



# Public Service Commission

## State of North Dakota

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### Memorandum

**TO:** Mine Operators and Other Interested Parties

**FROM:**  Jim Deutsch, Reclamation Division

**DATE:** January 6, 2016

**SUBJECT:** Proposed Mining and Reclamation Rule Changes, PSC Case No. RC-15-737

The Commission is proposing some rule changes to North Dakota Administrative Code Article 69-05.2 covering surface coal mining and reclamation operations. The proposed rule changes are needed as the result of statutory changes made by Senate Bill No. 2377 during the 2015 Legislative Session. The statutory changes added a definition of “commercial leonardite”; excluded leonardite, an oxidized form of lignite, from the definition of “coal”; and also added the phrase “or commercial leonardite” to other sections of the reclamation law as appropriate. Similarly, the proposed rule changes primarily consist of adding the phrase “or commercial leonardite” immediately after the word “coal” when it is not part of a definition or other phrase that doesn’t otherwise include commercial leonardite. No new or additional requirements are proposed by this rulemaking.

Enclosed is a copy of the Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for this rulemaking. The hearing is scheduled for 10:00 a.m., CST, on February 18, 2016 in the Commission Hearing Room on the 12<sup>th</sup> Floor of the State Capitol in Bismarck.

A copy of the proposed rule changes and a document containing statements regarding a Regulatory Analysis, Small Entity Analysis and Impact, and Takings Assessment for the proposed rule changes can be found under the “Coal Mining” tab on the Commission’s website at:

<http://www.psc.nd.gov/index.php>.

Please contact the Reclamation Division if you have any questions.

Enclosure

MineData\Proposed Rule Chgs\2015\Memo\_Notice\_1-6-16

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Gas Pipeline Safety  
Rulemaking**

**Case No. GS-15-187**

**Public Service Commission  
Reclamation  
Rulemaking**

**Case No. RC-15-737**

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

**January 5, 2016**

**PLEASE TAKE NOTICE** that the Public Service Commission will hold a public hearing to address proposed amendments to North Dakota Administrative Code Section 69-09-03-02 and Article 69-05.2. The hearing will be held at **10:00 a.m., CST on February 18, 2016, 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 Pipeline Safety – Case No. GS-15-187 – Section 69-09-03-02**

The purpose of this rulemaking is to adopt by reference the most recent amendments to pipeline safety regulations adopted by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA).

This rule change adopts amendments to safety regulations that have been adopted by PHMSA since November 6, 2014, current to December 31, 2015.

For Title 49 Code of Federal Regulations Part 194 – Response Plans for Onshore Oil Pipelines, the Public Service Commission currently has statutory authority concerning pipeline safety of hazardous liquids pipelines, but hasn't initiated that safety program agreement with PHMSA. In order to implement such a program, the Public Service Commission must adopt all pipeline safety rules adopted by PHMSA. The Commission is proposing to adopt all PHMSA regulations for hazardous liquids pipeline safety in effect as of December 31, 2015, including adoption of Part 194.

**Reclamation - Case No. RC-12-166 - Article 69-05.2**

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Notice of Intent to Amend Administrative Rules and Notice of Public Hearing  
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- 4 GS-15-187 Filed 01/05/2016 Pages: 2  
Notice of Intent to Amend Administrative Rules and Notice of Public Hearing  
Public Service Commission

Numerous provisions of North Dakota Administrative Code Article 69-05.2 pertaining to surface coal mining and reclamation operations must be amended as a result of statutory changes made during the 2015 Legislative session by Senate Bill No. 2377. The statutory changes added a definition of "commercial leonardite" to the list of definitions in the code, and also added this phrase to other sections of the reclamation law as appropriate. In addition, the statutory changes excluded leonardite, an oxidized form of lignite, from the definition of "coal." Due to these statutory changes, numerous changes need to be made throughout the Commission's surface coal mining and reclamation rules.

The proposed rule changes primarily consist of adding the phrase "or commercial leonardite" immediately after the word "coal" when commercial leonardite is not part of a definition or a phrase that doesn't otherwise include commercial leonardite. No new or additional requirements are proposed for these or other mining activities.

The proposed rule changes and the statements concerning the Regulatory Analysis, Small Entity Regulatory Analysis and Economic Impact, and Takings Assessment 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, Dept. 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](mailto:ndpsc@nd.gov). This information is also available to view on the Commission's web site at [www.psc.nd.gov](http://www.psc.nd.gov) under "Formal Notices".

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](mailto:ndpsc@nd.gov). The comment period closes 10 days after the hearing. Comments must be received by the close of business on February 29, 2016.

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**

  
Randy Christmann  
Commissioner

  
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Chairman

  
Brian P. Kalk  
Commissioner