



# Public Service Commission

## State of North Dakota

COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Sheri Haugen-Hoffart

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

November 30, 2022

Mr. David Berry  
Western Regional Coordinating Center  
Office of Surface Mining  
PO Box 25065  
One Denver Federal Center  
Lakewood, CO 80225  
[dberry@osmre.gov](mailto:dberry@osmre.gov)

Dear Mr. Berry:

The Public Service Commission is submitting State Program Amendment XLII (42) on behalf of the State of North Dakota in order to modify our approved coal regulatory program. This program amendment is submitted under the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) and 30 CFR Chapter VII.

The Amendment consists of changes made to North Dakota Century Code (NDCC) Chapter 15-72 (Coal Mine Reclamation Trust) by the 67<sup>th</sup> Legislative Assembly in response to Senate Bill No. 2317 introduced by the Department of Trust Lands, and the resulting rule changes to the North Dakota Administrative Code (NDAC) Article 69-05.2 for surface coal mining and reclamation operations.

Senate Bill No. 2317 created and enacted Chapter 15-72 of the North Dakota Century Code that establishes a coal mine reclamation trust utilizing private assets pledged as collateral to fulfill the performance bond obligations under NDCC 38-14.1-16 and NDAC 69-05.2-12. This amendment adds a perfected lien or security interest in real property to the definition of collateral bond in NDAC 69-05.2-01-02 and adds the conditions that must be met for real property pledged as a collateral bond to NDAC 69-05.2-12-04.

The amendment contains a narrative, the proposed changes to North Dakota Administrative Code Article 69-05.2, Senate Bill 2317, a side-by-side comparison of the state rules to the counterpart federal rules, and a copy of the Attorney General's opinion on the legality of the rule changes.

Please direct any questions you or your staff may have to the Commission's Reclamation Division.

Sincerely,

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chair

  
Sheri Haugen-Hoffart  
Commissioner