

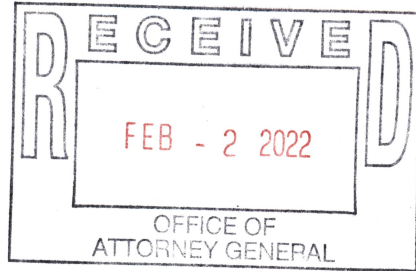


# Public Service Commission

## State of North Dakota

COMMISSIONERS

Julie Fedorchak  
Randy Christmann



600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

February 2, 2022

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

Re: Proposed Amendments to Administrative Rules  
PSC Case Number RC-21-329

Dear Attorney General:

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.

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

- The February 2, 2022 Public Service Commission Order Submitting Rules to Attorney General, with the final proposed rules attached. The order summarizes the written and oral comments received, the Commission's consideration of the comments, and the Commission's conclusions.
- The 17 November 2021 Commission Motion proposing rules, with rules as 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;
- A copy of one of the actual newspaper notices, as published (others are available if you want them);
- North Dakota Newspaper Association invoice showing the names of the newspapers in which the abbreviated Notice was published;
- A copy of the cover letter filing the Notice and Administrative Rules with the Legislative Council, and a copy of the email showing filing acknowledgment;
- A statement or analysis for each rule case regarding the required regulatory analysis and takings assessments, small entity regulatory analyses, and economic impact statement and taking assessments;

Attorney General  
2 February 2022  
Page 2

- Testimony from the public hearing and other written comments received; and
- Statement that the rules will have a fiscal impact.

The amendments are not a result of emergency rulemaking but are a result of a legislative change that occurred in the passage of Senate Bill 2317 of the Sixty-seventh Legislative Session.

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

Best regards,

A handwritten signature in black ink, appearing to read "John Schuh", written in a cursive style.

John Schuh  
General Counsel

enclosures

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking**

**Case No. RC-21-329**

**ORDER SUBMITTING RULES TO ATTORNEY GENERAL**

**February 2, 2022**

**Appearances**

Commissioners Julie Fedorchak, Brian Kroshus and Randy Christmann.

**Preliminary Statement**

On November 10, 2021, Commission Staff (Staff) filed proposed rules and statements regarding the required regulatory analysis, small entity analysis, and takings assessments in preparation for the captioned case.

On November 17, 2021, the North Dakota Public Service Commission (Commission) issued a formal Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing and an Abbreviated Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing, proposing to amend Section 69-05.2-01-02 and to amend Section 69-05.2-12-04 of the North Dakota Administrative Code.

On November 18, 2021, the Commission forwarded the notices to the North Dakota Newspaper Association for publication at least 30 days in advance of the hearing and a copy of the Notices and proposed Rules were sent to the Legislative Council. Also on November 18, 2021, Staff sent emails enclosing the proposed Rules and Notice to legislative bill sponsors and industry.

The Abbreviated Notice was published in each of the 51 official county newspapers in the state during the weeks of November 26 through December 9, 2021.

On January 4, 2022, the Commission held the public hearing as noticed, beginning at 1:30 p.m. in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed a comment period until January 17, 2022, during which the Commission received and considered data, views, or written and oral comments concerning the proposed rulemaking as part of the rulemaking record.

The proposed rules and amendments are summarized as follows:

**Proposed Amendment to Section 69-05.2-01-02 Definitions**

The purpose of this amendment is to add a perfected lien or security interest in real property to the definition of collateral bond.

**Proposed Amendment to Section 69-05.2-12-04 Performance bond - Collateral bond**

The purpose of this amendment is to provide conditions for acceptance of real property pledged as a collateral bond.

The proposed amendments are expected to have an impact on the regulated community in excess of \$50,000.

**Public Hearing and Comments**

The Commission reviewed and considered all comments. The written and oral comments that were received are summarized and discussed below.

Zanna Brinkman, director of the Reclamation and AML Divisions, testified on behalf of Staff to the effect of these changes. Ms. Brinkman submitted that the proposed rule changes add real property to the definition of a collateral bond and add conditions that must be met for the Commission to accept real property as a collateral bond.

No other comments were received during the hearing or during the comment period.


**Discussion**

Having reviewed the proposed rules, and considered the testimony, the Commission finds good cause for submitting the proposed rules in Case No. RC-21-329, attached to and made a part of this order, to the Attorney General for an opinion as to legality. Upon receipt of an opinion approving the administrative rules as to their legality, the rules must be approved by the Federal Office of Surface and Mining prior to submission to the administrative rules committee.

**ORDER**

The Commission orders that the proposed rules in Case No. RC-21-329, attached and made part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to their legality.

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
Randy Christmann  
Commissioner

  
\_\_\_\_\_  
Julie Fedorchak  
Chair

\_\_\_\_\_  
Vacant

**69-05.2-01-02. Definitions.**

The definitions in North Dakota Century Code section 38-14.1-02 apply to this article and the following terms have the specified meaning except where otherwise indicated:

13. "Collateral bond" means an indemnity agreement in a sum certain payable to the state of North Dakota executed by the permittee and which is supported by the deposit with the commission of cash, negotiable bonds of the United States or of North Dakota, or negotiable certificates of deposit of any bank authorized to do business in North Dakota, or an irrevocable standby letter of credit issued by a federally insured or equivalently protected bank authorized to do business in the United States, payable only to the commission upon presentation, or a perfected lien or security interest in real property.

**History:** Effective August 1, 1980; amended effective June 1, 1983; April 1, 1985; June 1, 1986; January 1, 1987; May 1, 1990; May 1, 1992; June 1, 1997; May 1, 1999; March 1, 2004, 2022.

**General Authority:** NDCC 38-14.1-03, 38-14.1-38

**Law Implemented:** NDCC 38-14.1-02, 38-14.1-03, 38-14.1-21, 38-14.1-38

**69-05.2-12-04. Performance bond - Collateral bond.**

3. Real property pledged as collateral bond shall meet the following conditions:
  - a. The applicant shall grant the commission a first mortgage, first deed of trust or perfected first-lien security interest in real property with the right to sell or otherwise dispose of the property in the event of forfeiture under section 69-05.2-12-16.
  - b. For the commission to evaluate the adequacy of the real property offered to satisfy the collateral requirements, the applicant shall submit a schedule of the real property to be mortgaged or pledged to secure the obligations under the indemnity agreement. The list must include:
    - (1) A description of the property;
    - (2) The fair market value of the property, as determined by an independent appraisal conducted by a certified appraiser; and
    - (3) Proof of possession and title to the real property.
  - c. The real property pledged as collateral may include land which is part of a permit area; however, land pledged as collateral for a bond under this section shall not be disturbed under any permit while it is serving as security under this section.
34. For a collateral bond the guarantor shall execute an indemnity agreement according to subsections 9 and 10 of section 69-05.2-12-01.
45. 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; October 1, 2014, 2022.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

**APPROVED**

DATE: 11/17/2021  
PJT

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking**

**Case No. RC-21-329**

**MOTION**

**November 17, 2021**

I move the Commission propose to adopt and amend the North Dakota Administrative Code as attached, issue a Notice of Intent to Amend Administrative Rules and Notice of Public Hearing, and issue an abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for publication in each official county newspaper throughout the state as required by law, in Public Service Commission, Surface Coal Mining and Reclamation Operations, Rulemaking, PSC Case No. RC-21-329.

Section 69-05.2-01-02      Definitions

Section 69-05.2-12-04      Performance bond - Collateral bond

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission**  
**Surface Coal Mining and Reclamation Operations**  
**Rulemaking**

**RC-21-329**

**Proposed Rules**

**69-05.2-01-02. Definitions.**

The definitions in North Dakota Century Code section 38-14.1-02 apply to this article and the following terms have the specified meaning except where otherwise indicated:

13. "Collateral bond" means an indemnity agreement in a sum certain payable to the state of North Dakota executed by the permittee and which is supported by the deposit with the commission of cash, negotiable bonds of the United States or of North Dakota, or negotiable certificates of deposit of any bank authorized to do business in North Dakota, or an irrevocable standby letter of credit issued by a federally insured or equivalently protected bank authorized to do business in the United States, payable only to the commission upon presentation, or a perfected lien or security interest in real property.

**History:** Effective August 1, 1980; amended effective June 1, 1983; April 1, 1985; June 1, 1986; January 1, 1987; May 1, 1990; May 1, 1992; June 1, 1997; May 1, 1999; March 1, 2004, \_\_\_\_\_.

**General Authority:** NDCC 38-14.1-03, 38-14.1-38

**Law Implemented:** NDCC 38-14.1-02, 38-14.1-03, 38-14.1-21, 38-14.1-38

**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. Alternatively, the bank may provide an excerpt from its most recent report of condition and income as prescribed by the federal financial institutions examination council that is filed with its primary federal regulator. At a minimum, the excerpt must include copies of the attestation page and the balance sheet schedule from the report and a written certification by a bank officer that the copies are true and correct and identify the federal bank regulatory agency and date that the report was filed. A copy of the bank's most recent balance sheet or the excerpt from the report of condition and income must be provided with the letter of credit. In addition, updated balance sheets that are certified by a bank officer as being true and correct 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 laws and 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. Real property pledged as collateral bond must meet the following conditions:
- a. The applicant shall grant the commission a first mortgage, first deed of trust or perfected first-lien security interest in real property with the right to sell or otherwise dispose of the property in the event of forfeiture under section 69-05.2-12-16.
  - b. For the commission to evaluate the adequacy of the real property offered to satisfy the collateral requirements, the applicant shall submit a schedule of the real property to be mortgaged or pledged to secure the obligations under the indemnity agreement. The list must include:
    - (1) A description of the property;
    - (2) The fair market value of the property, as determined by an independent appraisal conducted by a certified appraiser; and
    - (3) Proof of possession and title to the real property.
  - c. The real property pledged as collateral may include land which is part of a permit area; however, land pledged as collateral for a bond under this section may not be disturbed under any permit while the land is serving as security under this section.
34. For a collateral bond the guarantor shall execute an indemnity agreement according to subsections 9 and 10 of section 69-05.2-12-01.
45. 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; October 1, 2014, \_\_\_\_\_.

**General Authority:** NDCC 38-14.1-03

**Law Implemented:** NDCC 38-14.1-16

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking

Case No. RC-21-329

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

November 17, 2021

**PLEASE TAKE NOTICE** that the Public Service Commission will hold a public hearing to address proposed changes to North Dakota Administrative Code to amend Section 69-05.2-01-02 and to amend Section 69-05.2-12-04. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The Proposed rulemaking implements Senate Bill 2317 enacted from the 67<sup>th</sup> Legislative Session, concerning the establishment of a coal mine reclamation trust for reclamation of coal mines at the direction of the Public Service Commission by utilizing private assets pledged as collateral which may be used to fulfill performance bond obligations.

**A public hearing** will be held on the proposed rules at **1:30 p.m. Central Time on January 4, 2022, 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 **January 17, 2022.**

The proposed adoption and revisions to the North Dakota Administrative Code are as follows:

**Proposed Amendment to Section 69-05.2-01-02 Definitions** The purpose of this amendment is to add a perfected lien or security interest in real property to the definition of collateral bond.

**Proposed Amendment to Section 69-05.2-12-04 Performance bond - Collateral bond** The purpose of this amendment is to provide to provide conditions for acceptance of real property pledged as a collateral bond.

The proposed rules and amendments may be reviewed at the Public Service Commission's offices on the 12<sup>th</sup> floor of the State Capitol, 600 East Boulevard Ave, Dept. 408, Bismarck, North Dakota. A copy of the proposed rules or amendments and/or a regulatory analysis may be requested by writing the above address, emailing

ndpsc@nd.gov, or calling 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888. This information is also available on the Commission's web site at www.psc.nd.gov under "Formal Actions/Case Search".

Interested persons may attend and submit comments at the hearing. Oral or written comments on the proposed rules may be submitted to the above address, email and phone numbers. Oral and written comments received by the close of business on **January 17, 2022** will be fully considered.

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

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Randy Christmann**  
Commissioner

  
\_\_\_\_\_  
**Julie Fedorchak**  
Chairman

  
\_\_\_\_\_  
**Brian Kroshus**  
Commissioner

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking**

**Case No. RC-21-329**

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

**November 17, 2021**

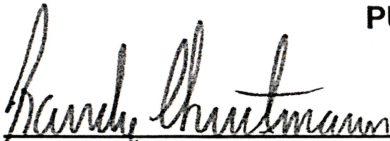
**PLEASE TAKE NOTICE** that the Public Service Commission will hold a public hearing to address proposed changes to North Dakota Administrative Code to amend Section 69-05.2-01-02 and to amend Section 69-05.2-12-04. The proposed amendment is expected to have an impact on the regulatory community in excess of \$50,000.

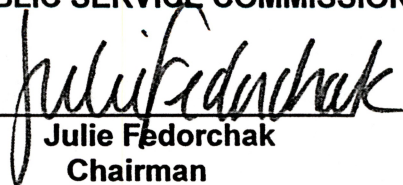
**A public hearing will be held on the proposed rules at 1:30 p.m. Central Time on January 4, 2022, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** Written comments may be submitted to the Public Service Commission until the close of business on **January 17, 2022.**

A copy of the proposed rules, analyses, and statements may be obtained at or by writing 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](mailto:ndpsc@nd.gov). This information is also available to view on the Public Service Commission's web site at [www.psc.nd.gov](http://www.psc.nd.gov) 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 agency at the above telephone number or address at least 24 hours prior to the public hearing.

**PUBLIC SERVICE COMMISSION**

  
**Randy Christmann**  
Commissioner

  
**Julie Fedorchak**  
Chairman

  
**Brian Kroshus**  
Commissioner



# Affidavit of Publication

Hannah Hertz, being duly sworn, states as follows:

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, Relating to surface coal mining and reclamation operations rulemaking**, 1 time(s) as required by law or ordinance.
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.

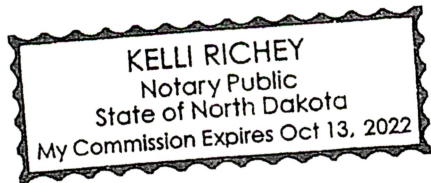
Signed: *Hannah Hertz*

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 6<sup>th</sup> day of January, 2022.

*Kelli Richey*



# Public Notices

## CITY OF DODGE BOARD MEETING NOVEMBER 9, 2021

The Dodge City Council met on November 9, 2021 at 6:00 PM. Present were Directors Streifel, presiding; Directors Wolff, Gervens and Jones. Director Duttenheller was absent. Also present Mark Klein, Mechelle McFarland (JDA), Sarah Duttenheller and Teresa Van Deusen.

Director Streifel called the meeting to order.  
Director Gervens made a motion to approve the Agenda. Director Wolff seconded the motion—Motion Carried.  
Director Gervens made a motion to approve the October Minutes. Director Wolff seconded the motion—Motion Carried.

Director Wolff made a motion to approve the financial statement. Director Gervens seconded the motion—Motion Carried.

Bills presented: The Beacon-\$75.44, Consolidated Telephone-\$121.49, SBM-\$227.00, Black Mountain Software-\$3529.59, Mark J Klein-\$78.75, Farmers Union Oil-\$619.00, Carrol Top-\$1115.12, Denny's Electric-\$125.12, ULINE-\$2570.97, MDU-\$1005.35, J&M Hardware-\$240.16, Selle Implement-\$219.19 and NAPA-\$22.51.

Director Wolff made a motion to approve payment of bills. Director Gervens seconded the motion—Motion Carried.

Commissioner of Police—Director Gervens no report.

Commissioner of Utilities—Director Wolff no report.

Commissioner of Streets—No report, Director Duttenheller absent.

Commissioner of Buildings and Property—Director Jones no report.

Auditor—Auditor Van Deusen discussed the Economy At A Glance Report, email from Daryl Dukart regarding Oil & Gas Tax revenues, exterior Message Board, Package Drop Off container and SW Water Rate increase.

Director Wolff made motion to purchase an outdoor message board to make getting word out to the public of upcoming events, etc. easier. Director Jones seconded the motion—Motion Carried.

2<sup>nd</sup> Reading of the following ordinances: Government Organization, Ordinances, Fire Protection and Prevention and Police Department. All ordinances passed by Roll Call Vote—4 Aye with 1 vote Absent. Ordinances became effective November 9, 2021.

Alley access clean outs will be discussed at the next meeting when bids are received from contractors. Alleys are to be cleared for 15 foot wide access for emergency vehicles and city equipment.

Wood chipper—with the onset of winter and closing of dump grounds, the issue will be re-visited next year.

Sarah Duttenheller, Dunn County Emergency Manager discussed the Multi-Hazard Mitigation Plan for the County and will be available to assist

## ABBREVIATED NOTICE OF INTENT TO AMEND AND REPEAL ADMINISTRATIVE RULES

RELATING TO COSMETOLOGY,  
MANICURING, AND ESTHETICS

### State Board of Cosmetology

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

Board's Office  
4719 Shelburne St.  
Suite 1  
Bismarck, ND 58503  
Thurs., December 30, 2021  
9:00 a.m.

A copy of the proposed rules may be obtained by writing the North Dakota State Board of Cosmetology, 4719 Shelburne Street, Suite 1, Bismarck, ND 58503, e-mailing [bocto@nd.gov](mailto:bocto@nd.gov), or calling 701-224-9900. Also, written comments may be submitted to 4719 Shelburne Street, Suite 1, Bismarck, ND 58503 until January 11, 2022. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota State Board of Cosmetology at the above telephone number or address at least five days prior to the public hearing. Dated this 19th day of November, 2021

1/5 Tenalee Tangen  
Board President  
ND State Board of Cosmetology

City personnel with the action items for City of Dodge.

Director Gervens made a motion to adjourn. Director Jones seconded the motion—Motion Carried.  
Leonard Streifel, Mayor  
Teresa Van Deusen, City Auditor  
(12-2-21)

## REGULAR MEETING OF THE ZAP CITY COUNCIL NOVEMBER 15, 2021

Meeting called to order by President Tamara Gillig at 6:30pm. Members present were Joe Grammond, Roy Entze, and Rhonda Flensing. Mayor Duttenheller came at 7:15.

Motion by Grammond, second by Entze, to approve the minutes as presented by the Auditor. Roll call vote. All in favor.

Motion by Flensing, second by Grammond, to approve the financial report as presented by the Auditor. Roll call vote. All in favor.

Old Business: none  
New Business:  
Motion by P Grammond, seconded by Entze to approve special permit for Mics Tavern for Dec 31, wedding dance. Contingent that all requirements are met. Roll call vote. All in favor.

Motion by Gillig, second by Grammond, city of Zap \$316.00, MDU \$1088.46, WRT \$228.53, Solem Law office \$882.14, Farmers Union \$137.87, Beulah Lumber \$271.95, Donovan & Kaffer \$100.00, J & M Hardware \$30.97, Southwest Water \$3359.38, Mercer Co Treas \$48.25, John Deere \$101.55, Napa \$106.42, Bronsons \$49.49, Beacon \$215.14 CCC \$200.00, Tractor Supply \$78.66, Hazen Motor \$746.94, ND Public Fin Authority \$43516.66, ND Dept of Health \$16.00, American Funds \$235.19, IRS \$733.20, MGM \$6102.4, R Entze \$252.00, D Zahn \$1178.37, Czahn \$558.80. Roll call vote. All in favor.

Motion by Grammond, seconded by Flensing to adjourn. Meeting adjourned at 8:00 PM. All in favor.

Respectively submitted pending approval by the Council by:  
Mike Duttenheller, Mayor  
Phonda Flensing, Council Member  
(12-2-21)

## STATE OF NORTH DAKOTA IN DISTRICT COURT COUNTY OF MERCER

SOUTH CENTRAL JUDICIAL DISTRICT  
Mary Machel Guler (ID 04393)  
Geiermann Bergeson & Guler Law Offices, P.C.  
425 North 5th St., P.O. Box 2196  
Bismarck, ND 58502-2196  
(701) 223-1986

mguler@gbg-lawoffice.com  
Attorney for Personal Representative  
Civil No. 29-2021-PR-00045

## IN THE MATTER OF THE ESTATE OF LEROY L. BOECKEL, DECEASED

NOTICE TO CREDITORS

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 (3) months after the date of the first publication of this notice or said claims will be forever barred. Claims must either be presented to Allegra I. Boeckel, Personal Representative of the Estate, and her attorney, Mary Machel Guler, at PO Box 2196, Bismarck, ND 58502-2196, or filed Dated this 29th day of November, 2021.

Allegra I. Boeckel, Personal Representative  
(12-2-21)(12-9-21)(12-16-21)



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**Somebody wants it.**  
Sell it in the  
Common classifieds.  
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## NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES AND NOTICE OF PUBLIC HEARING

Relating to Surface Coal Mining and Reclamation Operations Rulemaking, Case No. RC-21-329.

### North Dakota Public Service Commission

will hold a public hearing to address proposed changes to North Dakota Administrative Code to amend Section 69-05-2.01-02 and to amend Section 69-05-2.12-04. The proposed amendment is expected to have an impact on the regulatory community in excess of \$50,000.

### Commission Hearing Rm.

12th Floor  
State Capitol  
Bismarck, ND  
Tues., Jan. 4, 2022  
1:30 p.m. CT

Written comments may be submitted to the Public Service Commission until the close of business on January 17, 2022.

A copy of the proposed rules, analyses, and statements may be obtained at or by writing the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0490, 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 Public Service Commission's web site at [www.psc.nd.gov](http://www.psc.nd.gov) under "Formal Actions/Cases Search".

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

PUBLIC SERVICE COMMISSION  
Randy Christensen, Commissioner  
Julie Fedoroch, Chairman  
Brian Kroshus, Commissioner

## ABBREVIATED NOTICE OF INTENT TO ADOPT, AMEND, AND REPEAL ADMINISTRATIVE RULES

RELATING TO RESERVE  
OFFICERS AND NORTH  
DAKOTA ADMINISTRATIVE  
CODE 109-01 & 109-02

### Peace Officers Standards and Training Board

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

Law Enforcement  
Training Academy  
1320 Schafer Street  
Bismarck, ND 58503  
Wed., December 29, 2021  
11:00 a.m.

A copy of the proposed rules may be obtained by writing the Peace Officers Standards and Training Board or calling 701-328-5516. The proposed rules are also posted at [www.post.nd.gov](http://www.post.nd.gov). Written comments may be submitted to 1720 Burlington Drive, Suite B, Bismarck, ND, 58504 until January 10, 2022. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Peace Officers Standards and Training Board at the above telephone number or address at least two days prior to the public hearing.

Dated this 22nd day of Nov., 2021.  
Duane Stanley  
Executive Secretary  
POST Board

## PUBLIC NOTICE

The Beulah City Council Hearing for the Beulah Zoning District Map Amendment application has been rescheduled to Wednesday, December 8, 2021 during the regularly scheduled meeting that begins at 6:00 PM. This hearing will take place at City Hall, located at 120 Central Ave North in Beulah, ND. A copy of the application with the proposed changes will be available for inspection and copying at the Beulah City Hall between the hours of 8:00 AM and 5:00 PM, Monday through Friday. The application can also be viewed on the city's website—[www.beulahnd.org](http://www.beulahnd.org) by following Government/Planning & Zoning/Zoning Maps/Application for Zoning District Map Amendments.  
(11-25-21)(12-2-21)

## CITY OF BEULAH NOVEMBER 10, 2021, 6:00 PM BEULAH CITY HALL COUNCIL CHAMBERS

CITY COUNCIL MEETING  
The regular meeting of the Beulah City Council was called to order at 6:00 pm by Mayor Travis Frey with Council Members Sean Cheately, David Ripplinger, Gary Miller, Eric Hoffer, Amanda Mohl, Kathy Kelsch and David Czyszczynski present. Ben Lenzen absent.

Also Present: City Engineer Charlie Hankins, City Attorney Scott Solem, Water Superintendent Gary Bvokoon, Public Works Superintendent Kenny Yeager, Economic Development Beaver Brinkman, City Auditor Heather Ferbee and Editor Claudette Olivier.

Pledge of Allegiance.  
Kelsch moved to dispense with the reading of the minutes of the last regular meeting on October 28 and approve as furnished to the Council by email. Miller seconded. Roll call vote found Kelsch, Miller, Hoffer, Czyszczynski, Mohl, Cheately and Ripplinger in favor.

Terry Lutz addressed council regarding speeding vehicles on Hwy. 49 and he questioned enforcement of engine brakes. It was stated there is an ordinance for engine brakes and it is enforceable. Partial funding for speed signs was added to next year's budget if a grant is received.

## COUNCIL PORTFOLIOS

Council Member Czyszczynski  
The road in Country Club Estates was discussed previously at a council meeting. It was stated Jeff Gooss was going to start a petition in the area regarding improvements to the road. The Country Club Estates association has not yet met. The City Council will wait until they meet to bring it up for discussion again. There would need to be enough residents in the area interested so that an assessment would not be petitioned out.

Council Member Ripplinger  
Sun Valley Storage Lot holders were notified by letter regarding the termination of the use of the city lots. The users will have until June 1 to remove all property. Advertising for bids will begin in February. It was stated that since those individuals with items on the lots have not paid for the lots so far, the bid process will be open to everyone. There is a list of people who have never had the chance to obtain use of a lot. The lot lines will change and the area will be rezoned.

Council Member Cheately  
Library Board met last night. 8,300 people have come through the library so far in 2021. The library is undertaking the Holiday Walk Around Downtown this year.

Council Member Hoffer  
Proposed new garbage rates and Transfer Station rates will be emailed to council. The increase on garbage will be 15% because that is the 2022 increase at the Mercer County Landfill for garbage.

Council Member Kelsch  
NY Life Pension Plan is terminating. The administrator will no longer be active with that fund. The amendment for termination of the plan will need to be signed. Kelsch moved to provide the proper documentation to terminate the plan. Cheately seconded. Roll call vote found Kelsch, Cheately, Miller, Hoffer, Czyszczynski, Mohl and Ripplinger in favor.

Mayor Frey  
US Bank is closing the Beulah branch.

The Union Bank would like it stated at a council meeting why the approved signers are on the police vehicle leases and the pool loan. The City Auditor and Mayor are authorized signers on city documents. The loan rates and terms remain the same. It is clarified that the authorized signers on the police vehicle leases and the swimming pool loan are the City Auditor and Mayor.

The next council meeting will be at 6:00 pm on Tuesday, November 23 due to the Thanksgiving holiday.

CITY PERSONNEL  
Public Works Superintendent  
Transfer Station has started winter hours of Monday, Wednesday, and Friday from 12:00 to 5:00 pm. Christmas decorations will be put up next week. The maintainer is in Bismarck for repairs. The Christmas tree will be put up when a crane is available.

Water/Wastewater Superintendent  
Friday there was a water break on 2nd Ave SE. It is now repaired.

City Auditor  
A transfer of \$11,576.11 is needed from the Pension Plan Clearing fund to the General fund to cover contributions made from the General fund to

employees this year. This needs to be completed for tax purposes for the termination of the Pension Plan. The money accumulated is from city contributions to employees who terminated before they were completely vested. Cheately moved to approve the transfer of \$11,576.11 from the Pension Plan fund to the General fund. Czyszczynski seconded. Roll call vote found Cheately, Czyszczynski, Kelsch, Miller, Hoffer, Mohl and Ripplinger in favor.

Economic Development Director  
Nursing Home salvage material has been requested. There may be liability concerns. An inventory will be taken. It was discussed the generator could be moved to the Civic Center or Water Plant.

City properties available for sale in Beulah are listed on the city website. There is an offer to purchase 320 2nd Ave SE. A skating rink was located there in the past. An easement may need to be considered when the area is surveyed since it is in the floodway. Attorney fees and the survey would be paid for by the buyer. The cost was discussed stating it is in the floodway and floodplain. The buyer would like to purchase it for privacy. Kelsch moved to approve the sale of 320 2nd Ave SE to Jeff Keller as long as the floodway area includes an access easement for the city. Miller seconded. Roll call vote found Kelsch, Miller, Hoffer, Czyszczynski, Mohl, Cheately and Ripplinger in favor.

A map of New Energy Addition is posted on the website. This is the area north of 11th Street NE. An offer was presented of \$45,000. The purchasers will invest \$400,000 in the next 24 months for indoor and outdoor storage. The purchaser would pay closing costs and survey. There is abandoned utilities in the area. The land to the north near 16th Street will be an area for a commercial building. It was discussed that the area will need egress and will be rezoned to C3. The city will not put in infrastructure. It would be the responsibility of the buyer. The city should not act as a bank and carry the taxes. It was questioned if they need the whole area for storage and it was clarified that the south section would be storage spots and the north section would be used for another commercial business. They would like to put an offer in on both pieces. It was requested that defined plans be presented to make sure it happens. The concern is the availability of commercial land in Beulah. It was stated that this is the first offer on the property and it should be followed through before any other possible buyers are able to make an offer as to not breach the process.

It was commented that at a previous meeting it was stated that notice of available city properties would need to be listed on the city website. The city properties in Beulah were listed on the city website on November 1. The city will follow through with the current offer before looking at another offer. It will be listed on the website that there is an offer pending on the property. Solem questioned advertising or a bidding process on properties that no longer be followed through with that fund. It was stated Attorney Gooss was spoken to and that this is nothing new. The council has been talking about properties for months. Due diligence has been covered. The city has sold properties as people inquire about them. When properties are sold outside the norm, the norm being \$1 per square foot, the city will justify why it is doing that and make sure those things are known. The New Energy Addition property does not have usable water and sewer utilities or streets. Additional details will be brought to the next meeting.

Kirby Morgenstern grant request for removal of a mobile home. It was discussed that this grant needs to be run through a public entity. The city pays the invoices and then sends them to the grant program for reimbursement to the city. The owner signs over the mobile home ownership to the city. Kelsch moved to participate in the grant application with Kirby Morgenstern for the mobile home located at 743 Front St SE.

Hoffer seconded. Roll call vote found Kelsch, Hoffer, Miller, Mohl, Cheately, Ripplinger and Czyszczynski in favor.

City Engineer  
House Bill 1505 passed. It is the largest investment in public transit in the nation's history.

City Attorney  
Frey commented on the need for an improvement district as the city discusses improvements to Main Street and infrastructure in Beulah. The City's bond counsel stated the city will need to create an Improvement District. It was discussed that the City Engineer will need to draw the boundaries of the district.

# North Dakota Newspaper Association

1435 Interstate Loop

Bismarck, North Dakota 58503

Phone: 1-701-223-6397 Fax: 1-701-223-8185

## INVOICE

January 07, 2022

Order: 21121PP1

Invoice# 11765

Attn:	
Public Service Commission	
600 E. Blvd Ave. Dept 408	
Bismarck, North Dakota 58505	
Voice: 1-701-328-4076	Fax:

Advertiser: **Public Service Commission**

P.O.#: **ndpsc@nd.gov**

Brand:

Campaign

Client Order Number:

Amount Due: \$2,787.40

*Please detach and return this portion with your payment*

Public Service Commission Invoice# 11765 P.O.#: ndpsc@nd.gov Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Ashley Tribune (Ashley, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Beach, Golden Valley News (Beach, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Beulah, The Beacon (Beulah, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Bismarck Tribune (Bismarck, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$14.24		\$99.68	\$0.00	(0.00%)	\$99.68	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$14.24</b>	<b>\$0.00</b>	<b>\$99.68</b>	<b>\$0.00</b>		<b>\$99.68</b>	
<b>Bottineau Courant (Bottineau, North Dakota)</b>									
11/30/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Bowbells, Burke County Tribune (Bowbells, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Bowman County Pioneer (Bowman, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Cando, Towner County Record Herald (Cando, North Dakota)</b>									
11/27/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Carrington, Foster County Independent (Carrington, North Dakota)</b>									
11/29/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Carson Press (Elgin, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Cavalier Chronicle (Cavalier, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Center Republican (Hazen, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Cooperstown, Griggs County Courier (Cooperstown, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Crosby, The Journal (Crosby, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Devils Lake Journal (Devils Lake, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$9.67		\$67.69	\$0.00	(0.00%)	\$67.69	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$9.67</b>	<b>\$0.00</b>	<b>\$67.69</b>	<b>\$0.00</b>		<b>\$67.69</b>	
<b>Dickinson Press (Dickinson, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Elgin, Grant County News (Elgin, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Ellendale, Dickey County Leader (Ellendale, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Fargo, The Forum (Fargo, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$14.24		\$99.68	\$0.00	(0.00%)	\$99.68	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$14.24</b>	<b>\$0.00</b>	<b>\$99.68</b>	<b>\$0.00</b>		<b>\$99.68</b>	
<b>Finley, Steele County Press (Finley, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Garrison, McLean County Independent (Garrison, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Grafton, Walsh County Record (Grafton, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.71		\$46.97	\$0.00	(0.00%)	\$46.97	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.71</b>	<b>\$0.00</b>	<b>\$46.97</b>	<b>\$0.00</b>		<b>\$46.97</b>	
<b>Grand Forks Herald (Grand Forks, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$14.24		\$99.68	\$0.00	(0.00%)	\$99.68	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$14.24</b>	<b>\$0.00</b>	<b>\$99.68</b>	<b>\$0.00</b>		<b>\$99.68</b>	
<b>Harvey, The Herald-Press (Harvey, North Dakota)</b>									
11/27/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Hettinger, Adams County Record (Hettinger, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Jamestown Sun (Jamestown, North Dakota)</b>									
11/27/2021	7.00	Notice Display	\$9.67		\$67.69	\$0.00	(0.00%)	\$67.69	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$9.67</b>	<b>\$0.00</b>	<b>\$67.69</b>	<b>\$0.00</b>		<b>\$67.69</b>	
<b>LaMoure Chronicle (LaMoure, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Lakota American (Lakota, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Linton, Emmons County Record (Linton, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Lisbon, Ransom County Gazette (Lisbon, North Dakota)</b>									
11/29/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Mandan News (Mandan, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Mayville, Traill Co Tribune (Mayville, North Dakota)</b>									
11/27/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>McClusky Gazette (McClusky, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	
Caption: relating to surface coal mining and reclamation operations rulemaking									
12/09/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>14.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Medora, Billings County Pioneer (Beach, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Milnor The Sargent County Teller (Milnor, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Minnewaukan Benson County Farmers Press (Minnewaukan, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Minot Daily News (Minot, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$14.24		\$99.68	\$0.00	(0.00%)	\$99.68	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$14.24</b>	<b>\$0.00</b>	<b>\$99.68</b>	<b>\$0.00</b>		<b>\$99.68</b>	
<b>Mohall Renville County Farmer (Mohall, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Napoleon Homestead (Napoleon, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>New England, Hettinger County Herald (New England, North Dakota)</b>									
12/02/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>New Rockford Transcript (New Rockford, North Dakota)</b>									
11/29/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Rolla Turtle Mountain Star (Rolla, North Dakota)</b>									
11/29/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Rugby Pierce County Tribune (Rugby, North Dakota)</b>									
11/27/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Stanley Mountrail County Promoter (Stanley, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Steele Ozone &amp; Kidder County Press (Steele, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
Caption: relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Towner Mouse River Journal (Towner, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	
Caption: relating to surface coal mining and reclamation operations rulemaking									

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
12/08/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>14.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Valley City Times-Record (Valley City, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$9.67		\$67.69	\$0.00	(0.00%)	\$67.69	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$9.67</b>	<b>\$0.00</b>	<b>\$67.69</b>	<b>\$0.00</b>		<b>\$67.69</b>	
<b>Wahpeton, Daily News (Wahpeton, North Dakota)</b>									
11/28/2021	7.00	Notice Display	\$9.67		\$67.69	\$0.00	(0.00%)	\$67.69	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$9.67</b>	<b>\$0.00</b>	<b>\$67.69</b>	<b>\$0.00</b>		<b>\$67.69</b>	
<b>Watford City, McKenzie County Farmer (Watford City, North Dakota)</b>									
12/01/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	
<b>Williston Herald (Williston, North Dakota)</b>									
11/26/2021	7.00	Notice Display	\$9.67		\$67.69	\$0.00	(0.00%)	\$67.69	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$9.67</b>	<b>\$0.00</b>	<b>\$67.69</b>	<b>\$0.00</b>		<b>\$67.69</b>	
<b>XLangdon, Cavalier County Republican (Langdon, North Dakota)</b>									
11/29/2021	7.00	Notice Display	\$6.98		\$48.86	\$0.00	(0.00%)	\$48.86	
<b>Caption:</b> relating to surface coal mining and reclamation operations rulemaking									
<b>Subtotal:</b>	<b>7.00</b>		<b>\$6.98</b>	<b>\$0.00</b>	<b>\$48.86</b>	<b>\$0.00</b>		<b>\$48.86</b>	

Gross Advertising	\$2,787.40	Total Misc	\$0.00	Amount Paid	\$0.00
Agency Discount	\$0.00	Tax	\$0.00	Adjustments	\$0.00
Other Discount	\$0.00	Total Billed	\$2,787.40	Payment Date	
Service Charge	\$0.00	Unbilled	\$0.00	Balance Due	\$2,787.40

If you'd like to pay your invoice online, go to [www.ndna.com/billpay](http://www.ndna.com/billpay). We accept Visa/Mastercard. A 3% fee will automatically be added to your total. We also accept checks and ACH, with no additional fee added. Contact Rhonda at [rhondaw@ndna.com](mailto:rhondaw@ndna.com) or 701-595-7311 for ACH information. Thank you!



