaking**

Case No. WM-10-63

**STATEMENT ON REGULATORY ANALYSIS, SMALL ENTITY ANALYSIS
AND TAKINGS ASSESSMENT**

The purpose of the 2010 Weights and Measures rule amendments consist of the following: In 2009 House Bill 1008 and in the Commission's 2009-2011 budget, the 2009 Legislature determined that the North Dakota Metrology Laboratory should be closed. Neither the Commission's proposed budget nor the Governor's 2009-2011 recommended budget included any funding for the state metrology program. In his 2007-2009 budget, the Governor recommended that both state and private working standards be sent to the NIST-accredited metrology laboratory in St. Paul, Minnesota. The Commission agreed with that recommendation. The metrology laboratory will officially close on June 30, 2010. All of the rule changes in this proceeding are either a direct or indirect result of that legislative action.

Regulatory Analysis

N.D.C.C. § 28-32-08 requires an agency to prepare a regulatory analysis if the rule is expected to have an impact on the regulated community in excess of fifty thousand dollars. The law provides, in part:

2. The regulatory analysis must contain:
 - a. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
 - b. A description of the probable impact, including economic impact, of the proposed rule;
 - c. The probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and
 - d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why the methods were rejected in favor of the proposed rule.

The proposed rules are not expected to impact the regulated community in excess of fifty thousand dollars. In addition, the rule changes are required due to legislation closing the Metrology Lab.

Small Entity Regulatory Analysis

N.D.C.C. § 28-32-08.1 requires that before adoption of any proposed rule, the adopting agency prepare a regulatory analysis in which the agency considers options to minimize adverse impact on small entities. The law provides, in part:

2. . . . The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:
 - a. Establishment of less stringent compliance or reporting requirements for small entities;
 - b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
 - c. Consolidation or simplification of compliance or reporting requirements for small entities;
 - d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
 - e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by these rule changes and consequently, they will have no economic impact on small entities and no accommodation is necessary.

Takings Assessment

N.D.C.C. § 28-32-09 requires an entity to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private real property. The law provides, in part:

1. . . . The agency's assessment must:
 - a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
 - b. Clearly and specifically identify the purpose of the proposed rule.

- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

No regulatory taking of private real property is associated with these proposed rules.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Public Utilities - Decommissioning
Rulemaking**

Case No. PU-10-159

**STATEMENT ON REGULATORY ANALYSIS, SMALL ENTITY ANALYSIS
AND TAKINGS ASSESSMENT**

The 2009 North Dakota Legislature amended North Dakota Century Code section 49-02-27 to require the Public Service Commission to adopt rules governing decommissioning of commercial wind energy conversion facilities that address, among other things, present and future natural resource development. Therefore, the Commission is proposing to amend North Dakota Administrative Code section 69-09-09-06 to add a requirement that decommissioning plans filed with the commission include a description of any expected effect on present and future natural resource development.

Regulatory Analysis

N.D.C.C. § 28-32-08 requires an agency to prepare a regulatory analysis if the rule is expected to have an impact on the regulated community in excess of fifty thousand dollars. The law provides, in part:

2. The regulatory analysis must contain:
 - a. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
 - b. A description of the probable impact, including economic impact, of the proposed rule;
 - c. The probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and
 - d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why the methods were rejected in favor of the proposed rule.

The expected effect on present and future natural resource development will likely be considered in the normal course of business when planning to decommission wind turbines. Amending the rule codifies this practice.

Therefore, the proposed rules are not expected to have an impact on the regulated community in excess of fifty thousand dollars and a regulatory analysis is not required.

Small Entity Regulatory Analysis

N.D.C.C. § 28-32-08.1 requires that before adoption of any proposed rule, the adopting agency prepare a regulatory analysis in which the agency considers options to minimize adverse impact on small entities. The law provides, in part:

2. . . . The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:
 - a. Establishment of less stringent compliance or reporting requirements for small entities;
 - b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
 - c. Consolidation or simplification of compliance or reporting requirements for small entities;
 - d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
 - e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

The existing rules for filing a decommissioning plan are not stringent, and this addition to the rules is written to allow substantial flexibility, so there is no need to provide less-stringent requirements or exemptions for small entities.

Takings Assessment

N.D.C.C. § 28-32-09 requires an entity to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private real property. The law provides, in part:

1. . . . The agency's assessment must:
 - a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
 - b. Clearly and specifically identify the purpose of the proposed rule.

- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

Given that the proposed rules do not limit the use of private real property, a written assessment of the constitutional takings is not required.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Weights and Measures
Rulemaking**

Case No. WM-10-63

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

July 14, 2010

I am Patrick Fahn, Director of the Compliance and Competitive Markets Division with the Public Service Commission.

