

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-12-166

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

July 12, 2012

I am Jim Deutsch, Director of the Reclamation Division of the Public Service Commission.

The Commission is proposing three new sections and amending several existing sections of North Dakota Administrative Code Article 69-05.2 pertaining to surface coal mining and reclamation operations. The federal Office of Surface Mining has required we add provisions for the Commission's use of the Applicant Violator System prior to the approval of mining permits, renewals and certain revisions. The Applicant Violator System is a national database of mining companies that have unabated violations or unpaid civil penalties. A mining company that is linked to an entity in this database may be ineligible to receive a new mining permit, renewal, or revision that proposes to permit or mine additional lands. In addition to detailing procedures the Commission must follow, the proposed rule changes also affect some of the ownership and control information that mining companies submit in permit applications.

These provisions are being added to the permit application requirements under North Dakota Administrative Code Sections 69-05.2-06-01, 69-05.2-06-

02, 69-05.2-10-01, and 69-05.2-10-03 and adding new Sections 69-05.2-10-08 and 69-05.2-10-09.

The proposed rules also contain procedures for mining companies to use to challenge information or links in the Applicant Violator System. North Dakota Administrative Code Section 69-05.2-10-07 is a new rule that contains the procedures for challenging ownership or control listings and findings.

Two other rule changes are also being proposed in Case No. RC-12-166. One adds a new subsection to North Dakota Administrative Code Section 69-05.2-05-02 with general requirements for the format of electronic permit applications. Staff determined this is necessary since all recent permit applications have been filed in an electronic format and many other permits have been converted to an electronic format. The other change will make a minor correction to subsection 2 of to North Dakota Administrative Code Section 69-05.2-05-08. This change should have been changed more than fifteen years ago when another rule was modified to no longer require the renewal of a permit once lands in that permit are no longer being mined or used in support of mining.

The mining and reclamation rule changes adopted by the Commission must be as effective as the counterpart federal rules that have issued by the federal Office of Surface Mining (OSM) within the Department of the Interior. Before final adoption by the Commission, these rule changes will be submitted to OSM for approval as a State Program Amendment.

No comments in this rulemaking case have been received. This concludes my testimony.