Public Service Commission  
State of North Dakota

COMMISSIONERS

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*hand delivered*

18 November 2021

Jill Grossman  
Administrative Rules Code Reviser  
North Dakota Legislative Council  
State Capitol  
600 East Boulevard, 2<sup>nd</sup> Floor  
Bismarck, ND 58505-0360

Re: Notice of Intent to Amend Administrative Rules  
PSC Case Numbers RC-21-329

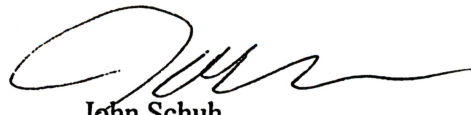
Dear Ms. Grossman:

The Public Service Commission recently passed a motion to propose changes to its administrative rules and issue notices. The rules are a result of legislative change that occurred in the passage of Senate Bill 2317 of the Sixty-seventh Legislative Session. Consequently, enclosed please find copies of:

- Commission Motion to Propose Revisions to the North Dakota Administrative Code and Issue Notices;
- Proposed rule changes that were the subject of the Motion; and
- Notice of Intent to Amend Administrative Rules and Notice of Public Hearing.

If you have any questions, please do not hesitate to contact me.

Best Regards,

  
John Schuh  
General Counsel

attachments

*Ured  
11/18/21  
[Signature]*

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking

Case No. RC-21-329

Statements on Regulatory Analysis, Small Entity Analysis,  
and Takings Assessment

November 5, 2021

The Commission is proposing changes to North Dakota Administrative Code to amend Section 69-05.2-01-02 and to amend Section 69-05.2-12-04.

The proposed rules are not the result of new legislation and are not pursuant to emergency rulemaking.

**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, or if one is requested as provided in the law. The current amendment is anticipated to have an impact in excess of fifty thousand dollars.

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;

The classes of persons who will probably be affected by the proposed rule are applicants and operators of coal mining required to provide financial assurances for reclamation of coal mines.

- b. A description of the probable impact, including economic impact, of the proposed rule;

A mining operation is required to carry a financial assurance to ensure complete reclamation of the mining site.

The probable impact of the rulemaking will permit a portion of real property owned by a coal mining company to be pledged as a collateral to replace or partially replace a financial instrument such as a bond, cash escrow or letter of credit.

Depending on the mining operation, financial assurances currently range from three hundred thousand dollars to one-hundred eighty-six million within the state of North Dakota. A reasonable expected value for carrying a financial instrument may be ten percent of the total bond.

In the event that the real property collateral bond replaces over five hundred thousand dollars of a financial instrument, it is likely that it will have an impact of fifty thousand dollars annually while the real property collateral bond is in place.

- c. The probable costs to the agency or commission of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and

There are no known additional costs for implementation and enforcement to the public service commission or other state agencies involved in the trust establishment or trust management.

- d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency or commission and the reasons why the methods were rejected in favor of the proposed rule.

There were no other alternative methods for achieving the purpose of the proposed rule.

### **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 proposed amendments are not anticipated to limit the use of private property.

### **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 Commission considered the listed methods of reducing impacts of the proposed rule on small entities. There are no less stringent schedules, deadlines, reporting requirements, consolidations or simplifications, establishment of performance or operational standards, or exemptions for reducing impacts to small entities. Approval from the Federal Office of Surface and Mining is required for implementation of the proposed rules. Departure from practices acceptable to the federal program may prevent implementation and publication.

#### **Small Entity Economic Impact Statement**

No adverse economic impact is expected for small entities, consumers or private persons, or state revenues.

#### **Statement of No Fiscal Impact**

The rules have no fiscal effect.

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Reclamation  
Rulemaking**

**Case No. RC-21-329**

**PUBLIC SERVICE COMMISSION STAFF TESTIMONY**

**January 4, 2022**

I am Zanna Brinkman, Director with the Reclamation Division of the Public Service Commission.

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. 2317 during the 2021 Legislative Session. Chapter 15-72 of the North Dakota Century Code was created and enacted to establish a coal mine reclamation trust through the board of university and school lands. The trust was established to reclaim coal mines at the direction of the public service commission by utilizing private assets pledged as collateral which may be used to fulfill the performance bond obligations under section 38-14.1-16 and North Dakota Administrative Code chapter 69-05.2-12. The proposed rule changes consist of adding real property to the definition of a collateral bond North Dakota Administrative Code chapter 69-05.2-01-02 and adding conditions that must be met for the commission to accept real property as a collateral bond in North Dakota Administrative Code chapter 69-05.2-12-04.

The mining and reclamation rule changes adopted by the Commission must be as effective as the counterpart federal rules issued by the federal Office of Surface Mining (OSM) within the Department of the Interior. Reclamation Division staff does not believe OSM will have any concerns with these rule changes based on their informal review of the proposed changes.

This concludes my testimony.

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Surface Coal Mining and Reclamation Operations  
Rulemaking**

**Case No. RC-21-329**

**FISCAL NOTE**

**February 2, 2022**

Adoption of the proposed rules in the captioned case are not expected to have impact on State expenditures or revenues.