The proposed amendments repeal language to directly or indirectly reflect action by the legislature in 2009 House Bill 1008 and in the Commission's 2009-2011 budget. The 2009 Legislature determined that the North Dakota Metrology Laboratory should be closed. Neither the Commission's proposed budget nor the Governor's 2009-2011 recommended budget included any funding for the state metrology program. The North Dakota Metrology Laboratory officially closed on June 30, 2010, and metrology services must be obtained elsewhere.

The amendment to section 69-10-04-02 (1) (b), which is unrelated to the laboratory closure, provides flexibility to administer written tests at Bismarck or another location. The intent is to allow scheduling of written testing by the Weights and Measures Program Coordinator/Inspector at a location and time that can be coordinated with the Inspector's other statewide duties. It is also the intention that administering tests at locations other than Bismarck not result in additional expense to the Commission.

In the amendment to section 69-10-04-06, the use of the word "may" is consistent with other permissive language of this section.

The language currently in section 69-10-04-06.1 is moved to new section 69-10-04-06.3 so that language concerning quality control failures follows the language concerning quality control evaluation. The new section includes more specific references to the North Dakota Century Code and North Dakota Administrative Code.

The language proposed in section 69-10-04-06.2 is intended to clarify the procedures the Commission is currently using for evaluating the work of registered service persons.

A Statement on Regulatory Analysis, Takings Assessment, and Small Entity Regulatory Analysis was prepared and filed on June 2, 2010, for this Weights and Measures rulemaking proceeding.

The Commission has not received any written comments concerning this proceeding.

This concludes my testimony. I would be happy to answer any questions at this time.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Decommissioning
Rulemaking**

Case No. PU-10-159

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

July 14, 2010

I am Jerry Lein, Public Utilities Analyst with the Public Service Commission.

The proposed rule implements the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development.

The proposed rule amends N.D. Admin. Code section 69-09-09-06 to require developers to describe any expected effect on present and future natural resource development in the decommissioning plan required under that section.

A Statement on Regulatory Analysis, Takings Assessment, and Small Entity Regulatory Analysis was prepared and filed on June 2, 2010, for this Decommissioning rulemaking proceeding.

The Commission has not received any written comments concerning this proceeding.

This concludes my testimony. I would be happy to answer any questions at this time.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Weights and Measures
Rulemaking

Case No. WM-10-63

Public Service Commission
Decommissioning
Rulemaking

Case No. PU-10-159

ORDER SUBMITTING RULES TO ATTORNEY GENERAL

July 28, 2010

Appearances

Commissioners Tony Clark, Kevin Cramer, and Brian P. Kalk

Preliminary Statement

On June 2, 2010 the North Dakota Public Service Commission (Commission) issued a formal Notice of Proposed Rulemaking and an Abbreviated Notice proposing to revise several sections to the North Dakota Administrative Code. The proposed rules are summarized as follows:

Weights and Measures: Case No. WM-10-63

The North Dakota Metrology Laboratory officially closed on June 30, 2010 and all of the proposed rule changes are related to that closing. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

Decommissioning: Case No. PU-10-159

The proposed rule implements the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

Public Hearing and Comments

The Abbreviated Notice was published once in all 52 official county newspapers the week of June 13 through June 19, 2010 with the exception of one county newspaper, the Ashley Tribune, which published on June 30, 2010. The Notice of

20 WM-10-63 Filed: 7/28/2010 Pages: 3
Order Submitting Rules to Attorney General

21 PU-10-159 Filed: 7/28/2010 Pages: 3
Order Submitting Rules to Attorney General

Intent to Amend Administrative Rules and Notice of Public Hearing and proposed rules were also sent to those identified as interested or affected parties. The notices were also forwarded on June 3, 2010 to the Legislative Council for publication.

A public hearing on the proposed rule changes was noticed for and held at 1:30 p.m. July 14, 2010. The hearing was held in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until July 26, 2010, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

The only written comments filed were received at the hearing and were those of Commission staff.

Discussion

Weights and Measures: Case No. WM-10-63

Staff prepared and filed a statement regarding the required regulatory analysis, takings assessment, and small entity regulatory analysis.

Staff testified that the proposed changes relate to the North Dakota Metrology Laboratory closing of June 30, 2010, and summarized the required changes relating to that closing. Staff also testified that the proposed changes also relate to providing flexibility to administer written tests at Bismarck or another location and to allow scheduling of written testing by the Weights and Measures Program Coordinator/Inspector.

No other comments were received and no changes are being made to the rules as originally proposed.

Decommissioning: Case No. PU-10-159

Staff prepared and filed a statement regarding the required regulatory analysis, takings assessment, and small entity regulatory analysis.

Staff testified that the proposed changes implement the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development.

No other comments were received and no changes are being made to the rules as originally proposed.

Order

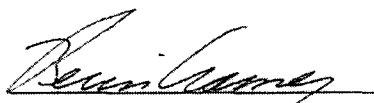
The Commission orders:

The proposed changes to the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to legality.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner