



Public Service Commission
State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

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30 June 2011

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Received in the office of the
Legislative Council this 30 day of June, 2011
By: ds

Re: Notice of Intent to Amend Administrative Rules
Case No. GS-11-79 and Case No. RC-11-236

Dear Mr. Walstad:

Enclosed please find copies of:

- Commission Motion proposing amendments, scheduling a hearing, issuing a notice of intent to amend rules and notice of hearing, and issuing an abbreviated notice
- Proposed rule changes on the following:
 - Section 69-09-03-02, 2011 Gas Pipeline Safety, Case No. GS-11-79
 - Section 69-05.2-12-04, Reclamation, Case No. RC-11-236
- Notice of Intent to Amend Administrative Rules and Notice of Public Hearing
- Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing

If you have any questions please do not hesitate to call. Thank you.

Best Regards,

Illona A. Jeffcoat-Sacco
General Counsel

enclosures

PROPOSED RULE

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of ~~August 1, 2009~~ June 22, 2011 are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002, November 1, 2003; May 1, 2005; July 1, 2006; April 1, 2008, _____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

PROPOSED RULE

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 or a certified copy of the bank's most recent reports of condition and income that are required by the federal financial institutions examination council. A copy of the bank's most recent balance sheet or reports of condition and income must be provided with the letter of credit and updated balance sheets or reports of condition and income 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, to the extent allowed by state and federal banking regulations, 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

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
2011 Gas Pipeline Safety Rules
Rulemaking**

Case No. GS-11-79

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-11-236

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

June 22, 2011

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to section 69-09-03-02 and 69-05.2-12-04 of the North Dakota Administrative Code. The hearing will be held at **10:00 a.m., on August 9, 2011, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** The proposed revisions to the North Dakota Administrative Code are as follows:

Gas Safety - Gas Pipeline Safety: Case No. GS-11-79

In order to continue the Commission's role as an agent for the federal pipeline safety program, the proposed change to North Dakota Administrative Code Section 69-09-03-02 adopts by reference changes made to federal pipeline safety regulations in effect as of June 22, 2011. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

Reclamation - Case No. RC-11-236

The Commission is proposing to amend the collateral bond provisions for surface coal mining and reclamation operations under North Dakota Administrative Code Section 69-05.2-12-04. The proposed amendment relates to letters of credit that are pledged as collateral and to the financial information and notices that banks issuing a letter of credit must provide to the Commission. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

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,

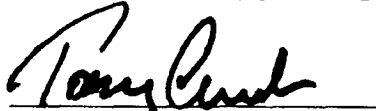
North Dakota. To obtain a copy of the proposed rule changes or the statements contact the Public Service Commission at 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888, or NDPSC@ND.gov. This information 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, or NDPSC@ND.gov. The comment period closes 10 days after the hearing. Comments must be received by the close of business on August 19, 2011.

If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission at least 24 hours in advance.

PUBLIC SERVICE COMMISSION


Kevin Cramer
Commissioner


Tony Clark
Chairman


Brian P. Kalk
Commissioner

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES
NOTICE OF PUBLIC HEARING
RECLAMATION AND GAS PIPELINE SAFETY**

June 22, 2011

TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to the adoption by reference of federal gas safety requirements and to the requirements for collateral bonds for surface coal mining and reclamation operations.

The public hearing will be held at 10:00 a.m., August 9, 2011, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Written comments may be submitted to the Public Service Commission until the close of business on August 19, 2011.

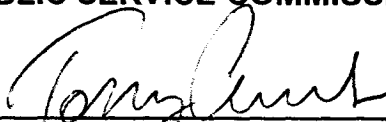
A copy of the proposed rules may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY: 1-800-366-6888, or NDPSC@ND.gov. This information is also available to view on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

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PUBLIC SERVICE COMMISSION



**Kevin Cramer
Commissioner**



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